

Measure 19: Air transport insurance requirements

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<p><i>Policy package:</i> 3D: Air transport safety, quality and environment</p>
<p><i>Measure 19:</i> Insurance requirements for air carriers and aircraft operators</p>
<p><i>What is the problem being addressed ?</i> The Commission has published in July 2003 a draft regulation seeking to re-establish equilibrium in the aviation insurance market in Europe following the events of 11 September 2001 in the US, when airlines were suddenly left without insurance and governments had to step in and take on the role of insurers. The Regulation shall apply to all air carriers and to all aircraft operators flying within, into, out of or over the territory of a Member State to which the Treaty applies. Indeed, the Commission had proposed that the suggested minimum insurance figure be 80 million Special Drawing Rights or SDR (an international reserve asset defined by the International Monetary Fund with 0,74 Euro for one SDR) for aircraft with a MTOM (maximum take off mass) of less than 25.000 kg. The smaller operators in this sector claimed they would face bankruptcy if this proposal had been adopted. A great number of MEPs took the view that the minimum insurance premiums proposed would constitute an unbearable burden for this category, which in the light of the consequences of 11 September 2001 and SARS should at any price be avoided. The final solution adopted by the regulation was more flexible, as follows:</p> <ul style="list-style-type: none">• for liability in respect of passenger, the minimum insurance cover shall be 250.000 SDRs per passenger. However, in respect of non-commercial operations by aircraft with a MTOM of 2700 kg or less, Member States may set a lower level of minimum insurance cover, provided that such cover is at least 100.000 SDRs per passenger;• for liability in respect of baggage, the minimum insurance cover shall be 1.000 SDRs per passenger in commercial operations.• for liability in respect of cargo, the minimum insurance cover shall be 17 SDRs per kilogram in commercial operations. <p>In respect of liability for third parties, the minimum insurance cover per accident, for each and every aircraft, is differentiated in 10 size categories, ranging from 0,75 million SDRs for aircraft with a MTOM < 500 kg to 700 million SDRs for aircraft with a MTOM > 500.000</p>
<p><i>Measure's costs and/or benefits:</i> Additional information on the costs of the proposed Regulation is needed.</p>
<p><i>Legislative implementation at the EU level:</i> The Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators has been published on the Official Journal of the European Union of 30 April 2004. It shall enter into force after 12 months, on 30 April 2005. The Commission shall submit a report to the European Parliament and the Council on the operation of this Regulation by 30 April 2008.</p>
<p><i>What are the objectives ?</i> The regulation aims at ensuring adequate levels of insurance cover, a level playing field throughout the Community, in the sense that the same basic conditions apply to all air carriers operating in or over Community territory. Indeed, in the framework of the common transport policy, and in order to foster consumer protection, it is important to ensure a proper minimum level of insurance to cover liability of air carriers and aircraft operators in respects to passenger, baggage, cargo and third parties. Common action is necessary to ensure that these requirements also apply to air carriers from third countries in order to ensure a level playing field with Community air carriers. Air carriers and, when so required, aircraft operators shall demonstrate compliance with the insurance requirements by providing competent authorities of the Member States concerned with a deposit of an insurance certificate or other evidence of valid insurance. Sanctions for non compliance may include, with regard to Community air carriers, the withdrawal of the operating licence, and with regard to non-Community air carriers and to aircraft operators using aircraft registered outside the Community, the refusal of the right to land on the territory of the Member State.</p>

Finally, the sanctions are further strengthened, as Member States have the obligation not to allow the aircraft which has been found without appropriate insurance to take-off from airport before it has produced evidence of valid insurance. This should ensure that no air carrier or aircraft operator subject to the Regulation is allowed to start uninsured a flight from a Community airport.

Interactions with other WP measures:

Minimum insurance requirements may concur to enhance the safety of aircraft and flights in and over the Community territory. Therefore, the measure is related to the other air safety measures.

Insofar as harmonised liability conditions will be ensured for passengers and their baggage, the regulation extend the user rights to cover the rights of equal treatment for the relatives of the victims of air accidents. In this sense the measure is related to the White Paper goals concerning transport user rights.

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Output indicators:

Output indicators may include the following:

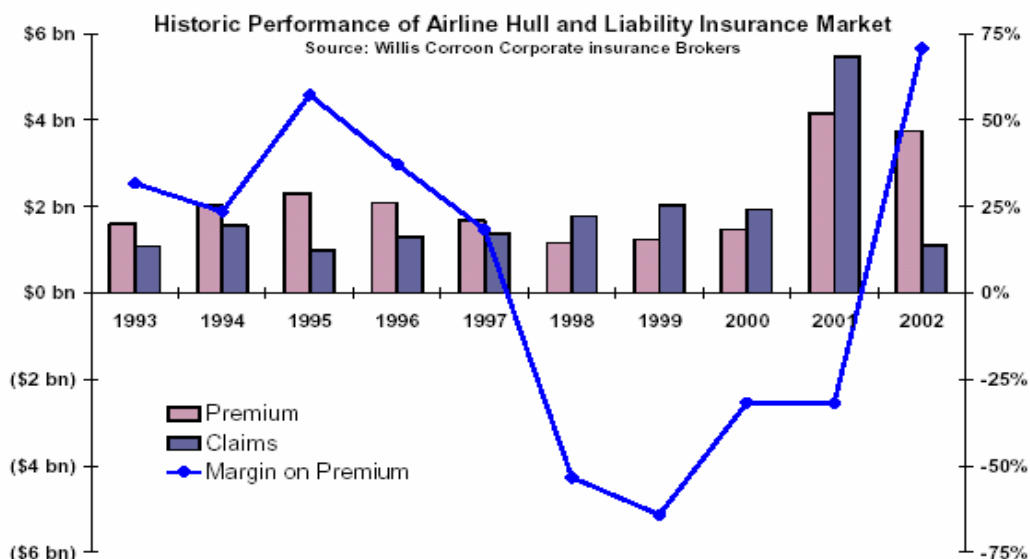
- Number of insurance certificates deposited in the Member States, classified by Community and non-Community carriers.
- Number of sanctions applied in the Member States, classified by Community and non-Community carriers.

Outcome indicators: intermediate impacts on transport markets

Detailed data shall be collected related to the turnover of air insurance companies and the insurance costs of air carriers and aircraft operators, before and after the entry into force of the Regulation.

Insurance costs should be collected separately for Community and non-Community air carriers and aircraft operator, and, in addition, they should be shown separately for different aircraft size categories (using the categories of the Regulation as reference). In this way it will be possible to monitor in particular the costs of the smaller operators.

Following September 11th, premiums in the airline hull and liability insurance market rose dramatically. However, this eased in 2002, although premiums were much higher than historic levels. Claims in 2002 were the lowest since 1995, enabling the insurance market to recover some of the losses incurred in 2001 and in previous years (DGTREN, 2003).



Outcome indicators: final impacts on transport users and non users

Although the measure is clearly related to air safety, the impacts on air safety indicators (e.g the number of victims in aviation accidents over the EU territory by any operator) is expected to be negligible.