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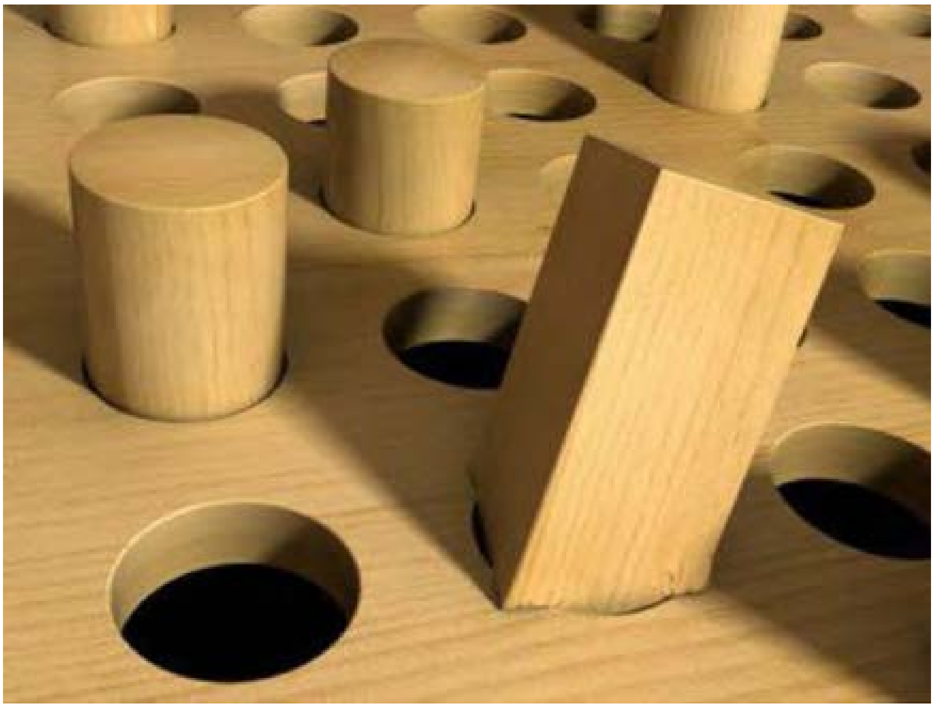
Inconsistent Insurance and Reinsurance



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0 Management Summary

This paper is intended to detect and describe areas where coverage provided by reinsurance arrangements may not match with coverage granted by insurers (cedents) for their clients. Such situations should be avoided as they may result in unproductive conflicts between the cedent and the reinsurer(s).

In the 1st section it is described how the process of arranging reinsurance typically works.

The 2nd section identifies the topics which may become an issue between the cedent and the reinsurer. The relevant ones of these topics are deeper discussed in the 3rd section. It has to be noted that the focus is on the “technical” aspects (which align the underwriting intents of the cedent and the reinsurer) rather than on the legal aspects.

Nevertheless, some legal aspects are picked up by the 4th section. Comments there are given on the basis of feed-back from cedents and reinsurers who responded on specific questions.

The 5th section gives advices to underwriters of the cedent as well as of the reinsurer. It is not intended to be a "recipe" for the assessment of risks on the one hand (cedent's underwriter) or, on the other hand, reinsurance arrangements (reinsurer's underwriter). The focus is purely on the topics identified in the previous sections.

In the 6th section, finally, some examples are presented which led to lack of reinsurance cover and, hence, to disputes between cedent and reinsurer.

In all sections of the paper, both the viewpoints of the insurers and the reinsurers have been investigated and potential problems, which may arise for any counterparty of a reinsurance agreement, have been identified. The most important conclusions are summarized as follows:

Conclusions – Treaty Reinsurance

- There are several potential inconsistencies which have to be taken into consideration by the underwriter of the cedent.
- It cannot be said how often inconsistencies arise in the daily flow of business between the cedent and the treaty reinsurer. However, it did not appear that the industry is suffering from a systemic problem.
- The underwriter should have a long-term view on his portfolio regarding the development of the long-tail risks. These risks should match also future treaty conditions; and the cedent should avoid situation where he has to buy facultative reinsurance cover for already live risks.

Conclusions – facultative Reinsurance

- Serious problems may arise in case of facultative reinsurance arrangements – typically, in case of fronting when the placing broker does not properly mirror the insurance conditions in the reinsurance slip. The situation may be aggravated in case more than one broker and more than one R/I slip are involved and in case of no clearly defined leader.
- Hence, where more than one broker is involved in the placement of a risk, it should be the responsibility of the cedent to ensure that the slips are compatible (back to back) with the insurance wording provided by the cedent.
- Furthermore, the broker must be held accountable for informing the cedent on the RI placement and of any differences in the RI slip cover with the local policy cover.

1 Types of Reinsurance and the Process of arranging Cover

1.1 Facultative Reinsurance

Facultative reinsurance is the original form of reinsurance. Placements are done on a case-by-case basis and the reinsurers' participation in a risk is not pre-arranged through a standing contract.

Facultative reinsurance is arranged in most cases before cover is given by the cedent. The cedent decides on the share in the particular risk he wants to assume and to retain. Should there be need for additional capacity on a particular risk, facultative support is sought by the cedent.

The reinsurers' participation is arranged by the cedent by providing the reinsurer with a complete proposal of insurance from the insured client along with all the technical details of the risk. The particulars of the placement structure, the cover extensions and wording is provided in the form of a slip which stands as the contract of reinsurance. Often a legal framework is defined by so-called "General Conditions for Facultative Reinsurance" or similar. Appendix 1 shows an example.

1.2 Treaty Reinsurance

Treaty reinsurance is a form of reinsurance in which the cedent makes an agreement to cede certain classes/types of business to the reinsurer on the basis of a whole portfolio.

As we will note in subsequent sections of this paper, differences between the insurance coverage and the cover granted by the reinsurance treaty may arise. In order to avoid entering into the uncomfortable situation of a reinsurer denying payment for a claim potentially resulting in:

- a cedent having to pay for a loss (or losses) from their net income, thereby jeopardizing the rating of the cedent and its future business, as well as
- destabilizing the relationship between the two companies and putting any potential future business at risk,

any reinsurance treaty has to be the result of a clear process and the wording and procedures to be applied during the term of the agreement need to be unambiguous and understood by all the interested parties in the same manner.

It could be said that a treaty reinsurance arrangement differs from a facultative one, in the sense that it is the outcome of the cedent's underwriting philosophy/quality which is reinsured, contrary to the losses of a single project/policy, which is more or less dependent on the project's quality and the locality of the insured item. After all, it is the reinsurer's intention not to re-underwrite every single risk (as it is the case in facultative reinsurance), but to reach treaty agreements which will also allow for savings on the administrative side.

Principally, there are three potential channels through which a reinsurance treaty can be finalised:

- Cedent to the reinsurer (submission),
- Reinsurer to the cedent,
- Intermediary (broker) on behalf of the cedent to the reinsurer.

Irrespective of the channel used in order to meet an agreement, the key phrase is *"sound basis of trust"* (alias: principle of "utmost good faith"). Once this is gained between the interacting parties, mainly meaning that the underwriting appetites/philosophies applied coincide, then reaching a final agreement is - more or less - a technicality, albeit not an insignificant one.

Following the above, it is essential to describe the information exchange process through which such trust can be gained, as well as the main steps to be taken until a treaty reinsurance agreement is reached. It must, however, be noted that the described procedure refers mainly to new treaties. The renewal of a treaty would be expected to run easier, since the communication channels already exist and it is expected that data exchange / information flow is continuous during the term of the pre-existing agreement.

1.2.1 The first Steps

Irrespective of the channel used in order to conclude an agreement, it is always advisable for the representatives of the companies involved to meet to discuss the outlines of the intended agreement – *it is a people's business!*

Usually, it is the underwriting manager and the cedent's reinsurance manager together with the underwriter and sometimes the reinsurer's marketing manager who participate in this meeting. Actuaries may be involved as well. A reinsurance broker may also be present depending on the relationship between the cedent and the reinsurer. Naturally, since for most cases more than one reinsurer provides cover to a cedent, the first approach would be between the cedent's representatives and the reinsurer(s) anticipated as being the leader(s).

During such a negotiation, the framework of a potential agreement is expected to be discussed, mostly in terms of the cedent's underwriting intentions, inter alia including the following:

- Previous treaty experiences (why is a new treaty required?).
- Opinion on the current market status.
- Underwriting approach, how are the risks evaluated.
- Types of risks intended to be covered under the treaty.
- Estimated premium volume.
- Targeted risks' profiling.
- Own retention appetite.
- Target locations.
- Type of treaty sought for (quota share, surplus, XL per event, Cat XL, stop loss,…)
- Basis of the treaty: risks attaching (underwriting year) principle, losses occurring during principle, accounting year principle.

Based on the above, the reinsurers should be in a position to respond to the cedent's requirements and comment on whether or not they are in line with the reinsurers' expectations. Furthermore, reinsurers should be able to give a preliminary indication of the information/data to be supplied by the cedent.

1.2.2 Underwriting Approach / Narrative

Following the meeting, the cedent would be expected to provide a narrative to the reinsurer including more detailed information on the following:
- Cedent's market approach,
- Risk appetite: types of risks, industries, capacities, etc.

– Rough description of the UW-philosophy/guidelines, including but not restricted to:
  1 Risk grading
  2 Risk control
  3 EML/PML determination
  4 Cat. control/accumulation
  5 Line size = f(parameters…)
  6 Interaction with claims department
– Description of existing portfolio (locations, types of risks, capacities),
– Description of expected type of reinsurance treaty required.

1.2.3 Data Requirements

Based on the above, the reinsurer would require more detailed information and define the data needed to make a reinsurance proposal.

Before entering into a treaty, the reinsurer will assess the offer for the portfolio to be reinsured by closely examining the following essential points:

– Characteristics of the risks to be covered under the reinsurance treaty (subject matter and/or interest); limitation to LoBs, types of risk and perils reinsured.
– Scope of cover and exclusions under original policies.
– Risks profiles.
– Exposure data and projections.
– Estimated premium volume to be ceded.
– Large loss history.
– Treaty statistics and result projections for the portfolio. Data are reported ideally from ground-up on a triangulated basis.
  In case of a surplus treaty the same data are of help in order to provide a complete overview on the portfolio. In addition "as-if" figures are required which take into consideration the cession rates of each risk according to the retention defined in the treaty. This also applies to the large losses.
– Geographical limitations; definition of the territory covered by the reinsurance treaty.
– Modelled nat. cat. scenarios.
– Limitations in terms of amount (retention, treaty limit, reinsurer's share).
– Basis of the treaty: occurrence year (losses occurring during, LoD), underwriting year. (risks attaching during, RaD), accounting year. See also section 2.2.
– Cancellation terms.
– Treaty exclusions; general exclusions, special exclusions.
– Conditions determining price; reinsurance premium ceded (proportional treaty) or premium rate (XoL treaty), reinstatement conditions (XoL treaty), commission, profit commission, premium and loss reserve deposits (all proportional), brokerage.
– Handling of claims notices and cash claims.
– Accounting terms.
– Special provisions or clauses.

1.2.4 The Treaty Slip – Final Negotiations

Based on the above information, the treaty-slip is going to be formulated which will form the basis of the reinsurance treaty. This will be included in the submission file among the rest of the information. Usually the Terms and Conditions of the treaty slip are formulated with the help of the reinsurance broker and/or the leading reinsurer(s).

It is the work of the reinsurer then to assess the provided data and come up with a reinsurance offer / proposal. This internal process involves – amongst other – the following:

- Actuarial analysis of the pricing.
- Natural Catastrophe accumulation checks and scenario modelling.
- Engineering related issues such as capacity check, exclusions and the like.
- Language check of the treaty's wording by lawyers.

If upon completion of the above the reinsurer agrees to the proposed terms and conditions, then he will indicate the share he is willing to accept. Otherwise he would make a counterproposal and enter into negotiations with the cedent in order to finalise the jointly accepted terms and conditions.

Once the leader has offered a share and the cedent has accepted, several reinsurance market players would be approached to provide their further support. Depending on response, the capacity required by the cedent may not have been met. In such a case two options are available:

- The terms and conditions for all reinsurers are modified to such a degree that the required capacity can be placed.
- Individual negotiations with reinsurers who are not able to support the terms and conditions agreed with the leader. The result is arranging individual terms and conditions for the reinsurers involved; this happens typically regarding the price.

1.2.5 Summarised Workflow

2 Inconsistencies between Insurance and Reinsurance Coverage

2.1 General Remark

The contractual obligations of a reinsurance treaty, in an ideal world, would be designed to be mutually beneficial and built on the principles of utmost good faith and fairness. Whilst the long-term dependency of these treaties does demand a need for honorable engagements, only a clear and legal interpretation of the treaty can alleviate inconsistencies.

2.2 The Treaty Period

Reinsurance treaties are usually taken out for a period of 12 months. Sometimes the period may be longer or shorter. There are two main working principles which we look at in this paper (they are valid for proportional and non-proportional treaties):

- The "Risks Attaching During" principle (RaD)
  All policies which are written or renewed during the treaty period are covered until their natural expiry on the basis of the treaty conditions at the time of underwriting the risk. Consequently, long time after expiry of the treaty there will still be inflow of premium and outflow of loss payments. This type of treaty has usually a "long tail".
- The "Losses Occurring During" principle (LoD)
  This type of treaty indemnifies all losses which happen during the treaty period, no matter when the policies have been underwritten. This type of treaty has a much shorter tail; it ends when all the losses have been settled.

