Title:

THE WAR RISK TRIGGER: TEMPORAL AND CAUSAL UNCERTAINTY IN AVIATION WAR RISK INSURANCE

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Abstract:

This article examines the grip of the peril trigger in aviation hull war insurance and the legal uncertainties created by the interpretation of this principle combined with the provisions in standard policy wording (LSW555D), short-notice cancellation and review mechanisms of war risk endorsements. It first presents the grip of the peril principle, relying on Mr Justice Butcher's judgement (Russian Aircraft Lessor Policy Claims, June 2025) where this principle was applied to hull war insurance to cover a permanent deprivation of possession developing after the expiration of the insurance policy. It argues that two structural questions brought to light by the war in Middle East in 2026 remain open at what point does a war risk peril, occurring during a policy period, trigger coverage that persists after the expiry and what breaks the causal chain that sustains it. The article tries to distinguish operational immobilization from loss of control "by reason of" an insured war risk peril and uses the Dawson's Field "test of unities" as an interpretation grid to assess continuity and breaks the causal chain. It concludes that clearer market wording is required to reduce uncertainty for market participants and insureds.

Introduction

> *« À l'époque où le contrat d'assurances fut inventé, la guerre était à peu près l'état normal et habituel de l'Europe. La paix formait plutôt l'exception que la règle : il eût été alors inutile et même impossible de diviser en deux catégories, l'une des risques de guerre, l'autre des risques de paix, les événements dont les assureurs promettaient garantie. Les risques de guerre étaient si fréquents et si continuellement mêlés aux risques de paix que le taux des primes devait toujours se calculer en considération des uns et des autres [...] »*
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> *"At the time when the insurance contract was invented, war was more or less the normal and customary state of Europe. Peace was the exception rather than the rule: it would then have been useless, and even impossible, to divide into two categories – one consisting of war risks, the other of peacetime risks – the events against which insurers promised indemnity. War risks were so frequent and so continually intertwined with peacetime risks that premium rates always had to be calculated in consideration of both [...]".*[1]

This observation of Charles Lemonier on marine insurance shows the importance of guarantees to cover loss or damage due to war risks in the past, and the high frequency of war risk events. Firstly, the war risk insurance was not a premium insurance but a shared risk between operators. Under the Swedish legislation prior to XVIIth century, vessels were bound to sail in convoy and to share the risk of sustained damages to vessels or cargo because of piracy or enemy between all the convoy. Since the beginning of the XXth century, the frequency of events triggering war risk insurance diminished a lot with the peace in Europe since the end of the Cold War. But the last years were perturbed by the reappearance of war on the European continent with the Russian Ukrainian Conflict and the resumption of high intensity conflicts in Middle East, Sahel and Asia.

In the aviation sector, according to the European Regulation No 785/2004[2], aircraft operators and air carriers are legally bound to be insured under a war risk insurance policy, at least for their liability in respect of their passengers, baggage, cargo and third parties. The risks concerned by this obligation necessarily include acts of war, terrorism, hijacking, acts of sabotage, unlawful seizure of aircraft and civil commotion.

Aviation insurance policies exclude war risk perils by default through the AVN 48B clause which stipulates that the insurance policy does not cover claims caused, notably, by war, civil commotion, seizures or restraint or hijacking. But, operators and lessors may buy back coverage under several endorsements, which insurers may cancel or review within a short notice period (seven days for most policies). These endorsements are the LSW555D clause to buy back the hull war risk perils (cover damages to aircraft itself), and the AVN52 for the passengers, baggage, cargo and third-party liabilities. These clauses exist in different versions (e.g. AVN 52E, AVN 52G, etc.). The standard war risk insurance policies use the notion of "material

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[1] C. Lemonnier, Commentaire sur les principales polices d'assurance maritime usitées en France : Paris, Bordeaux, Marseille, Le Havre, Nantes, Rouen, Dunkerque, Bayonne, Paris, Videcoq père et fils, 1843, Bordeaux, Balarac jeune, cité par O. Lasmoles, Les assurances maritimes et la couverture des risques terroristes : La Revue Mare Liberum, n° 1, avril 2004, p. 21 (Free translation)

[2] EC, Regulation (EC) No 785/2004 of the European Parliament and the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operator, [2004] OJ, L 138/1, art.4

change”. Insureds must notify the insurer of any substantial change in their risk, it is mainly an increase of the risk in the insured’s operations. After such notification of material change, insurers tend to issue Notice of Review or Notice of Cancellation of the war risk coverage. Most of the time, insurers only increase their premium, to not abandon their clients. These short notices reviews make temporal trigger especially important because in only few days, an insured could lose his insurance coverage and the insurer could avoid supporting a risk. In most cases where the grip of the peril notion is involved, the date of first event which begins a causal chain to the loss is unclear. The increased premium amount may vary a lot between aircraft operators/airlines.

