

KNIC vs Allianz et al: a personal comment

You may have read press reports, for instance in today's *Financial Times* (see below), about the recent ending of a lawsuit brought in 2007 in the High Court in London by the (North) Korea National Insurance Corporation (KNIC) against Allianz and several other reinsurers.

After two years of vigorously contesting KNIC's case as fraudulent, almost a month into the trial reinsurers have suddenly settled and agreed to pay 95% of the claim: €39.2m (\$58.2m).

I had a small part in these proceedings, which have dominated my life for most of this year. In March solicitors for the defendants instructed me as an expert witness. Besides advising on various matters, this entailed my submitting a formal report – twice revised, after earlier twists and turns in this case – to the Court. I was due to be cross-examined later this month.

Hence I have some knowledge of this matter, but am also constrained by my involvement. Reinsurers and their solicitors will not comment at all on anything that is now published, not even to correct erroneous reporting. What follow are thus strictly my own personal remarks.

On that basis, I confess I was taken aback by, and much regret, this unexpected denouement:

* In general: Ever since the first shock – which I well recall, being pro-Pyongyang in those days – of the mass expulsions in 1976 of DPRK diplomats from the four Nordic nations for smuggling, substantial evidence has accumulated (albeit little has ever come to court) that the North Korean state has long been implicated in a variety of criminal activities on a global scale. Indeed the defence compiled ten large files of “State Criminality Documents”, running to several thousand pages in total, which in my view point ineluctably to such a conclusion.

* In particular, KNIC's claim had many curious aspects. To cite but one: the alleged Relief Material Reserve & Supply Centre in Chonnam-ri, Pyongyang, supposedly containing relief goods worth €42 million – all domestically sourced! – that burnt to ashes when a helicopter allegedly crashed on it in 2005 – appears entirely unknown. (All enlightenment welcome.)

Whatever one's view, it seemed to me useful that such persistent allegations would finally be adjudicated in open court; so I regret that this will not now occur. The timing is a puzzle too, as the defendants had just won their appeal against a ruling by the judge that charges against the DPRK state as such were non-justiciable and so could not be put. (The Court of Appeal's decision is publicly available at <http://www.bailii.org/ew/cases/EWCA/Civ/2008/1355.html>)

On top of the earlier *Pong Su* and Banco Delta Asia debacles, North Korea is having a good run in Western jurisdictions; and €39m is a nice Christmas present for Kim Jong-il. Those of us, on the other hand, who regard state criminality as yet another real concern posed by the DPRK – along with the nuclear issue, human rights abuses etc etc – have little to celebrate. Perhaps some other insurer who smells a rat will take a stand, and this time see it through.

I'd welcome any comments; but please forgive me if I can add nothing further at this stage.

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N Korea state insurance group wins case

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By Sundeep Tucker in Hong Kong and Andrea Felsted in London

<http://www.ft.com/cms/s/0/b80529c2-c6f6-11dd-97a5-000077b07658.html>

North Korea's state-owned insurance company has won a long-running legal battle against a group of London market re-insurers that had refused to pay out a claim relating to a helicopter crash in Pyongyang.

Court proceedings in London have ended after a group of re-insurers, including Allianz of Germany, Generali of Italy and three Lloyd's of London syndicates, agreed to pay 95 per cent of the reinsurance claim, or €39.2m (\$58.2m).

The reinsurers also agreed to retract and withdraw all allegations of fraud and impropriety made against the Korea National Insurance Company.

It is not unusual for reinsurers robustly to contest claims. But it is thought this is the first victory of its kind in an overseas court for the monopoly insurance provider in the communist state.

However, the case also underlines the international nature of the reinsurance industry and that even in North Korea a state-owned body has bought reinsurance from markets around the world, including London and the Lloyd's market within it.

One member of the reinsurance consortium, Aviabel of Belgium, has refused to accept the settlement and legal proceedings are continuing.

The case stems from an accident in July 2005 when a helicopter crashed into a Pyongyang warehouse, which North Korea said contained emergency relief goods such as food, clothing and medical supplies.

KNIC obtained a judgment in the Pyongyang Court, the agreed jurisdiction of the reinsurance policy, for €44m, and commenced litigation in the UK High Court in January 2007 to enforce it.

For the past two years the re-insurers have said the underlying insurance claim was fraudulent and the domestic legal judgment was also fraudulently obtained. A full trial in the UK Commercial Court started three weeks ago.

Tim Brentnall, senior partner of Elborne Mitchell, KNIC's lawyers, said that his client was "delighted" by the settlement.

The reinsurance group also included General Insurance Corporation of India and Misr Insurance of Egypt.

Under the terms of the settlement, Lloyd's syndicate 382 operated by Hardy Underwriting will pay €8.5m, while Lloyd's syndicate 9235 operated by Atrium will pay €7.6m, the two largest pay-outs.