2.3 Underwriting Capacity and Limits – proportional Treaty

The treaty provides a certain capacity to the cedent which can be based on the sum insured (SI) or PML or MPL or EML(*), or there could also be two different capacity limits, one for the SI and one for the PML. In case of PML based capacity the underwriter of the cedent and the reinsurance underwriter should have a common understanding about how the PML is estimated and what is one single risk. It is very important that the treaty conditions should not only stipulate the limit but also the method of the PML estimation.

The capacity provided by the treaty can be subject to changes over the time.

*) Note: further in this paper only "PML" will be used.

The capacity provided by the treaty may be subject to additional limitations as there are:

- Limit for natural perils and terrorism – a monetary limit may be defined for the maximum amount recoverable out of one event whereas also a definition of what constitutes an event should be part of the treaty. Furthermore, an aggregated limit is often used which limits the maximum amount recoverable during one treaty year.
- DSU - often subject to approval by the reinsurers or the treaty leader
- MD such as CPM limit or TPL limit or LEG2,3/DE4,5 limit
- The durations of the construction period and maintenance periods

2.4 Amount of Cover and Limits – non-proportional Treaty

The layer stretch of a XoL (excess of loss) reinsurance treaty defines the amount of cover which is available to the cedent on a per risk and/or per event basis. Typically the cedent buys the cover with a certain amount/number of reinstatements. The conditions for such reinstatements are defined in the treaty: they may be for free, or at a certain %-age per amount to be reinstated. Sometimes the remaining period of the treaty is also taken into consideration.

However, the amount of cover provided is always limited. Furthermore, the reinstatements (unless free reinstatements have been agreed) must be bought by the cedent in case a claim reaches the layer. This gives the reinsurers some additional premium. On the other hand, reinsurers cannot refuse coverage until the last reinstatement is exhausted.

The stretch of the layer provides a natural limit of coverage provided by the treaty. However, treaty conditions may also stipulate maximum underwriting limits for certain extensions such as e.g. TPL. Furthermore, the number of reinstatements may be limited for certain exposures (e.g. terrorism).

2.5 SI and PML Increase during Policy Period above the Treaty Capacity

Large construction projects are historically plagued by cost and schedule overruns. This in turn has a direct impact on the SI and as such the PML for most type of primary engineering policies. As already seen the treaty is giving a certain capacity to the underwriter of the cedent and this should be considered for the whole policy period.
A large increase in SI/PML may result in the situation that the exposure out of this risk is higher than the capacity provided by the treaty.

2.6 Policy Cover Period

Under the reinsurance treaty, often the maximum policy duration for a specific project is defined and policy extensions beyond this maximum period would need to be agreed on a special acceptance basis. Construction projects seldom finish within the agreed timelines leading to period extensions. Should cedents automatically extend the policy, without considering the overall project duration, a gap in the reinsurance cover can occur.

2.7 Exclusions in the Reinsurance Treaties

Reinsurance treaties are designed with specific parameters and exclusions. Even though the type of insurance policy is explicitly covered, there may be certain elements and extensions of cover that are explicitly excluded. It is critical that underwriters or cover holders are aware of treaty restrictions and guidelines to ensure that the cover provided to a policy holder is not broader than the reinsurance cover.

2.8 Payment Terms

Insurance contracts for project insurance sometimes include claims payment clauses that dictate how fast the claim amount or a percentage of the reserve amount is paid to the client subsequent to the admission of liability. More recently, large construction projects also have claim pools being created to facilitate loss adjuster fees and claim reimbursements. Whilst cedents commit to these terms, their treaty provisions may not provide room for the same flexibility. Sometimes this leads to out of pocket settlements by cedents and reinsurers, settlements being made at a much later date, which in turn could lead to a potential for currency losses.

2.9 Non-Renewal of Treaties which are not on RaD Basis

The portfolio of the cedent contains risks which are attaching at any dates during the contract duration of the reinsurance treaty (usually 12 months). Operational risks (usually 12 month periods) which are written after the treaty inception date will inevitably end after the expiry date of the treaty. Of course, the same applies to long-term project risks.

If reinsurance is arranged by treaties, which follow the RaD principle, the cedent has full coverage for the whole portfolio until the natural expiry of all risks.

Under all other circumstances (treaties on losses occurring during basis or accounting year basis) reinsurance coverage ends with the contract period of the treaty. As long as such treaties are renewed, continuous reinsurance protection for the portfolio is guaranteed. However, should the treaty not be renewed for which ever reason, the portfolio of the cedent is unprotected after the expiry date of the treaty.

2.10 Cedent's Entities

Sometimes – especially in the case of large organizations on the side of the cedent – it can be observed that under "Reinsured" an impressive list of legal entities appears.

In the case of reorganisations, it is very important that this list is always kept on its current state by also considering name changes or changes to the legal forms of the entities involved, as well as deleting entities which might not belong organically to the cedent.

3 Reasons that lead to Inconsistencies or Difference in Cover

3.1 Introduction

There are some very basic difficulties which may be faced by the cedent's underwriters:

- Do the underwriters understand all terms and conditions stipulated by the treaty wording? And is this the case prior to accepting any risk?
- Do the actual underwriting principles applied by the cedent reflect the treaty wording?

So, what are the common difficulties that underwriter face?

3.2 Potential Difficulties during the Underwriting Process of a Risk

3.2.1 Covered Business

Sometimes underwriters may struggle to determine whether the type of risk can be ceded to the treaty as the wording may be silent about explicit inclusion or exclusion. Most treaties refer to the widely used standard wordings coverages on a standalone basis (e.g. CAR) but sometimes do not address possible additional coverages (as e.g. DSU). The correct definition of certain covers is sometimes not clearly mentioned in the treaty (e.g. difference between CAR and EAR) which leads to ambiguity.

3.2.2 Exclusions and Clauses

Exclusions and warranties take a prominent part in the treaties. Thus, certain exposures will not be covered if there is a claim arising out of such an event. Some of these exclusions may lead to discussions as they leave certain room for interpretation. In many cases treaty slips only provide a list of exclusions without providing the relevant wording.

Exclusions which may be subject to clarifications are for example:

- **Terrorism**
  Terrorism exclusion clauses may be very comprehensive and contain a lot of references to countries and pool solutions. Is the content always clear to all parties involved? See also chapter 5.1
- **Nuclear risks**
  Usually treaties refer to several standard clauses which apply to the treaty, e.g. NMA 1975a and others. These clauses are not easy to understand for underwriters who do not use them on a daily basis. Are such clauses transferred into internal guidelines of the cedent? Or are they subject to interpretation "case by case" when a risk has been submitted?
- **Wet risks**
  It should be clear what constitutes a wet risk: ports, harbours, bridges, works at sea shore and river banks?
- **Marine and off-shore technology risks**
  Sometimes works on already existing platforms are included in the scope of treaty coverage.
  How about wind turbine generators?
- **Space risk**
  Some treaties include language as from which point in time a satellite is not covered under the treaty anymore.

- **Multi-year policies (not including CAR/EAR business)**
  Is the underwriting intent clear? E.g. at five years MB policy. Is the idea to generally exclude such a case (even if it may have an exit clause) or to make sure that each of the five years attaches to the corresponding UWY of the treaty?
- **“Cyber”**
  Different kinds of exclusion can be found in reinsurance treaties.
- **General comment, applicable to all exclusions and clauses**
  There may be unclear and incomprehensive language or reference is made to standard clauses which are “amended”. Are these exclusions/clauses known to and understood by the underwriter?

3.2.3 Capacity and Limits

The treaty capacity is either based on the sum insured (SI) or the PML. In case of a surplus treaty, the value defines the cession rate to the treaty, meaning the %-age of the premium of each risk and each claim ceded to the treaty. Whilst treaty cessions are carried out in the reinsurance departments of the ceding companies, it is crucial that the underwriter is aware of the treaty coverage and limitation. In this respect the following questions may arise which need to be clarified.

Capacity based on sum insured
The sum insured determines to which extent the treaty capacity is used and determines the cession rate in case of a surplus treaty.
However, ambiguity may arise when determining the sum insured figure before the risk being ceded. Does the sum insured constitute:

a.) The value of the property insured?
b.) The value of the property insured plus the sum insured of the BI?
c.) The value under b.) plus the limits of the cover extensions?

However, this situation arises only when there is lack of guidance provided by the treaty.

Capacity based on PML
In case of cession on this basis, an appropriate scenario has to be defined. There must be clarity between the cedent and the reinsurer how the relevant figure has to be computed. In principle, it is an addition of the PML of the material damage section of the policy (incl. cover extensions) plus BI/DSU. It is best practice to use the 100% figure for the BI or DSU. How about the other cover extensions, such as CBI, existing property etc.?

Usually treaties do not stipulate how exactly the scenario has to be calculated and which figures have to flow into the resulting figure. PML setting, however, shall be mentioned in the underwriting guidelines of the cedent and the principles should be known to the reinsurers.

TPL
In many treaties the TPL limits are stipulated as a sum and at times it is mentioned “not to exceed the contract value” (relevant in case of smaller projects). Is this known to the underwriters of the cedent when issuing policies?
Sometimes it is stipulated that TPL covers of project policies are ceded in the same proportion as the works cover. This leads to the situation where the TPL cover is excluded from an overall PML scenario. As long as there is the possibility that a large claim on the works/DSU section can also trigger a substantial claim on third party objects/persons, the underwriter of the cedent must be aware that the treaty capacity may not only be exhausted but even exceeded by the total claims values from material damage/DSU plus TPL. This may be in line with the treaty conditions but may influence the treaty result in a negative way.

3.2.4 Miscalculation of the PML

The underwriter of the cedent has to compute this figure based on a scenario which he takes into account considering the characteristics of the risk and the policy conditions (basic cover plus cover extensions). The correct assumption of this figure is crucial; it defines how much of a risk can be assumed and, in the case of a surplus treaty, it also defines how much of the assumed risk remains in the retention and how much is ceded to reinsurance. If everything has been done right, a total loss of the risk would result in a figure which is within the capacity provided by the treaty.

If the scenario assumed is too optimistic (e.g. in very rare cases such as VCE or EQ), the treaty capacity might not be sufficient to cover the loss(es) of the cedent:

Reinsurance on XoL basis
If the cedent has deployed the full treaty capacity, a total loss of the risk would lead to a loss figure on the cedent's share which is greater than the ceiling of the treaty. Whilst the reinsurer is protected by the stretch(s) of the layer(s), the part in XS of the highest layer remains with the cedent. Furthermore, too low MPL estimations distort the risk profiles which are the basis of the pricing and, consequently, too low premium will be allocated to the layer(s).

Reinsurance on quota share basis
If the cedent has deployed the full treaty capacity a total loss of the risk would lead to a loss figure which is greater than the treaty capacity. Both, the cedent and the reinsurer, will be faced with a higher loss figure than the treaty would allow for.
As long as there is no specific stipulation in the treaty, a dispute between the cedent and the reinsurer(s) may likely be triggered about the question whether or not the reinsurer has to bear the part of the loss which exceeds the capacity.
Often the retentions on QS are protected by XoL covers. The ceiling of such a cover would also be exceeded (unless the cedent has bought cover up to more than its retention).

Reinsurance on surplus share basis
The remarks from above regarding total loss and XoL protection also apply here.
In case of a high partial loss, the cedent may become aware that the loss amount on its retention (almost) exhausts the capacity. Needless to say that a reassessment of the cession rate is strictly forbidden in such a case.

3.3 Potential Difficulties during the Policy Period – *Treaties on RaD Basis*

The main characteristic of a treaty on risks attaching during (RaD) basis is: all risks written by the cedent during the treaty period (usually one year) are reinsured for their whole policy periods at the same treaty terms and conditions as at the time of the policy inception. This means that reinsurance cover is provided for claims arising from all these policies even though these claims may arise far in the future.

Therefore, a very important issue will be the correct estimation of the capacity required to cede particular long-term CAR/EAR risks properly to such treaties, regardless of the kind of treaty (proportional QS/Surplus or XoL).

We would like to focus on CAR/EAR covers being mainly long-term policies in comparison to other engineering lines.

3.3.1 Risk Exposures

A key question to the cedent is how to estimate the development of the project during the policy period at the date of policy issuance. The project value may increase substantially due to changes such as scope of work, materials and equipment used, project design, contractors' and suppliers' abilities etc.. Therefore, a reasonable %-age for escalation of the project sum insured at inception (depending on project details and location) should be taken into account when the cession to the treaty is determined – especially in the case of cession on “full value” basis (and in consideration of other policy limits and coverages).

For CAR/EAR policies it is usually stated that there will be a reconciliation of the value at risk at the end of the project and any additional premium is to be paid accordingly.

The increase of the project value during the policy period would usually also affect the PML estimation (various scenarios which have been made before policy issuance). Such alterations of the PML must be anticipated by the cedent before authorizing a risk when the treaty cession is on PML basis. A honest reassessment of the PML has to be made in case of a substantial increase of the SI.

Another case: several treaty underwriting years may be interlinked by so-called interlocking clauses. These clauses refer to nat. cat. event limits and – in case of several claims triggered by a nat. cat. event – provide an overall limit across all risks hit by this same event, no matter the underwriting year. An increase of the natural perils PML of a risk may reduce the limit available to other risks (which are located in the same region) in case of an event hitting several risks.

