

December 11, 2001

The Honorable Ernest F. Hollings, Chairman
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As a result of the September 11 attacks on the United States, Congress is considering legislation that responds to the likelihood that without government assistance, insurers and reinsurers will cease to cover damages from terrorism, possibly as soon as January 1, 2002. Concurrently, Congress has before it legislation to renew the Price-Anderson Act, which establishes a comprehensive Federal system for insurance for nuclear power plants and other uses of nuclear materials. The Act has been in existence for nearly a half century, during which period it has been renewed three times. The House of Representatives has already passed a bill to renew the Price-Anderson Act (H.R. 2983). As of this writing no Senate Committee has reported out Price-Anderson legislation. This letter addresses the relationship between the Price-Anderson insurance system for nuclear activities and general terrorism insurance for other activities.

In this context, we understand from informal contacts with the American Nuclear Insurers (ANI) that the nuclear insurers intend to include coverage for damages resulting from terrorism when they renew the insurance that provides the first layer of coverage under the Price-Anderson system for the period beginning January 1, 2002. The policies from nuclear insurers are currently limited to the first \$200 million of losses. Damages above the commercial nuclear policies up to the statutory limit of liability for nuclear power reactors are to be paid by a retrospective premium pool funded by assessments on each operating commercial nuclear power reactor. As currently adjusted for inflation, that fund would make available over \$9 billion or a greater sum if the provisions of H.R. 2983 in that respect are enacted. The availability of the retrospective pool is not dependent on timely renewal of the Price-Anderson Act. Once covered, a licensed reactor remains covered for the duration of its licensed period. Thus, there is no need for temporary or emergency terrorism coverage for the nuclear industry.

Neither of the two bills recently introduced in the Senate (S. 1743 and 1744) pertaining in general to insurance against terrorist acts appears to include nuclear insurance in its listing of covered activities. On the other hand, H.R. 3210, as passed by the House, provides in the section on litigation that the section should not be construed to affect any provision of the Air Transportation Safety and System Stabilization Act (Public Law 107-42; 49 U.S.C. 40101 note). It excluded no other statute from the section's application. The legislation pertaining to general terrorism insurance creates a fundamentally different scheme than the Price-Anderson Act insurance scheme.

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We urge you to eliminate even the slightest possible confusion that any general terrorism insurance bill is intended to affect the Price-Anderson system or to supplant it. In the event of a nuclear incident, it would be important to avoid any disruption of the protection that the established and comprehensive Price-Anderson Act system affords the public. Thus, we suggest that any terrorism insurance legislation provide expressly that it should not be construed to address insurance for nuclear incidents covered by the Price-Anderson Act (Section 170 of the Atomic Energy Act of 1954, as amended).

Sincerely,

/RA/

Richard A. Meserve

cc: Senator John McCain