



The Shipowners' Protection Limited
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Managers of
**The Shipowners' Mutual Protection and
Indemnity Association (Luxembourg)**

TO CANADIAN PASSENGER VESSEL OPERATORS

February 2006

Dear Sirs,

LIABILITIES ARISING OUT OF THE CARRIAGE OF US PASSENGERS

Personal injury claims in the United States of America generally attract damage awards considerably higher than those handed down by the Canadian courts. In order to maintain insurance premiums for Canadian operators at reasonable levels it is essential that Members protect themselves from exposure to claims made in the US courts to the maximum possible degree. Carefully worded passenger ticket conditions incorporating Canadian law, the Athens Convention and requiring litigation to be conducted exclusively in the Canadian courts, are essential in achieving this. Members should also bear in mind that direct marketing to American citizens (through various media such as brochures, e-mail, newspapers, radio stations and television), particularly in the States of California, Oregon and Washington, can expose Canadians to US jurisdiction. Similarly, appointing a marketing agent in the United States can also render Canadians subject to US jurisdiction.

Recently the Club has been shown a number of contracts proffered by US-based tour operators/travel agents to Canadian passenger vessel operators. In many cases the American company has sought to benefit from the Canadian Members' insurance cover and/or sought indemnity from the Member for liabilities they might incur. Members should resist these overtures.

Members should bear in mind that the Club is not able to extend an owner's entry to include a charterer of a vessel (this includes charterers who only book part of a vessel's capacity). Claims made by charterers against Members are covered in accordance with the Rules but anyone chartering a vessel or part thereof must make their own insurance arrangements. A company will be considered a charterer if they block-book a number of seats and issue their own tickets. Tour operators or travel agents simply make reservations and obtain tickets from the vessel operators on behalf of their clients. Members are reminded that it is only possible for the Club to extend very restricted cover to such persons.

An agreement to indemnify or extend cover to an American tour operator or travel agent will render you subject to US jurisdiction with an exposure to claims that you might not face in Canada. At the same time you may lose the defences and limitations of liability which are available to you under Canadian law. Members are strongly advised to avoid contracts of this nature and are reminded that there is no cover for liabilities arising solely out of contracts or indemnities except by special arrangement.

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We recommend that you respond to any American entity seeking to be covered under your insurance policies advising that whilst the vessel carries full P & I insurance, and evidence of such insurance can be provided, P & I cover **cannot** extend to include the liabilities of the booking agent, tour operator, charterer etc. who should continue to make their own insurance arrangements for their own insurable interests.

If Members still contemplate entering into contractual agreements with US tour operators they are advised firstly to seek legal advice to ensure they fully understand the risks and secondly contact their insurance brokers to discuss whether and on what terms additional insurance cover might be available.

Yours faithfully

For THE SHIPOWNERS' PROTECTION LIMITED

(As Managers)

For and on behalf of

The Shipowners' Mutual Protection and Indemnity Association (Luxembourg)

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