The increase of the SI or the PML (depending on the cession principle of the treaty) may fully exhaust or even exceed the treaty capacity. Usually there are the following options available in case the SI or the PML of the project becomes higher than the capacity granted by the treaty:

Special Acceptance
This option is usually used when the increase in SI and/or PML is rather small and not so important taking into consideration the nature of the risk.

Additional facultative placement
This option may be used when the increase is considerable or the parameters of the risk itself have been altered. Facultative placements offer additional markets the possibility to participate in the risk; this may be attractive for the capacity provider(s). However, this option may turn out to be tricky; please see further down.

3.3.2 Time Limitation of Risks

Treaty wordings often provide a time limitation for long-term policies (i.e. 5 or 7 years). Risks with longer periods are not allowed being ceded automatically. There are different ways to do this: an overall limit (across all policy periods) may be stipulated. On the other hand, an individual limit may be applied on the construction/test period and another one on the maximum maintenance period. In the case of maintenance, we often see distinctions between the types of maintenance: e.g. 12 months for guarantee and say 24 months for extended and even more for visits maintenance (some markets may legally require a certain minimum duration).

The policy duration can increase beyond the treaty's time limit when an extension of the period of cover becomes necessary during the execution of the project development. Such extensions may not be predictable at the date of the policy issuance. Therefore, in such a case the cedent has to negotiate with the treaty leader (and all reinsurers who need to give approval) the possibility to cover the risk during the required extended period on the basis of a special acceptance in order to avoid that the policy becomes un-covered by reinsurance. A special acceptance may be the only reasonable way to have continued reinsurance cover. Furthermore, the time extension should only be granted by the cedent after approval of the special acceptance by the reinsurers.

Of course, the cedent may consider not extending the policy period beyond the treaty time limit. This could happen in the case of long-term work suspension (whether partial or total) or triggered by other circumstances resulting in significant aggravation of the risk exposure or in case of bad performance of the policy (claims). Such decisions should comply with the local legal requirements.

3.3.3 Additional Reinsurer's Restrictions

Adverse experience with certain exposures (type of risks, perils, covers/policy conditions) may cause reinsurers introducing relevant amendments to existing treaties which may exclude some high exposed perils, objects insured, or coverages upon treaty renewal.
Risks reinsured by treaties on RaD basis are not hit immediately as treaty changes become effective as from the next renewal date and as the existing portfolio is reinsured on the basis of the conditions which apply on the expiring underwriting year(s). So, there are no changes to be expected during the policy period of a risk. However, in case of renewable risks (operational covers but also annual construction covers) the treaty changes have to be taken into consideration when the risk renews.

Nevertheless we do not exclude that reinsurers may negotiate treaty amendments with cedents before expiry/run-off of the treaty with *immediate effect*. Cedents would lose reinsurance protection in respect of risks which already have been ceded. Sanctions provisions are such an example – (re)insuers may simply not be allowed by law to pay for claims.

Extremely large floods happened in East European countries in 2002 and subsequently in 2008-2013. They caused the introduction of NatCat loss limits in the engineering treaties covering such territories (i.e. Poland, Czech Republic and some other countries). This measure required that cedents would need to introduce appropriate territorial/loss limits in the policies. Such limits come into full effect over the time as treaty years in run-off do not have these restrictions. However, the exposure out of these treaty years may reduce the available limit of the new years, if these limits are combined with interlocking clauses. In order to cope with such limitations, local markets have to find alternative solutions to keep business "as usual", e.g. by creating local pool systems or state governed reinsurance companies to protect high-exposed risks (i.e. terrorism, NatCat, nuclear, sanction etc.). As an example, the Russian National Reinsurance Company was established in August 2016 by the Central Bank in order to provide local players with reinsurance protection for risks which may become subject to sanction limitations imposed by EU & USA.

3.4 Potential Difficulties during the Policy Period – *Treaties on LoD Basis*

The main characteristic of a treaty on LoD basis is that the treaty irrespective of when the policy has been issued covers all losses occurring during the treaty year. This can be very convenient for the cedent, because it is easier to change the treaty leader and the panel of reinsurers, if needed. Theoretically, the leader/panel can be changed every year (this can be done also in the case of treaties on RaD basis; but the leaders and the panel of the past UWYs still need to be addressed until expiry of the last risk).

Also the treaty capacity, limitations and exclusions and other conditions can be changed whereas the cedent's portfolio (including the existing risks!) should always follow the newest treaty conditions.

Comparing the LoD with the RaD principle, a cedent's underwriter should be more strict and more focused on the treaty limitations when reinsured on the basis of the LoD principle as changes may impact the existing portfolio.

A potential problem from the perspective of the reinsurer is the premium income. He must be comfortable with the way the cedent calculates the (un)earned premiums.

3.4.1 Increase of PML or SI

As the treaty conditions and capacity could change from year to year, the underwriter of the cedent should carefully check that all the policies in the portfolio are covered under the treaty, that the PML is calculated on the same basis as the current treaty suggests, and the cedent and the reinsurer have a common understanding of what is one risk.
In case of increase of SI and PML of a policy that was underwritten before there are two possibilities: Special acceptance or a facultative placement.

3.4.2 Changes of Limitations for NatCat, SRCC/Terrorism and Cover Extensions

It is a possibility that all the treaty limitations can be changed by the reinsurer(s) from year to year, based on the market conditions. The underwriter of the cedent should follow these changes when he issues new policies. On the other hand, he must carefully observe the development of the limits in view of his existing portfolio. In case of limits being reduced for the new treaty year he may seek for a special acceptance. Or the facultative markets may also provide additional capacity (see also comment further down).

3.4.3 Additional Reinsurer's Restrictions

As discussed above adverse experience with certain exposures (type of risks, perils, covers/policy conditions) may cause reinsurers introducing relevant amendments to existing treaties which may exclude some high exposed perils, objects insured, or coverages upon treaty renewal.

This is a very important issue: treaties on LoD basis would apply these new conditions also on those risks which have been assumed by the cedent already long time ago. The underwriter of the cedent must be aware of this fact and challenge himself whether he still has cover. If he finds gaps he may ask for a special acceptance or buy fac. coverage.

3.4.4 Changes in the Panel of Reinsurers

Above it is mentioned that a treaty on LoD basis may be convenient for the cedent as he can change the leader – and may be the whole panel? – more easily.

There are, however, inherent dangers to be considered, mainly the following:

- It may happen that "old" risks (written a long time ago) are not in line with the most actual treaty conditions, because the underwriter of the cedent has forgotten to seek for a special acceptance after changes of the treaty conditions have been implemented. Most long-term reinsurers may be accommodating as they are familiar with the portfolio and trust the approach of the cedent.

  This is not necessarily the case after a change in the panel of reinsurers: a new reinsurer (recently joined the panel) may be concerned, as he might have taken another decision had he known the type of risks that are part of the portfolio.
- Calculation of the premium: the treaty on LoD basis must ensure that the reinsurer gets a fair portion of *all* risks, which are still covered under the treaty, including project risks written years ago. There is no scientific method to "smear" the risk premium over a long period of time but there are different approaches from different cedents. From the reinsurers perspective the fairest situation would be a long-term participation with the same share. On the other hand, many changes may increase the need for reinsurers to discuss the way the (un)earned premiums are calculated.

3.4.5 Management of Special Acceptances

Any kind of special acceptance (no matter by which cause it is triggered) is valid for just one treaty year, unless specifically stipulated otherwise in the treaty. If a long-term project risk is covered subject to a special acceptance, it must be ensured that it is submitted to reinsurer(s) each year. Therefore, it is important that the cedent keeps track of all special acceptances.

In case the treaty allows special acceptances being taken out for the whole policy period at once, keeping track of developments is, nevertheless, required. There may be a change in the panel of reinsurers; and any new reinsurer must be aware of all special acceptances in force as they may influence his decision making during the underwriting process.

3.4.6 Discontinuation of the Treaty

A treaty – for whatever reason – may not be renewed.
In the case of a treaty on RaD basis this is not a problem as the cedent has cover until the natural expiry of the last risk. In the case of a treaty on LoD basis, the situation is different: the cedent must be aware that after the last day of the *treaty year* his portfolio remains with no reinsurance protection. If this is not acceptable, he must ensure continued reinsurance protection:

- May be only a very few risks are concerned. Then they (or some) may be covered individually on the basis of facultative placements.
- A kind of run-off facility may be agreed with the panel of reinsurers (or some).
- Treaties often have in-built run-off options. They provide run-off coverage at pre-agreed conditions. Or it is stipulated that run-off will be subject to terms and conditions to be agreed between cedent and reinsurers.

3.5 Potential Difficulties during the Policy Period – *General Remarks*

3.5.1 Buying facultative Reinsurance Cover

It has been mentioned several times that the cedent may face a situation where he is considering the purchase of facultative reinsurance cover. However, buying stand-alone facultative reinsurance may be very expensive as it would refer to the most risky period of insurance (especially if DSU is involved too). Consequently, the cedent has to charge a reasonable premium for such an extension.

Furthermore, is important to know that not every coverage can be bought separately. For example: if the additional exclusion would be terrorism, it is not a big problem buying a separate reinsurance coverage for this exposure. But if reinsurers have excluded the extended defects coverage from the treaty (LEG3/DE5) the only possibility is a special acceptance.

In many cases, however, the purchase may turn out being more complicated than probably thought by the underwriter of the cedent and discussions as follows may arise between the cedent and the reinsurer(s):

- In case of a surplus treaty: is it possible to increase the ceded portion to the treaty retroactively in order to fully exhaust the treaty capacity before buying (more expensive) facultative coverage?
- How about the same question in case of (large) losses which already have happened? Treaty reinsurers would say: no!
- Shall the facultative part be placed retroactively as from policy inception?
- The same question in case of (large) losses which may already have happened?
- How shall non-proportional fac. coverage be arranged in order not to break the principle of proportionality and avoid treaty compression? This question does not concern the reinsurer who would write the fac. portion unless he has also a participation in the treaty.

3.6 General Conclusions and Proposals

Capacity and limits
There must be clarity between cedents and reinsurers how the figure which reflects the size of a risk (be it on SI or PML basis) is computed by the cedent. It is suggested to include a corresponding clause into the treaties.

Exclusions
Some treaty exclusions refer to standard exclusions and clauses, e.g. NMA 1622 (Radioactive contamination and explosive nuclear assembly's clause). This is in principle a good thing as these are standard clauses, which are known to every party involved. However, should standard clauses be *amended* it should be reviewed in detail to understand the extent of cover provided by the clause! Be aware that sometimes amended clauses are not labelled as such!

Therefore, the full wordings of all clauses should be attached to the treaty.

On the other hand, there are exclusions which may be phrased differently from treaty to treaty. Is it because of different underwriting intents? Or would it be reasonable to create some standard clauses in order to enhance the common understanding of all parties involved? The most important clauses subject to such clarification would have to be defined. Would IMIA be the right platform for such an initiative?

At least, it would be reasonable if the cedent and the treaty leader(s) discuss all the exclusions and note the common understanding, where doubts exist, and make such a protocol available to all reinsurers. Such a discussion would have to be made on the basis of the underwriting strategy of the cedent which contains the targeted types of risks and occupancies.

Ensuring continuous coverage by the treaty
As we have seen, reinsurance treaties evolve over the time and in-force policies may "slip-out" of reinsurance coverage (mainly in case of the LoD principle). Modern state of the art IT systems may erase this danger by checking relevant risk parameters against treaty conditions

Example: the max. policy period granted by the treaty may be programmed in the administration system of the cedent. If this value is exceeded in case of an extension, an alarm may be triggered.

Purchase of facultative reinsurance cover
Buying facultative cover *during the policy period* can cause substantial additional work and difficulties; and it is our conclusion that although possible, such a solution is not the preferred one.

Transparency
The underwriter of the cedent has always to know the framework of the reinsurance protection provided by the treaty. This goal can be reached as follows:

- The underwriter has access to the reinsurance treaty.
- The underwriter is working with detailed underwriting guidelines which mirror 1:1 the reinsurance treaty. They may even be more tight but under no circumstances they should be wider.

The framework must be available to the underwriter with immediate effect after renewal of the treaty. When substantial changes to the reinsurance treaties are foreseen by the cedent the underwriter has to be informed even earlier as he may be already negotiating risks which would incept under the renewed reinsurance protection.

4 International and jurisdictional Issues

4.1 Introduction

The following topics have been identified as being potentially relevant. Lawyers of cedents and reinsurers have been approached, and their response can be summarized as follows:

4.2 Law and Court Jurisdiction / Litigation

The R/I agreement must contain a governing law and jurisdiction clause, because these terms are generally not carried over from the original policies. The law of the insurance policy and the underlying law of the reinsurance contract may be different (see also IMIA WGP 71/(11)). Litigation may cause the reinsurer to pay for costs which would usually be excluded from the reinsurance contract.

The questions
Cedents and reinsurers have been asked about their opinions around this topic. The questions raised were:

- What kind of problems could result when insurance policy and reinsurance contracts are subject to different laws?
- Are there special issues the underwriter should be aware of?
- Any negative experience?

Findings / conclusions
Experiences with systemic serious problems between the treaty parties have not been reported. Some – rather undramatic – observations have been made and some hints given as follows:

- If law and jurisdiction are not clearly defined, one of the parties may enforce the responsibility of a certain court which may have to apply a (foreign) law which it would normally not use. An example has been mentioned where an English court applied Spanish law.
- In Facultative reinsurance it can be observed that the international market tries to impose UK law and jurisdiction. UK courts have wide experience with international insurance disputes. On the other hand, in treaty reinsurance, cedents propose local law and jurisdiction they are familiar with which reinsurers usually follow.
- One cedent mentioned a concrete case where an inconsistency between the laws of the insurance contract and the reinsurance treaty impacted the "back to back" principle. However, they have not had any issues with this.
- *Governing Law clause*: "This Agreement is governed by and shall be construed in accordance with the laws of [the United Kingdom]." A governing law clause sets out expressly the parties' choice of the law that will apply.
- *Jurisdiction clause*: "The parties submit all their disputes arising out of or in connection with this Agreement to the exclusive jurisdiction of the Courts of [the United Kingdom]". A jurisdiction clause states that the parties have agreed to the courts of a named country taking jurisdiction over (in other words, having the right to hear) any disputes that may arise.
- It goes without saying that applicable law and jurisdiction should be in the same place. If governing law is different from the law of the jurisdiction, then a local court or arbitration panel might require expert testimony as to the law governing the contract. This tends to increase costs of dispute resolution and potentially causes further disagreements and time delays between the parties.

- From the perspective of the cedent a Follow-the-Fortunes Clause should be part of the R/I agreement.

4.3 Arbitration

Arbitration happen between the insured and the cedent and between the cedent and the reinsurer may be a solution to disagreement on cover. An extreme case could even lead to the situation where the outcome of an arbitration between insured and cedent would trigger disputes about cover granted under the reinsurance contract and as a consequence arbitration between cedent and reinsurer may be necessary.

The questions
Questions arose as to whether such situations have been experienced and whether there have been experience of any kind of problems with arbitration.

Findings

- Cedents seem not to be concerned about this scenario and also have not made adverse experiences to be reported. It was mentioned by a cedent that it is hard to find and to name qualified arbitrators and the umpire: any R/I agreement should duly regulate the respective proceedings.
- Reinsurers seemingly did not have concrete experiences of such cases. They refer to the principle of following the fortunes of the cedent who has to act in good faith and in a proper manner and as if it was not reinsured.
- Furthermore, it is assumed by reinsurers that an arbitration panel will look at the nature of the deal and the contractual language of the reinsurance to establish whether the reinsurers have to follow the fortunes of the cedent in such an instance.
- The R/I terms (loss settlements, follow the settlements) often address some of the potential issues raised above. A key is to include clear drafting in these clauses to ensure that cedent and reinsurer agree on intent. Another potential concern is where the result of a dispute between insured/cedent includes items that might not be recoverable under R/I agreement. For example, punitive, exemplary or multiple damages are contrary to public policy and/or not recoverable in some jurisdictions.

4.4 Ex gratia payments

Ex gratia payments are typically not covered under the insurance and reinsurance contract and may only be granted subject to prior agreement by the reinsurers.

The questions
Have problems ever been experienced between the two parties involved? Other problems may be caused in case the claims handler of a cedent is not aware that ex gratia payments are not recoverable under the reinsurance contract per se.

Findings / conclusions

- Cedent and reinsurer's interests are not always aligned was a statement given by a reinsurer. A scenario experienced could be as follows:
  "Nat. cat. events (e.g. hurricane "Katrina", Chile eq. etc.) are often followed by man-made damages, e.g. looting. These damages may be covered under the insurance policies but the reinsurance contract (e.g. a cat. XoL treaty) may exclude payments for such man-made components of the overall loss; and the claims handlers of the

cedents are often not aware that these losses should be split for reinsurance purposes. Also the IT systems may not be fit for such a differentiation. Finally reinsurers pay for costs which would not be part of the aggregated nat. cat. loss or the cedents ask the reinsurers for compensation of the man-made claims on an ex gratia basis."

- Cedents seemingly are aware that ex gratia payments are not recoverable under the reinsurance and must be subject to prior consent of the reinsurer. However, as small ex-gratia payments could be drowned in the accounts in proportional covers reinsurers must rely on the cedents to declare such payments.
- Reinsurers would usually push for a total exclusion of ex-gratia settlements, but the scope of the absolute exclusion also depends on the definition in the treaty of what constitutes “ex-gratia payments”. A definition should always be included. Upon request, they may consider such settlements especially where court proceedings can be avoided or for nuisance claims.

4.5 Language Problems

Insurance policy wordings and treaty wordings may have been translated from one language to another one, typically originating from London market or other standard wordings issued in English language. Translation into local languages could cause loss of information or simply language which does not make sense. Furthermore, almost any reinsurance treaty grants coverage for (at least a certain number) insurance policies written in another language than the reinsurance contract. Relevant terms may have different interpretations in the different languages. In addition, in bilingual cases it has to be clear which language prevails: e.g. in case of dispute or ambiguity shall the initial idea of the wording prevail over the language the policy is issued?

The question
Have problems been experienced by cedents and reinsurers concerning this topic?

Findings
- Firstly, cedents did not experience language issues in connection with reinsurance but referred to the follow-the-fortunes principle.
- The translation of policies is always a challenge for cedents in case of international programs where a master policy is issued to a policyholder in one country and local policies to subsidiaries in other countries which sometimes need to be issued in a language different than the master policy. A case has been mentioned where a term has different meanings in different jurisdictions, e.g. the term "warranty" which has a different legal meaning in Norway than in the UK. This case was based on the argument of different applicable laws.
- Typically, a language is stipulated as prevailing when it comes to interpretation of policy terms & conditions. This is usually the original version. If the translation is good this is not a big issue but the temptation is to deem an easily readable translation as a faithful translation which is not always the case.
- Translation may not be well done, or the wordings are not even translated. The insurance policy exists in local language only, whereas the reinsurance slip is in English. Consequently, the parties become aware of the differences no sooner than in case of a loss.

Conclusions
- Automated translation tools should be used with utmost care and proof reading should always be the case before transferring an automated translated version into a wording.

- Some London market clauses appear to have been translated into the local language and then – poorly – re-translated - back into English. It would be easier to refer to the original version or an official translation which is quite common for market referenced clauses.
- You would always want to state in the contract which language prevails and which one is the translation. So there should be no conflict.

4.6 Regulation

Cedents and reinsurers are often subject to different regulators.

The question
What kind of problems could arise out of this constellation and what is the experience?

Findings
- Different regulators' interpretation of a same issue or term might be different; for instance Umbrella DIC and DIL cover in relation to local covers. The extent to which covers have to comply with local licensing requirements is not always clear.
- When insurance and reinsurance contracts are subject to different regulations, the benefit of capital relief to the cedent may be diminished. It can also happen that the reinsurer is forced to fulfil stricter requirements than usual, e.g. setting up collaterals.
- Ceding companies being situated within the Solvency II area may be facing certain regulatory restrictions aiming at reinsurers being domiciled outside of the Solvency II area (especially at those being domiciled in so-called “non-equivalent countries”).
- This issue can arise in the sanctions context, when for example an insured and cedent may be able to engage in a transaction whereas the reinsurer has to follow strict sanctions guidelines (e.g. OFAC – Cuba sanctions).
- Otherwise no real problems have been experienced and reported.

Conclusions
- Some regulators impose rules and guidelines for handling claims with consumers, in particular for complaints. We would suggest looking carefully into the practice and policy of a potential cedent or co-insurer before writing a contract or account.
- In order to ensure contract certainty regarding sanctions, it is best for the parties to include a market standard sanctions clause.

4.7 General Remarks / Comments made

- Reinsurers sometimes encounter difficulties with timely claims reporting. In fact, if a claim is reported late, defense of a claim may no longer be possible or seriously impacted. In certain circumstances, a reinsurer may want to be involved in the claims handling or dispute resolution process. To do so, claims cooperation or claims control clauses may help.
- Some of the suggested remedies will likely be different depending on whether one is acting as a cedent or a reinsurer. Some issues will remedy themselves with time such as translation matters with the improvement of software. Matters such as the identification of smaller ex-gratia, without prejudice payments, ECO, XPL (extra contractual obligations / extra policy limit) and claims of a similarly unusual nature in proportional covers could be addressed if the cedents volunteered to provide more information on these matters.
- The Loss settlement clause is probably the most crucial clause. Also, data privacy clauses increasingly find their way into reinsurance agreements.

5 Underwriting Considerations

5.1 Considerations by the Underwriter of the Cedent

The following is not intended to be a guideline for the comprehensive assessment of a risk which is submitted to the cedent by the broker. The considerations refer to topics where an interaction with the reinsurance treaty has to be taken into account.

5.1.1 Underwriting Guidelines

Underwriting discipline has never been as important as it is under the current soft market. An important instrument to achieve this are the underwriting guidelines which have been developed by the companies in order to define risk appetite and to ensure that every underwriter adheres to the same principles rather than to individual gut feelings.

Now the question arises as to what should be the reference point for such guidelines:
- Should the underwriting guidelines be based on the aspirations of the board of directors or investors?
- Would it make sense to follow the same guidelines as the competitors?
- If not, why to reinvent the wheel?

In order to answer these questions, we should first understand the purpose of guidelines. Underwriting guidelines refer to a broad set of rules & regulations according to which underwriters decide whether to accept a risk or not. And if they accept, what are the terms & conditions?

Underwriting guidelines may be broadly split into two categories:
- *General Guidelines* that may be based on industry best practices. They relate mainly to underwriting checks and controls to achieve operational excellence and comply with the local regulatory requirements such as fronting, law & jurisdiction, premium collection, risk survey etc.
- *Technical Guidelines* that primarily focus on underwriting a particular line of business based also on guidance from treaty reinsurers. These guidelines cover areas such as policy forms, risk selection criteria, geographic limits, rating, deductibles, PML assessment, extension limits, key exclusions, key extensions, warranties, clauses & conditions.

It is of paramount importance that the underwriting guidelines match the stipulations of the reinsurance treaty and vice versa: in the event of any risk being underwritten breaching the reinsurance treaty terms & conditions, treaty reinsurers reserve the right to decline a claim and in that situation, the cedent will have to pay the claim from own reserves. Further, major claims are often scrutinized by the reinsurers, and any underwriting lapse might delay the claims settlement. In order to avoid such situations, it is essential to avoid inconsistencies between the local policy coverage and the reinsurance contract terms & conditions.

For the reference of underwriters, we have developed a 'Checklist for Underwriters as in the Appendix 2. It can be amended as per the specific requirements of the relevant reinsurance treaty. It is advisable to keep the underwriting guidelines more restrictive than the treaty reinsurance. The underwriting guidelines/checklist should always remain up to date with the reinsurance treaty (to be checked after treaty renewal!).

5.1.2 PML assumed for a Risk

Cedents generally deploy capacity based on PML that stands for 'Probable Maximum Loss' (see also IMIA WGP 19 (02)). The most commonly used definition of PML is as follows:

"The Probable Maximum Loss is an estimate of the maximum loss which could be sustained by the cedents as a result of any one occurrence considered by the underwriter to be within the realms of probability. This ignores such coincidence and catastrophes, as may be possibilities, but which remain highly improbable".

The PML assessment is an important part of the underwriting process because underwriters decide about their retention (within the treaty limits) and facultative reinsurance requirement on the basis of the PML. PML estimation is not an exact science but PML should always be assessed very carefully and based on credible underwriting data, preferably involving expert engineers for complex risks. The basic minimum required information for a proper PML assessment is:

- Project cost breakdown for main works/units, cost of any free issue materials, time chart and to-scale site layout plan.
- Limits for various extensions such as existing property, third party limit, removal of debris, expediting expenses, airfreight, professional fees, fire-fighting expenses, loss of drawings or any other first loss limit extension, which might increase the liability under the policy, should also be factored in PML assessment.
- In the event that a risk is also covered for Business Interruption (BI) or Advanced Loss of Profit (ALOP)/Delay in Start Up (DSU), the full sum insured or the loss limit should also be added to material damage PML.

It is important that the PML is estimated as precisely as possible, neither too high nor too low. If the PML is estimated too high, cedents lose premium income by purchasing (unnecessary) reinsurance. On the other hand, if the PML is estimated too low, the cedents may retain more risk than allowed by the reinsurance treaty and a large loss may exceed its capacity.

Often, treaties define a minimum PML as a percentage of the sum insured, which is not allowed being undercut. The purpose of this provision is to minimize the risk of a PML burst which otherwise not only increases the financial burden (ultimately a loss) on the cedent (and the reinsurer) but also affects the credibility with treaty reinsurers. The PML assessment should also factor cost escalation and cross-CBI exposure. It is advisable that the PML is assessed by a risk engineer or at least cross-checked by the underwriting manager.

Underwriters should never fully exhaust the treaty capacity because often projects have mid-term increases in contract values (and the PML as a consequence) which may increase the risk beyond the treaty capacity. If an underwriter has fully exhausted the treaty capacity, treaty reinsurers for the given treaty year should be approached for a special acceptance in case of an increase of the PML. If they decline, buying facultative support may be another option (not preferred in case the risk has already incepted).

5.1.3 Long-term Risks

In general, the term “insurance policy” refers to an agreement between the cedent and the insured, which determines the coverage granted and, consequently, the claims which the cedent is contractually required to pay. The term “Policy period” refers to the period of time during which the insurance policy is valid. The duration of the policy period may be from as little as one day to decades, depending on the needs of the insured and the type of insurance cover. A very high percentage of the policies at various branches (such as property damage, machinery breakdown, motor insurance or health) are issued on an annual basis. There are also short-term policies generally required for short-term interests of insureds.

As the facultative reinsurance arrangement is assumed to create no difference in conditions under proper operational management, the following is focused on treaty reinsurance with a special emphasis on long-term policies.

Although it’s theoretically possible to issue policies longer than one year for every insurance category, this need is mainly encountered at Leasing All Risks and engineering branches such as Contractors’ All Risks. Leasing agreements for machinery and equipment are generally longer than one year and in turn so insurance covers. LAR policies are ceded to specially designed treaties for just this type of businesses. So, no problems are expected with these covers.

Contractors’ All Risks policies are other examples for long-term policies. For example, infrastructure projects may extend up to decades due to several reasons, such as the size of the project, additional works, insufficient financing, poor planning, etc. Izmir-Aydin Motorway construction Project is a very good example which ended 15 years after inception. Many treaties don’t have any specific policy period limitation and long-term policies can be ceded without any upper time limitation. Moreover, CAR/EAR treaties are generally set-up on a risk attaching during (RaD) basis.

A problem may be the interruption of a reinsurer’s service. As many years pass after the inception date of the policy for such projects, the Reinsurance structure behind may change or get “eroded” due to, say, merging or simply bankruptcy of a reinsurer. Usually the underwriter of the cedent accepts the period extension and has no doubts that the risk continues being covered under the treaty. But if one or more treaty reinsurers cease to exist or simply cannot support the risk due to some change in the circumstances, the cedent will face an inconsistency between the insurance and reinsurance, ending in dispute in case of a loss. To avoid such inconsistencies records and disclosures of the reinsurers should be very well documented and immediate actions should be taken, to replace or distribute the withdrawn reinsurers' shares.

Another potential problem for long-term policies can be a lack of capacity following an increase of the insured value. Especially long term construction Projects, such as high dams, mass housing, highway projects are exposed to many changes at the projects including e.g. addition of new parts to be constructed or complete changes in the design which, in turn, cause a significant increase of the total project value. Moreover, such variations may sometimes be caused by currency exchange fluctuations. Local currencies of developing countries can suffer extreme changes throughout the policy period and this may have an adverse effect on the sum insured value and reinsurance capacity. As a result, long-term policies may be affected from high increases in the Project value and subsequently suffer from insufficient treaty capacity. The problem can be handled by a granting a certain leeway for the capacity by the treaty for exactly this situation or by seeking a special acceptance. The least attractive option would be seeking for facultative coverage (if possible).

5.1.4 Sanctions

Another potential source of problems is politics. During the long policy period of a risk, as already mentioned, the political situation can suddenly change and a country and/or an enterprise and/or an individual may be subject to a sanctions regime imposed by the EU, UN, USA. It is common market practice in today's uncertain political climate for reinsurance treaties to contain a sanction exclusion and limitation clause which stipulates that neither the cedents nor the reinsurers will be liable to provide any coverage or benefit or make any payment that would violate sanctions applicable to the (re)insurer. Sanctions laws and regulations are imposed by governments and typically will take precedence over the principles of the (re)insurance contract, although conflicts and problems could arise.

The following situations may cause problems:
- The cedent has not included a sanctions clause in the insurance policy.
- The sanctions laws and regulations that apply to the cedent are less restrictive than those applying to the reinsurer. Under circumstances like these, the cedent may be able to pay the claim (for example because the cedent's country of his HQ does not impose sanctions that would restrict the transaction) but find that it is unable to recover the claims amount from reinsurers who are based in countries with sanctions laws restricting the transaction.

It is advisable that the underwriter of the cedent observes his portfolio in this respect and addresses problems early (ideally before a loss happening!) to the reinsurers as well as to the insured. One of the preferred solutions, when problems arise, is for the insured, cedent and reinsurer to cooperate in sharing relevant information that can assist each of the parties in accurately analysing, whether sanction laws permit or restrict payments to be made in the specific circumstances, and/or, whether authorisation to deal in the payment/coverage/benefit, must be sought from applicable governmental authorities.

Remark: it is important to note that all these considerations also apply to reinsurance arrangements on facultative basis!

5.1.5 Nat Cat

Natural catastrophes (Nat Cat), also known as Acts of God (AOG) or Natural Perils, cause considerable property damage and loss of human lives every year. Natural catastrophes accounted for USD 150 billion of the total economic losses in 2016 out of which only USD 42 billion were insured losses, slightly below the annual average of the previous 10 years (USD 46 billion). On the other hand, man-made disasters triggered only USD 7 billion in insurance claims in 2016 (preliminary estimates by Swiss Re publication "Sigma").

The following can be said about these exposures:
- Natural catastrophes remain unpredictable in spite of significant technological and scientific advances.
- The risk exposure to natural catastrophe largely depends on the location rather than other parameters such as occupancy, fire protection and operations/maintenance practices even though they are essential for the risk assessment.
- In general nat. cat. exposures can be controlled by passive protection (as i.e. physical separation between risks such as in case of fire risks) to a very limited extent only because the nat cat event affects a wide area. The exposure can be controlled by the design which takes into account that the vulnerability of an object may be higher during certain stages of construction, unless special measures are taken. Furthermore, evacuation plans for mobile equipment may help reducing the risk too.
- Accumulation control is critical for the assessment of the financial risk involved in insuring natural hazards. This means that the cedent tracks and accumulates the limits granted in a certain area. It is recommended that loss scenarios are modelled with the help of the systems as e.g. RMS, AIR etc.

- A mid-term increase in the policy sum insured, in turn can also lead to a need for higher limits. The specific increase in limits can be triggered by contractual obligations and/or higher exposures.
- Cedents should not cover nat cat exposures beyond the limits granted by treaty. The nat cat limit stipulated in the treaty usually applies not 'per location' but 'per occurrence' as the reinsured portfolio (and sometimes even a single policy) may cover more than one location subject to the same event.
- Best practice is to have an annual aggregate limit as well. This becomes more relevant where treaties are on RAD basis with accumulation from previous underwriting years. In such cases, interlocking clauses in the treaties prevent the limits from the different underwriting years from stacking up. This is a very important measure as event limits usually exceed the capacity of the treaty.
- However, it must be taken into consideration that not all exposures can be captured: in case of annual open cover policies (issued to contractors) being part of the portfolio, the locations of the construction sides are mostly unknown to the cedent.
- Deductibles in the insurance policies should be defined as %-age of the loss or the sum insured.

Summary and conclusion

- Reinsurers are able to manage their exposure by geographic diversification while local cedents are unable to do so due to their localized territorial limits. Nat Cat Sub-limits should be as low as possible in order to control accumulated losses per event. In case of treaties working on RaD basis, possibility remains for accumulation of loss limits with the previous underwriting years. Therefore, it is not only essential to cover Nat Cat risk by charging adequate premium but also have a system in place to monitor accumulation (Nat. Cat. modelling).
- It is crucial for an underwriter to be aware of the treaty limits and to consider the entire portfolio exposure when writing projects. An increase in just one policy may still be within treaty limits. However, if several policies in the same area are subject to an increase, the event limit of the treaty may be reached or even exceeded. At this junction, further capacity should be sought in order to cope with such a situation whereas the most widely used option is additional facultative placement.
- Another very important point is the hours' clause. It can have different wordings in different markets and variations in respect of the perils and the number of hours. The cedents have to be very prudent with this issue when considering changing a treaty leader.

5.1.6 Difficult clauses - Terrorism

Problems of cover between Reinsurance and insurance may arise due to varying interpretation/understanding of the clauses. We take the terrorism definition as a typical example:

There are various terrorism clauses and definitions in the international (re)insurance market claiming to mention the same thing but always with some differences. Moreover, local approach to and related definitions of terrorism may differ from country to country. It is obviously not unique.

London based wordings and relevant Munich Re clauses such as MR14/02 are being widely used across Europe's re/insurance markets.

However, local laws and legislations may sometimes bring different applications than these international wordings. For instance, Terrorism endorsement definition under Fire

Insurance Turkish General Conditions defines terrorism act referring to *'Law 3713 Anti-Terrorism'* as defined in the Turkish Criminal Code. According to this law, coup d'état, military rising, insurrection or military conspiracy may be understood as terrorist act and in turn property losses caused due to this act should be accepted as insured under property damage policies. This was not an issue for the Turkish insurance market until the coup d'état attempt in July 2016. Many insureds asked their cedents if possible damages would have been covered, if they had suffered that kind of losses. Unfortunately, the coverages especially under treaties were understood as not being sufficient for such events. Legal advisors also commented that such crimes should be counted under terrorism act according to Turkish legislation. Generally terrorism markets offer a special product named *"political violence cover"* for civil war including coup d'état/ military conspiracy. There is an important coverage gap between insurance and reinsurance agreements in relation to terrorism/political risk. Fortunately, the losses due to the coup d'état attempt were very limited in this case and this difference in conditions did not cause significant insured losses. Many insurance companies learned their lesson from this event and are now trying to extend their treaties to comply with the Turkish General conditions. The following phrase is tried to be added both to treaty and facultative agreements which seems an adequate solution to figure the situation out:
"Any act that is considered to be terrorism in the Turkish Anti-Terror Law numbered 3713 will be considered as an act of terrorism."

5.1.7 Special Acceptances

Although all treaties have their own limitations and restrictions, there's always a way to cede initially excluded risks into the treaties by means of special acceptance. Usually the reinsurance treaty contains language which refers to applying to the treaty leader for permission to cede a certain risk into the treaty. Then the rest of the treaty reinsurers will follow the decision by the leading reinsurer(s). However, there are also cases where the whole panel needs to be addressed.

Typical reasons for seeking for a special acceptance are:
- The sum insured/PML written or the limit of a cover extension exceeds the capacity provided by the treaty.
- The PML assumed is lower than the min. PML stipulated in the treaty.
- The policy period is longer than the max. period stipulated in the treaty.
- The risk in question is not in line with one or more of the treaty exclusions.

However, these special acceptances are valid only on an individual basis or annually, i.e. they can be used only for the period of the specific policy agreed on. It means that the special acceptance is not automatically renewed. Moreover, the special acceptances for very specific cases (e.g. accounts located in high-risk countries or politically risky regions or risks of a high complexity) are often a matter of questioning by the treaty leader at each renewal period, even if there is no material change of the risk nor a subjectivity.
Sometimes automatic renewal of a special acceptance is agreed with the leader. This, however, should be at least subject to some conditions. There are varying criteria used, such as application of an upper limit of loss ratio or an increase of the total insured value. For example: the automatic renewal of a special acceptance is permitted only if the loss ratio is below 50% and the sum insured value increase below 10%.

As a result, the underwriter should be careful when considering a cession of an excluded risks into the treaty. The material changes as well as the subjectivities (e.g. the loss ratio), should be tracked well in case the underwriter is planning (and gets permission from reinsurers) to cede the excluded risk into the treaty with automatic renewal. In many cases, it is observed that the cedents do not question the subjectivities of the special acceptance and behave as this risk can be ceded into the treaty forever after having once received acceptance from the leading reinsurer. This situation apparently causes significant problems in case of a loss which may result in a lack of support by the treaty reinsurers.

Another difficult situation concerning special acceptances are potential changes to the treaty structure. They can happen especially in the case of a change of the treaty leader as he may bring different conditions, also applying to past special acceptances.

In principle, two cases have to be distinguish two cases:

- *Treaty on RaD basis:* once a special acceptance has been agreed, it is covered until its natural expiry. Only automatic renewals (with/without subjectivities) may be a source of problems.
- *Treaty on LoD basis:* almost every risk underwritten is subject to two or more treaty years (also annual risks written after treaty inception). This means it has to be ensured that the special acceptance issued at policy inception is still valid in the following treaty year(s). Of course, it is common understanding and underwriting intent to grant cover for the full policy period of a risk. In case of a stable reinsurance panel no problems should occur. However, if a new reinsurer joins the panel he must know which special acceptances will be in force (no matter whether it has an automatic renewal or not). This is crucial as in an extreme case the new reinsurer may not have offered a treaty participation had he known about a certain risk covered by means of a special acceptance.

Conclusion and recommendation

- *Treaty on RaD basis:* the underwriter has to maintain a list of the risks which are covered under a special acceptance and which are subject to automatic renewal. This list must be part of the treaty renewal submission for the treaty. The list must include some basic risk information and the reason for the special acceptance.
- *Treaty on RaD basis:* the underwriter has to check whether the renewed treaty conditions still make it necessary to seek for a special acceptance. Or the new conditions may even be tighter and the risk may not be covered for other reasons too. In such a case the automatic renewal provision is void. This check may only be done after renewal.
- *Treaty on LoD basis:* the underwriter has to maintain a list of <u>all</u> risks which are covered under a special acceptance. This list must be part of the treaty renewal submission. The list must include some basic risk information and the reason for the special acceptance. This list must be updated yearly in order to have all criteria listed which trigger the special acceptance requests. This applies also to all construction risk (which may have very long durations) as the treaty conditions may change.
- *Treaty on LoD basis:* generally, in view of the administrative burden, we would recommend to underwriters not to ask for automatic renewals.

5.1.8 Checklist

The relevant questions to be dealt with by the underwriter of the cedent are summarized in a checklist in the Appendix 2.

5.2 Reinsurance Underwriter - Treaty

The reinsurance underwriter is in a rather remote position from the individual risks covered under the treaty. He is not involved in the underwriting process and he has no right to decline any risk which is underwritten by the cedent as long as the risk characteristics are within the frame work provided by the treaty. Insofar it is fair to say that the reinsurance underwriter underwrites the underwriter(s) of the cedent (see also § 2.2). This can only happen on the basis of mutual trust and open and transparent communication and disclosure of information.

The reinsurance underwriter will be interested in details as follows:

- Overall strategy of the cedent: what is the position in the market and where does the cedent see him-self in a couple of years: this refers to the question whether the organization is driven by top-line growth or rather by the bottom-line figures.
- Organization of the engineering segment with key people: are they dedicated to the class, are they guided by a “competence center” and what are the reporting lines?
- Guidelines: are there guidelines in place which address the risk appetite (type of risks, type of covers, geographical areas etc.) and to what extent (line sizes in money and %-age as a function of certain criteria)? But also procedural guidelines are important referring to e.g.: four-eye principle, rating tools, risk classification, referral lines etc.
- Composition of the portfolio: sub-lines of engineering, types of industries, risk profiles etc.
- MPL: if the treaty cession is based on the MPL – how is a MPL scenario determined? Which relevant cover extensions are part of it?
  What about BI, especially in the case of DSU (what percentage of the SI is taken into consideration?)?
  What about TPL: is it part of the MPL scenario or ceded in the “same proportion as material damage” (which refers to TPL not being part of the scenario)?
- Nat. cat.: how are these perils written? Avoidance of high hazard areas? Subject to limits in the policies? How are accumulations tracked? Can the cedent provide details on the basis of commonly used formats, e.g. RMS or Cresta? Can the cedent provide modelled scenarios?
- Cession of DSU losses: this topic matters unless in the case of pro-rata treaties on RaD basis. An appropriate cession clause should be part of the treaty in order to avoid discussions in case of a (large) loss.
- Changes of the treaty conditions: usually a draft of the desired new treaty contract comes together with the submission. This draft contains changes compared to the expiring (and be it only the inception date). Firstly, a red light copy should be delivered as well in order to highlight all the changes proposed. Secondly, a narrative should explain why the changes are desired or required.

These are all topics which are typically part of a submission handed out to reinsurers upon treaty renewal. We believe that the pure exchange of data does not replace regular meetings between the individuals involved (sometimes followed by a beer or the like…). This may lead to in-depth discussions about certain topics which give an additional feel about how things are handled by the cedent and also allows rounding up the picture with “soft criteria”.

5.3 Reinsurance Underwriter – Facultative

When he has received a request for facultative support the facultative underwriter of the reinsurer is basically performing the same procedure as the underwriter of the cedent. This means that he needs the full detailed risk information which is available to the cedent.

Usually the book of facultative risks of a reinsurer is written on its own merits.

Besides the quality of the risk itself, the reinsurer will take the following into consideration when making a decision about a possible participation:

- Purpose of fac. request: is it about additional capacity or a risk which is outside of the treaty framework or even about protection of the treaty by anti-selection?
- Accumulation: the reinsurer may not want to assume a too high share in a risk and he has to estimate possible accumulations which can result from:
  1 facultative participations with other cedents
  2 participations out of the treaty with the cedent offering fac.
  3 participations out of treaties with other cedents
- Often there is a framework called “General Conditions for the Facultative Business” or the like in place between the reinsurer and the cedent. The reinsurer would check whether a participation would be in line with these conditions.

See also in the Appendix 1.

6 Claims Examples involving Inconsistencies

6.1 General Statement by an international Loss Adjuster

When a risk manager of a multinational construction company or one of the national utility companies seeks to place a risk, invariably he or she will consider the top brokers, insurers and reinsurers. When the risk is finally placed, the risk manager will be confident that he has secured the best or most appropriate cover available in the international market and that in the event of a major (covered) claim the policy will meet the covered repair costs. Likewise, the broker's insurers and reinsurers are confident that they have underwritten the most appropriate cover for the risk. Ostensibly, everything has been completed professionally and in good faith. From our experience of some important complex claims arising from these risks often, reality paints a very different picture.

When appointed by reinsurers a major problem that adjusters face in settling claims, is where the reinsurance is placed under more than one RI slip with varying conditions:

- Often the local insurance company reinsured is not aware of the difference in the conditions between their own policy and those of the reinsurance market.
- Often the RI market is not aware of the difference in conditions between the various RI slips and those of the local insurance policy.
- Difficulties in negotiating with the local insurer in determining the various reinsurers' responsibilities.
- Negotiating with the original insured in determining a fair adjustment of the claim.

Clearly the original insured will insist that the local insurance policy is that which covers its risk. However in the majority of cases, it is understood and accepted that it is the RI market that will pay its claim and therefore settlement must include negotiations with the reinsurers (and /or their appointed adjusters).
From our experience in recent years problems arise due to separate slips written in a market with no clearly defined 'Market Leader'. Indeed we have had the experience of important claims where two RI insist in being Market Leader, resulting in confusion especially when one decides to accept liability for a claim and the other (s) does (do) not. Further difficulties arise during the adjusting process when Market meetings are necessary to discuss the differences in cover between the slips, or when a payment on account has been requested, in calculating the appropriate amount.
Due to these difficulties claims costs increase substantially especially when legal opinion is required often resulting in settlements far higher than necessary.

6.2 Hydroelectric Power Station in Latin America

The Project involves the construction of a hydroelectric dam, using water from two major rivers, for power generation and irrigation purposes.

The project essentially comprised:

- The construction of Dam and Trans-Andean tunnel
- The construction of irrigation channels
- The construction of two hydroelectric plants

The contract affected by this loss is part of the project's initial phase: dam and tunnel. The value of the contract was USD 200,000,000.

Loss
The claim concerns the collapse of approximately 360 m^3 rock during excavation of the main headrace tunnel. Collapsed rock trapped / damaged the tunnel-boring machine (TBM) and stopping operation/delaying contract works approximately 47 days

Claim
The claim for repair costs was in the amount of USD 5.750.000. For the breakdown of the value please refer to Appendix 3.

Policy Coverage
Two separate Reinsurance slips were in force with partly varying terms and conditions each different to Local Policy. There were five RI under a London Market Slip and one separate RI. There were differences in the two Slips as follows:

Full Reinsurance clause

London market
This Reinsurance is subject in all respects to same clauses and conditions as original (excluding Ex Gratia Payments). In event of a claim under the original policy Reinsurers hereon agree that settlement shall take place at same time as settlement or advance of funds under the said original policy."

Separate reinsurer
'*Full Reinsurance Clause' is identical to London Market Slip with the exception of: "excluding Ex Gratia Payments"*.

Exclusions

The exclusions / conditions in the separate RI slip stated that they *"..shall apply to this Reinsurance (unless already included in the original policy wording)."*

These exclusions correspond to the London market slip. However the London market condition 6 is concluded by the statement
"The above exclusions/conditions shall apply to this reinsurance even if such exclusions/ conditions is/are not included in the original policy."

Sue & Labour Clause

In the case of loss or damages to insured property, the Insurance Company will indemnify all reasonable costs incurred to take action to avoid further loss or damage, provided that such costs, previously agreed between the Insurance Company and the Insured, are lower than the possible damages that could happen if such actions had not been taken.

Limit: USD 1,000,000 any one occurrence + USD 1.800.000 in the aggregate.

In summary, the inclusion of Condition 6 in the London Market slip appears to render this slip the less generous of the two however, the separate RI slip does not include cover for sue & labour. In addition, the London market version of the Munich Re tunnel endorsement 101 provides 125% cover, whereas the separate RI slip provides only 120% cover. Furthermore, in the London market slip debris removal is not limited to 10% of loss as is the separate RI slip.

A comparative table has been set out (see Appendix 3) from which it can be seen that there are considerable differences in cover between the two RI slips.

Conclusion

The main differences between the RI Slips and the local Policy, concerns the cover for Removal of Debris, Sue & Labour and work necessary to free the TBM. It is of interest that neither of the parties (Local Insurer, London market, separate Reinsurer) were aware of the differences in cover. The differences became known, when the adjuster submitted its report to the market following which the separate reinsurer contested the adjustment for differences in its slip that (not previously received) the adjuster prepared a separate adjustment in accordance with the terms and conditions of this slip.

These differences in RI cover resulted in a considerable shortfall in reinsurer's liability for the claim against the local policy which in turn caused serious delays and difficulties with the original insured in settling the claim.

6.3 Operational Power Plant in Latin America

The loss concerns Property Damage and Business Interruption to a Power Generation Plant consisting of several heavy fuel oil generator units used to generate power by the combustion of Heavy Fuel Oil (HFO). A catastrophic failure of one of the Generators, due to an engine over-speed, subsequently caused a major fire that affected the entire plant. The cause of the loss was due to Machinery Breakdown which caused fire and impact damage. The fire and impact damage also destroyed most of the plant Process Control System (PCS).

Reinstatement of the PCS was a major delay factor in the recovery of units, since, although mechanical completion was achieved early, control problems persisted for a considerable period until sufficient reliability could be achieved for the plant to go into commercial operation.

A number of Generators were replaced; having been either was completely destroyed mechanically or damaged beyond economic repair by the ensuing fire.

The MD claim amounted to more than USD 40.000.000, the BI part to ca. USD 26.000.000. The total claim was, therefore, in excess of USD 60.000.000.

Insurance /Reinsurance (RI)

In addition to the local policy insuring the risk there were nine RI slips, most of which had varying conditions, placed separately through three separate brokers. In addition, the local policy wording was also different from the slips.

As will be appreciated, adjusting the claim with so many different terms and conditions was a daunting task. In order to identify and understand the differences, we prepared an Insurance/RI Slip comparison table has been prepared (please see Appendix 4 to this section).

Seven of the Slips have been arranged into the two groups A and B. Then there are slip C, slip D plus the local policy wording, see also Appendix 4.

Main differences between groups A and B

- Different deductibles
- Co-insurance: Some had others not
- Different sub-limits i.e. expediting expenses (others)
- Group B included MB Group A does not.

Slip C - main differences between groups A and B

- Same deductible as B
- Includes co-insurance 50% cap X each and every
- No comprehensive (CMI) underlying MB cover
- Different sub-limits to all other slips

Slip D - main differences between groups A, B and slip C

- Different conditions
- Different Sum Insured (higher limit)
- Different deductible from A but same as group B and slip C
- 50% co-insurance MB cap of X

Local Policy

- Same deductible as Group B and Slip C
- 50% MB cap X
- Higher BI Sum Insured than any other slip.

Claim and adjustment

The main difficulties we faced in adjusting the claim was 1) trying to reconcile the slips with the local policy, 2) matching the RI slips (where possible) and organizing them into groups of similar coverage. The difficulties in the adjustment process were compounded by the differences in opinion between the various RI's in respect to the definition of the wordings and the insistence of many RIs on strict application of their slip conditions to the claim at hand.

Of course the original Insured could insist on coverage provided by the local policy however it was quickly understood that the local insurer was not prepared to (or as often is the case could not afford to) accept the responsibility of settling the claim under its policy alone. In order to avoid litigation through the local courts and with a view to achieving settlement of its claim within a reasonable period of time, the original insured was compelled to meet and discuss with the various reinsurance companies. Not only the original insured was unaware that its risk had been reinsured in this manner, prior to the loss occurrence, the RI market was unaware of the existence of the different slips that were placed with three different RI brokers.

After preparing the adjustments of the claim in accordance with the seven different wordings (seven preliminary reports, seven intermediary reports and seven final reports), the final adjustment under the nine RI slips, produced a short fall of some USD 4M against the adjustment under the local policy. Protracted meetings between some of the reinsurers were unsuccessful in achieving unity on how to resolve the differences in their respected RI slips.

As with other similar cases dissatisfaction on all sides pervaded repeated attempts to settle the claim under the insurance/reinsurance provided. We understand that settlement was however concluded in an agreement outside the scope of policy cover.

How can such situations be avoided in the future?

The role of the Reinsurer, RI Broker/ Local Insurer, Insurance Broker

Where more than one broker is involved in the placement of a risk it should be the responsibility of the cedent to ensure that the slips are compatible (back to back) with the insurance wording provided by the cedent. If this is not possible then the differences should be identified prior to RI acceptance and either formally accepted or rejected by the local insurance company. The broker must be held accountable for informing the cedent on the RI placement and of any differences in the RI slip cover with the local policy cover.

Reinsurance market
Up until a few years ago, it was standard practice in the RI market to identify a RI leader, usually the RI with the highest share in the risk whose duty it was, to take the major decisions in respect of coverage and proposed settlement of claims. Unfortunately, this is no longer the case; we have had experience of two RI both assuming leadership and taking separate views on coverage and settlement. Surely, it is preferable for RI to make adequate enquiries prior to accepting the risk in respect to how the risk is placed and compatibility of the wordings with other co-reinsurers and with the local policy. A clear understanding of terms and conditions between the parties could help to reduce claim settlement times and facilitate a more efficient claims management procedure.

6.4 Road Construction Project in Oman

A reinsurance placement was agreed for a road construction project in Oman which traversed across known wadis and flood prone terrain. The reinsurance contract was agreed as per Standard Munich Re CAR wording and included, inter alia the Sections Clause 106 (500m and three sections). When the cover was bound, the local insurance policy was not provided to the reinsurer and the reinsurance placement was based on the agreed reinsurance slip.

The road was subject to a severe flood, which severely damaged eight sections of the road. The Insured made a claim for the damage caused. The cedent presented a claim, together with a loss adjuster report to reinsurers, requesting payment in full for the damage to the road.

During review of the loss adjuster report, it was noted that the underlying wording of the standard Munich Re sections clause had been amended to remove reference to “or road works” as shown below. This, in effect, rendered the Sections clause inapplicable on the underlying insurance policy. However, the wording was clear on the reinsurance contract.

MRe 106
It is agreed and understood that otherwise subject to the terms, exclusions, provisions and conditions contained in the Policy or endorsed thereon, the Insurers shall only indemnify the Insured for loss, damage or liability directly or indirectly caused to or by embankments, cuttings and benchings, ditches, canals or road works if these embankments, cuttings and benchings, ditches, canals or road works are constructed in sections not exceeding in total the length stated below, irrespective of the state of completion of the insured works, and the indemnification for any one loss event shall be limited to the cost of repair of such sections.
Maximum length of section: metres

Since the reinsurance contract stated Standard Munich Re wording, the amended wording was not accepted by the reinsurer and the 100% of the admissible claim was paid by the reinsurer, which was only 10% of the overall loss amount in line with the local construction policy. With other words: the reinsurer paid only 10% of the amount the cedent expected him to pay!

It is key to remember that the underlying policy does not always reflect the wording/ clauses on the reinsurance policy and it is therefore prudent to request for a copy of the local wording.

Furthermore, care should be taken, when interpreting the extent of liability under the reinsurance policy, since different sections of a reinsurance slip can provide a basis for contradiction in the actual cover provided. There is room for interpretation should the policy include a full follow clause ore a reference to be “based on the original policy” or an unclear claims co-operation clause.

6.5 Power Plant Construction in CIS

The project:
The EAR policy for the construction of a hydraulic power plant was issued locally in one of the CIS countries and reinsured with the support of a reinsurance broker. There were two main reinsurers with similar shares in the risk. The currency used in the original policy was USD. The same currency was used in the reinsurance slip. Both the original policy and the reinsurance slip contained a currency clause.
But the wordings were different:
- Primary policy: the date of the RoE was attached to the date of claim settlement.
- Reinsurance slip: the date of RoE was attached to the date of loss.

The loss:
The dam under construction suffered heavy damage because of an unexpected severe flood event during spring time. The loss adjuster estimated the loss being in the range of USD 1 mio to 1.5 mio. It is important to note that the main construction materials were bought on the local market and were paid in local currency. During settlement of the loss the RoE fluctuated considerably. The claim settlement on the basis of the policy was higher than on the basis of the reinsurance slip.

Conclusion
To avoid such a situation it is highly recommended that the reinsurance slip is compatible (back to back) with the insurance policy wording.

6.6 Conclusion

Four claims examples refer to the situation where differences between the insurance policies and the facultative reinsurance conditions occurred.

It is not suggested that all CAR/EAR or Operational risks are subject to the same difficulties in settling claims as cited in this paper. However, a clear understanding of terms and conditions between the parties could help to reduce claim settlement times and facilitate a more efficient claims management procedure.

Appendix 1 – Example for “General Conditions for Facultative Reinsurance”

General Conditions for Facultative Reinsurance

Between

xxx
(hereinafter referred to as the 'Reinsured')

And

Swiss Reinsurance Company, Zurich, Switzerland [or insert name of appropriate legal entity]
(hereinafter called the 'Reinsurer')

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Preamble

[1] These General Conditions shall set out the terms and conditions applicable to each facultative reinsurance agreement which may be entered into between the Reinsured and the Reinsurer from time to time, whereby each agreement formed in such way shall constitute an independent and separate agreement between the parties. The parameters of such agreement are set out in the Acceptance. The reinsurance agreement between the parties, hereafter called the 'Agreement' shall be made up of these General Conditions and the Acceptance.

[2] The parties shall sign a copy of these General Conditions as evidence of their agreement to the same. Thereafter the General Conditions shall be of legal effect in respect of any Acceptance to which they apply as of that Acceptance's inception date. They may be altered by mutual agreement or terminated by either party giving to the other party not less than 3 months prior written notice of termination. Termination of the General Conditions shall have no effect on any Acceptances in force on termination.

A. Duties of the Reinsurer

1. Reinsurance Clause

[1] In return for a reinsurance premium, and subject to the terms and conditions set out in the *Agreement*, the Reinsurer agrees to indemnify the Reinsured in respect of losses arising under the original insured policy or policies ('the Policy') as specified in the ACCEPTANCE.

[2] Unless the parties provide for differing terms and conditions in the *Agreement*, the Reinsurer's liability shall be subject in all respects to the same terms, conditions and limits as set forth in the *Policy*. However, the *Agreement* shall not apply to any discrepancy with the terms of the *Policy*, a copy of which is attached to the ACCEPTANCE, or to any amendment of the terms of the *Policy* save where there is any proposed amendment to the *Policy* or risk which the Reinsured is bound to accept, the Reinsurer shall also be bound but subject to it receiving thirty days written notice of any such proposed amendment prior to it coming into effect. In all other cases, the Reinsurer's prior consent shall be required and the Reinsurer shall have the right to seek to renegotiate the terms and conditions of the ACCEPTANCE.

2. Reinsurance Compensation

[1] The Reinsurer shall indemnify the Reinsured to the extent of its participation share set out in the ACCEPTANCE in respect of any loss, interest or Allocated Expenses (as defined below) covered under the *Agreement*. In calculating such amount any salvages, recoveries and payments from third parties, including any recoveries from other Reinsurers, whether collected or not shall be taken into account. 'Allocated Expenses' shall mean reasonable expenses incurred by the Reinsured in handling claims covered under the *Agreement*, excluding salaries of employees, management expenses and other overhead expenses of the Reinsured as well as costs related to declaratory judgements.

[2] Where the reinsurance is on a proportional basis, the Reinsurer shall be liable for its proportionate share set out in the ACCEPTANCE applied to all losses, interest or Allocated Expenses within the *Policy* limit.

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[3] Where the reinsurance is on a non-proportional basis, the Reinsurer shall indemnify the Reinsured for that part of any loss, interest or Allocated Expenses which exceed the Retention in respect of any one loss occurrence up to the Limit of Indemnity, both as set out in the ACCEPTANCE.

3. Reinsurance Deductions

[1] Should the parties so agree, the Reinsurer shall allow as required a deduction on reinsurance premiums by way of commission, brokerage, taxes or other duties as set out in the ACCEPTANCE.

4. Follow the Settlements

[1] Claim settlements by the Reinsured shall be binding upon the Reinsurer, providing such settlements are within the terms and conditions of the *Policy* and within the terms and conditions of the *Agreement* and providing the Reinsured for its part has actually paid by transferring the necessary funds or is about to pay the Insured.

[2] Payments by the Reinsured to the Insured where the Reinsured is not liable (i.e. ex gratia payments) shall only be binding upon the Reinsurer where its approval is obtained prior to any payment.

B. Duties of the Reinsured

5. Reinsurance Premium

[1] The Reinsured shall pay reinsurance premium to the extent stated in the ACCEPTANCE.

6. Claim and Loss Reporting

[1] The Reinsured shall notify the Reinsurer immediately of any claim, if its estimated amount exceeds or may possibly exceed 75% of the Retention or the amount set out in the ACCEPTANCE where the reinsurance is on a proportional basis.

[2] Notice shall include information about facts, legal assessment and estimated amount of loss. After such notice the Reinsured shall keep the Reinsurer informed about the development of any claim.

[3] Upon request the Reinsured shall provide the Reinsurer with a list showing for each outstanding loss the estimated amount, the part, if any that has been paid and the part that has been reserved as well as the amount for which the Reinsurer may be liable.

7. Claim Settlement

[1] Claims shall be settled by the Reinsured. However, it is a condition precedent to the Reinsurer's liability that, upon the Reinsurer's request, the Reinsured shall cooperate with the Reinsurer or any other person designated by the Reinsurer. In particular, the Reinsured shall not without consulting the Reinsurer or its representative litigate any such claim.

8. Inspection of Records

[1] Upon request the Reinsured shall make available to the Reinsurer or its duly authorised representatives at all reasonable times during and after the period of the *Agreement* at the Reinsured's head office or at any other place it may be located all information relating to the business reinsured under the *Agreement*.

[2] Upon request the Reinsured shall provide the Reinsurer with copies, to be made at the Reinsurer's expense, of any of the books, accounts or other documents containing information relating to the business reinsured under the *Agreement*.

[3] Should arbitration or judicial proceedings be pending between the parties,

the Reinsurer shall exercise its right of inspection through a person designated and authorised by the respective arbitrator or judge.

C. Premium and Loss Payment

9. Account and Payment of Balance

[1] The Reinsured shall provide the Reinsurer with accounts for each period and at the deadline as set out in the ACCEPTANCE.

[2] Should the Reinsurer object to such account within the period set out in the ACCEPTANCE, the Reinsured shall provide the Reinsurer within the same time limit with an adjusted account.

[3] Any undisputed balance due under the account shall be paid within the time limit set out in the ACCEPTANCE.

10. Cash Calls

[1] The Reinsured may call on the Reinsurer for payment within ten working days whenever the amount of such call exceeds the amount set out in the ACCEPTANCE.

[2] However, it is a condition precedent to the Reinsurer's duty to pay, that the Reinsured shall provide the Reinsurer with all related facts, legal assessment and adjusting reports, unless the Reinsurer expressly waives such rights of information.

11. Currency

[1] Accounts, claims reports, claims advises as well as payments between the parties shall be in the currency stated in the ACCEPTANCE.

[2] Losses paid or premiums received by the Reinsured in a currency other than the currency stated in the ACCEPTANCE shall be converted at the Official Rate of Exchange on the day of the respective loss payment by the Reinsured to the Insured or on receipt of the premium. 'Official Rate of Exchange' shall mean the rate of exchange (selling price) as published in any recognised international economic journal.

12. Set-off

[1] Either party may at its discretion set off against any amounts due to the other party under this *Agreement* or any other agreements between the parties any amounts which are due from the other party under this *Agreement* or those other agreements, notwithstanding whether the amount refers to account balances or cash calls, life or non life business, reinsurance or retrocession business.

D. Termination

13. Termination

[1] Either party may terminate the *Agreement* by giving the other party thirty days prior written notice sent to its head office or at any other address which it may have designated for such purpose. However, the Reinsurer's notice shall be provided to the Reinsured no less than thirty days in advance of the latest date it can issue the notice of termination to the original insured. Written notice shall be deemed to include telefax and telegram.

[2] Either party may terminate the *Agreement* by giving the other party ten days prior written notice sent to its head office or at any other address which it may have designated for such purpose in the event that the other party (i) becomes insolvent or is unable to pay its due debts, (ii) transfers control by change in ownership or otherwise, or (iii) fails seriously to com-

ply with the terms and conditions of the *Agreement*. Written notice shall be deemed to include telefax and telegram.

[3] Should the *Policy* be cancelled, the *Agreement* shall terminate automatically and simultaneously. The Reinsured shall immediately notify the Reinsurer thereof.

[4] In the event of the *Agreement* being terminated before the expiry of the duration period agreed by the parties the Reinsurer shall return reinsurance premium pro rata temporis calculated by reference to the premium due hereunder.

14. Accessory Duties

[1] Accessory Duties under the *Agreement*, such as the duty to report claims and losses or to make information available, continue as long as there is any outstanding debt under the *Agreement* irrespective of the reason for termination.

E. Law and Dispute Resolution

15. Customs and Choice of Law

[1] The customs and usages of the insurance and reinsurance business in the relevant market as well as the law stated in the ACCEPTANCE as the applicable law of the *Agreement* shall apply to the *Agreement*. Should there be a conflict between the provisions of the *Agreement* and the customs and usages or the applicable law, the *Agreement* shall prevail in so far as permitted by the applicable law. Should there be a conflict between the customs and usages and the applicable law, the customs and usages shall prevail in so far as permitted by the applicable law.

16. Dispute Resolution

[1] Where any dispute between the parties arising out of or in connection with the *Agreement* including formation and validity and whether arising during or after the period of the *Agreement* has not been settled through negotiation, both parties agree to try in good faith to settle such dispute by nonbinding mediation, before resorting to arbitration in the manner set out below.

[2] The arbitration tribunal (tribunal) shall unless the parties agree otherwise consist of persons (including those who have retired) with not less than ten years experience of international insurance or reinsurance business as persons engaged in such business or advising such business in a professional capacity.

[3] Unless the parties agree upon a single arbitrator within thirty days of one receiving a written request from the other for arbitration, the claimant (the party requesting arbitration) shall appoint one arbitrator (the first arbitrator) and shall give written notice thereof to the other party (the respondent). Within thirty days of receiving such notice, the respondent shall appoint another arbitrator (the second arbitrator) and give written notice to the claimant failing which the claimant may apply to the appointor named below to appoint the second arbitrator.

[4] Once appointed, the first and second arbitrators shall within thirty days of the appointment of the second arbitrator appoint a third arbitrator. Should they fail to do so then either of them or of the parties may apply to the appointor for the appointment of the third arbitrator. However appointed the third arbitrator shall be chairman.

[5] Upon acceptance of the appointment by the third arbitrator the tribunal shall be constituted. The three arbitrators shall decide by majority. If a majority cannot be achieved the decision of the third arbitrator shall prevail.

[6] If an arbitrator, subsequent to his appointment, is unwilling or unable to act, a new arbitrator shall be appointed to replace him by the procedure set out above.

[7] Unless otherwise extended or ordered by the tribunal within fifteen days of the appointment of the third arbitrator, each party shall submit its case to the tribunal within forty-five days of the appointment of the third arbitrator.

[8] The tribunal shall not be bound by the formal rules of evidence. The tribunal shall have power to fix all procedural rules relating to the conduct of the arbitration.

[9] The tribunal shall within sixty days of reaching its decision in the Arbitration issue to the parties its written and reasoned award. The award shall be final and binding on the parties who covenant to carry out the same. If either of the parties should fail to carry out the award the other may apply for its enforcement to a court of competent jurisdiction in any territory in which the party in default is domiciled or has assets or carries on business.

[10] All costs of the arbitration shall be at the discretion of the tribunal who may direct to and by whom and in what manner they shall be paid.

[11] The appointor shall be as stated in the ACCEPTANCE.

[12] The seat of the arbitration shall be as stated in the ACCEPTANCE.

[13] This article remains valid, should the *Agreement* be void.

IN WITNESS WHEREOF, the parties hereto have caused these General Conditions to be executed by their duly authorised representatives as of the following dates:

In [insert City], [insert Country], this day of [insert date].

ATTEST:

____________________ ____________________

And in [insert City], [insert Country], this day of [insert date].

ATTEST:
Swiss Reinsurance Company, Switzerland [or insert name of appropriate legal entity]

____________________ ____________________

Appendix 2 – Checklist for Underwriters

Checklist for Underwriters

Name of Risk/Project
Original Insured
Underwriter
Cover
Period
Risk location
Earthquake Zone

Questions	Yes	No	NA	Remarks
Is the policy form a treaty approved/equivalent form				
Is this NOT a stand alone TPL or DSU/ALOP cover				
Is the risk/occupancy/hazard not excluded by treaties				
Policy wording does not cover any peril/extension excluded by treaties				
Does the contract value or ALOP/DSU sum insured fall within stipulated treaty limits				
Is the policy period well within treaty limits				
Is the maintenance period within treaty stipulated limit				
Is the Third Party Liability limit within treaty limits				
Has the PML been assessed by risk engineer or vetted by Underwriting Manager				
Does the sum insued (or EML, MPL, PML) value comply with the maximum treaty capacity defined under coinsurance clauses if the policy is issued on coinsurance basis				
Does the sum insued (or EML, MPL, PML) value comply with the maximum treaty capacity defined under risks abroad clauses if the policy is issued for a risk abroad				
Have the extensions been sub-limited				
Has the territorial limit been defined on policy schedule				
Are the territorial limits within treaty geographic limit				
Has the Law and Jurisdiction been defined on policy				
Does the wording include premium payment condition				
Does the wording include sub-limit for earthquake cover				
Does the earhquake sub-limit fall within treaty limit, per event & aggr.				
Is the SRCC cover excluded or sub-limited				
Does the wording exclude war & terrorism				
Does the wording exclude political risk				
Does the wording include Sanctions Clause (per treaty approved wording)				
Does the wording include all treaty required clauses/conditions/exclusions for a given occupancy/risk				
Does the wording includes claim notification clause/condition				
Does the wording includes Material Change clause				
NOTE: If answer to any of the above quiestions is 'NO', Underwriter should discuss with Underwriting Manager or Reinssurance Manager.				
Is this policy a renewal of a policy which has been ceded under a special acceptance?				
NOTE: If yes, please check whether the special acceptance has to be re-submitted to reinsurers (most probabely yes)				

Appendix 3 – Hydroelectric Power Station in Latin America

Break-down of the claims amount

Description	Labour	Material	Equipment Rental	Contractors	Overhead	Total
Debris Removal	429,646.13	6,315.80	119,311.77	78,045.64	199,162.42	832,481.76
Stabilization works and repairs to tunnel(sue & Labour	494,659.21	546,152.64	632,281.92	619,964.98	594,737.56	2,887,796.31
TBM Repair	85,736.41	-	-	177,065.69	39,420.32	302,222.42
TBM Managing and operation - Experts & Consultants	539,290.13	-	631,593.71	90,151.18	466,465.00	1,727.500
TOTAL	**1,549,331.88**	**552,468.44**	**1,383,187.40**	**965,227.49**	**1,327,220.30**	**5,750.000,00**

Comparative table between the two reinsurance covers

LONDON MARKET SLIP	DEBRIS REMOVAL	WORK NECESARY TO FREE TBM	END 101	SUE & LABOR	TBM REPAIR	EXTRA COST	EXPERT FEES	TOTAL
AMOUNT ACCEPTED BEFORE POLICY CONDITIONS	728,317	168,732	1,812,515	370,290	309,127	187,454	194,797	3,771,231
POLICY COVERAGE/LIMIT	*10M per event and aggregate. USD 3,598,770 paid in flood and slope losses*	*TBM Recovery costs following a indmnifiable loss are covered under the policy with a limit of 25% of loss any one occurrence, up to a maximum of US$ 2 M. in the aggregate.* ***25% of USD 309.127= USD 77.282***	*Max payable 125%.* ***125% * 6154 USD/mt. * 12 mts.: USD 92,308.-*** *Construction Contract amount for TBM: USD 92,363,645.- Total tunnel excavation 15.009 mts.*	*1MM per event + 1.8 MM aggregate. USD 410,297 paid in Flood Loss. No Sue and Labor mentioned in slope failure discharge agreement, but u$s 370.476 was considered within the agreement*		*Extra cost: 20% of loss any one occurrence; up to a maximum of US$ 5.000.000.* ***20% of USD 3.771.231: USD 377.123.-***	*Up to a maximum of US$ 5.000.000, (O. Askilsrud of TEA - Dr Buchi & Robbins)*	
AMOUNT ACCEPTED	**728,317**	**77,282**	**92,308**	**370,290**	**309,127**	**187,454**	**194,797**	**1,959,574**
DEDUCTIBLE 1 (MATERIAL DAMAGE)								500,000
DEDUCTIBLE 2 (TBM)								250,000
ADJUSTMENT								**1,209,574**

SEPARATE REINSURER SLIP	DEBRIS REMOVAL	WORK NECESARY TO FREE TBM	END 101	SUE & LABOR	TBM REPAIR	EXTRA COST	EXPERT FEES	TOTAL
AMOUNT ACCEPTED BEFORE POLICY CONDITIONS	728,317	168,732	1,812,515	370,290	309,127	187,454	194,797	3,771,231
POLICY COVERAGE/LIMIT	*In "Risk Details" 10% loss up to 10M, but later when the limits are stated only mentions the 10M. Doesn't mention aggregate limit.* ***10% of u$s 3.771.231***	*Idem London Market*	*120% + 500M any loss 750M in aggregate (from 100 to 120%).* ***120% * 6154 USD/mt. * 12 mts.*** *Construction Contract amount for TBM: USD 92.363.645,76. Total tunnel excavation*	*Not accepted*	*Idem London Market*	*Idem London Market*	*Idem London Market*	
AMOUNT ACCEPTED	**377,123**	**77,282**	**88,616**	**0**	**309,127**	**187,454**	**194,797**	**1,234,397**
DEDUCTIBLE 1 (MATERIAL DAMAGE)								500,000
DEDUCTIBLE 2 (TBM)								250,000
ADJUSTMENT								**484,397**

Appendix 4 - Operational Power Plant in Latin America

Groups of Policies

Group A

4 Slips	Difference cover	Impact on adjustment
2 sets of 2 slips each set Identical	BI exclusions: 2 exclude MB 2 include MB	Not major

Group B

3 Slips	Difference cover/Limit	Impact on adjustment
2 Slips	1 limited to USD XM 1 in excess of USD XM	
1 Slip	Limit USD 25M 50% coinsurance for MB	

Slip Comparison

Broker	1	2	2	3	3	3	3	1	1	1
Reinsurer	Local wording	A	B	C	D	E	F	G	H	I
Slip UMR								Fac. reinsurance	Fac. reinsurance	Fac. reinsurance
Type	Fire all risk, incl. MB & BI	All Risk incl. MB & BI	All Risk incl. MB & BI	All Risk & BI	All Risk & BI, specific mention MB	All Risk & BI	All Risk & BI, specific mention MB	All Risk & BI	All Risk & BI	All Risk & BI, including MB
Period	a to b	a to b	a to b	a to b	a to b	a to b	a to b	a to b	a to b	a to b
Original insured	Generator 1	Genarator 1 amongst others	Genarator 1 amongst others	Genarator 1	Genarator 1 amongst others	Genearator 1	Genarator 1 amongst others	Genarator 1	Genearator 1	Genarator 1 amongst others
Reinsured	N/A	Local Insurer	Local Insurer	Local Insurer	Local Insurer	Local Insurer	Local Insurer	Local Insurer	Local Insurer	Local Insurer
Sum Reinsured	N/A	USD 750M	USD 50M e.a.e in aggregate &combined single limit MD & BI	USD 50M combined single limit MD & BI	USD 50M combined single limit MD & BI	USD 50M combined single limit MD & BI	USD 50M combined single limit MD & BI	USD 50M combined single limit MD & BI	USD 50M combined single limit MD & BI	USD 10M combined single limit MD & BI
Deductible	USD 500K MB	USD 500K for MB; 45 days	USD 500K for MB; 45 days	USD 100K ; 45 days	USD 500K for MB; 45 days	USD 100K ; 45 days	USD 500K for MB; 45 45 days	USD 100K ; 45 days	USD 100K ; 45 days	USD 500K for MB; 45 days
Co-insurance	50% for MB max. USD 20M	50% for MB max. USD 20M	50% e.a.e loss max. USD 20M	n/a	50% coinsurance for MB max. USD 20M	n/a	50% coinsurance for MB max. USD 20M	n/a	n/a	50% coinsurance for MB max. USD 20M
Relevant Sub-limits:										
Extra expenses to USD 10M		yes	no	yes	yes	yes	yes	yes	yes	yes, limit USD 5M
Expediting expenses USD 2M	yes, limit USD 2.5M	yes, limit USD 5M	no	yes	yes, limit USD 5M	yes, limit USD 5M	yes, limit USD 5M	yes, limit USD 2.5M	yes, limit USD 2.5M	yes, limit USD 2.5M
Assemby & disassembly USD10M for MB	yes	yes	no	no, struck through	yes	no, struck through	yes	no	no	yes
Debris removal 10% of loss, max. USD 5M	yes	yes	yes, no limit	yes	yes	yes	yes	yes	yes	yes
Fees to engineers to USD 2M	yes	yes	no	yes	yes	yes	yes	yes	yes	yes
MB up to USD 40M	yes	yes	yes	no	yes	no	yes	no	no	yes
Replacement Value for Equipment up to 20 years	yes	yes	no							
USD 1M fire brigade	yes	yes	no	yes	yes	yes	yes	yes	yes	yes
USD 500K firge fighting expenses	yes	yes, no limit	no	yes	yes	yes	yes	yes	yes	yes
Increased cost of working USD 5M	yes	yes	no	yes	yes	yes	yes	yes	yes	yes
USD 5M replacement energy cost	yes	yes	no	yes	yes	yes	yes	yes	yes	yes
Relevant Reinsurance Conditions:										
Subject to same T&C orginal wording, specifying CM as original wording		yes	yes	no, struck through	no, struck through	no, struck through	no, struck through	no	no	no
Excluding Machinery Breakdown and associated BI		no	no	yes	no	yes	no	yes as exclusion	yes as exclusion	no
Original Policy Conditions:										
Subject to terms, clauses, conditions, warranties as the original policy, as long as they are applicable to present Reinsurance contract	n/a	yes								
BI covered under any risk	yes	yes								
Replacement value machinery up to 15 years old, for older agreed value subject to expert evaluation else Real Value	yes	yes conflicting, CMI attached	no, CMI underlying	yes	yes	yes	yes	Terms listed as part of sublimits and special clauses	Terms listed as part of sublimits and special clauses	Terms listed as part of sublimits and special clauses
Depreciation Table Included	yes	no	yes							
Sum Insured declared*:										
PD USD 160 M	USD 160 M	USD 160 M	USD 160 M	USD 160 M	USD 160 M	USD 160 M	USD 160 M	USD 160 M	USD 160 M	USD 160 M
BI USD 40 M	USD 40 M	USD 35 M	USD 35 M	USD 35 M	USD 35 M	USD 35 M	USD 35 M	USD 35 M	USD 35 M	USD 40 M
Total USD 200 M	USD 200 M	USD 195 M	USD 195 M	USD 195 M	USD 195 M	USD 195 M	USD 195 M	USD 195 M	USD 195 M	USD 200 M
Exclusions										
Machinery breakdown				no	no	no	no	yes	yes	no
Cost of replacing energy				no	no	no	no	yes	yes	yes
PPA penalties			yes	no	no	no	no	yes	yes	yes