The war risk insurance becoming central and the war risk insurance market had known a deep transformation, especially for the Hull War insurance with the issue over aircraft owned by occidental lessors, leased to Russian operators. This dispute put the light on the weakness of the insurance promises of war risk in the context of a complex geopolitical world. This paper will focus on aviation hull war insurance which covers damages to the aircraft itself or restraint of the aircraft against the operator’s will. This paper will rely in particular on the judgment of Mr Justice Butcher of June 2025[3]. Following Russia’s invasion of Ukraine in February 2022 and the imposition of Western sanctions, Russia enacted measures preventing the return of aircraft leased by Western lessors to Russian airlines. On March 5th 2022, the Federal Air Transport Agency instructed Russian carriers not to return such aircraft. Western insurers subsequently issued notices of cancellation of the aircraft’ war risk hull policies, while the Russian carriers continued to operate the aircraft within the Russian borders, without any prospect of their return. Unable to recover their aircraft, the lessors claimed under their hull war risk policies for total loss, giving rise to the dispute on causation, policy interpretation, and application of the grip of the peril doctrine.

The outbreak of the war in Middle East brought up the issue of the beginning of the grip of the peril, a central notion used to determine if an event is covered by the war risks insurer of a civil aircraft operator. This issue needs to be approached quickly given the value of the assets insured. For example, on the March 2nd 2026, the grounded aircraft values only at Dubai International Airport were USD 23.5 billion[4].

Two fundamental questions of aviation insurance law thus arise: at what point does a war risk peril, occurring during a policy period, trigger coverage that persists after the expiry and what breaks the causal chain that sustains it?

Stakeholders in the sector, particularly insurers, insureds and brokers have expressed the need to define the concept of the grip of the peril more precisely. Following Butcher’s judgement on the Russian Aircraft Lessor Policy Claims which introduces this concept to the aviation insurance, this notion remains unclear when there is not a case of direct deprivation of possession by a government (I). At the outbreak of the conflict, some market participants took the view that airspace closure alone was sufficient to trigger the grip of the peril, on the basis that grounded aircraft were effectively outside the insured's control. In this case, issuing Notices of Review or Cancellation would be pointless. This uncertainty arose because of difficulties of interpretation of the clause LSW555D, which stipulates that loss or damage caused by war risk perils is covered, but also covers the “occurrences whilst aircraft is outside the control of the assured by reason of [war risk] perils”. Confusion thus arose between operational

[3] *Russian Aircraft Lessor Policy Claims*, [2025] EWHC 1430 (Comm) and annexes

[4] According to Skytek, quoted in “*Aviation war market weighs ‘the grip of the peril’ implication in Middle East*”, Insurance Insider, Rebecca Perkins, March 02, 2026

immobilization and the loss of control due to the occurrence of war risk perils (II). Furthermore, Butcher does not define with sufficient precision the boundary between an unbroken sequence of events and an event capable of breaking the causal chain between the in-period peril and a future loss (III). The reopening of the airspace was perceived by some actors of the insurance market as the end of the grip of the peril.

I- The emergence of the "grip of the peril" principle

A doctrine to address the loss which develop after the expiration of an insurance policy is necessary because of war risk losses often unfold over time. To address this issue, the "grip of the peril" principle could be used.

To study the grip of the peril principle, we need to define the notion of constructive total loss and actual total loss. The constructive total loss (CTL) is the expression used to qualify a loss when the repossess or the reparation of the asset insured incur costs exceeding its value. The actual total loss characterized an asset which "*is destroyed, or so damaged as to cease to be a thing of the kind insured, or where the assured is irretrievably deprived thereof*"[5]. The recovery or repair of the aircraft becomes commercially unreasonable. This could happen fast in case of aircraft losses due to the operating loss and the maintenance costs multiply if the aircraft is not maintained in good conditions.

The grip of the peril principle was first named by Rix LJ in aviation insurance in the judgement *Scott v Copenhagen Reinsurance Co (UK) Ltd.*[6] in a case of deprivation of possession, even if not used. Judge Butcher defines the grip of the peril principle as follows: "*if an insured is, within the policy period, deprived of possession of the relevant property by the operation of a peril insured against and, in circumstances which the insured cannot reasonably prevent, that deprivation of possession develops after the end of the policy period into a permanent deprivation by way of a sequence of events following in the ordinary course from the peril insured against which has operated during the policy period, then the insured is entitled to an indemnity under the policy*."[7]

Four core legal criteria appear regarding this definition to attest that a peril attaches to a war risk policy:

- During the policy period, the insured is deprived of possession of the aircraft by an insured peril (acts of war, terrorism, hijacking, acts of sabotage, unlawful seizure of aircraft and civil commotion), in circumstances the insured cannot reasonably prevent;
- That deprivation later developed after expiry of the policy into permanent deprivation/loss by a sequence of events following in the ordinary course from the in-period peril;
- The in-period peril remains the dominant/effective cause of the ultimate loss it also can be described as the "proximate cause";
- There is no independent intervening event which breaks the causal chain (a new, distinct casualty after expiry usually will).

[5] *Marine Insurance Act 1906* (UK), s 57 (1)
[6] *Scott v Copenhagen Reinsurance Co (UK) Ltd*, [2003] EWCA Civ 688
[7] *Russian Aircraft Lessor Policy Claims*, [2025] EWHC 1430 (Comm) and annexes at para 963

The grip of the peril principle needs to be distinguished from the "death's blow" principle which comes from the field of marine insurance**.** The death's blow principle deals with the case where a vessel suffers a grave damage, but it cannot be, at the time and during the policy period, considered as an actual total loss or a constructive total loss. Nevertheless the damage will develop into a total loss after the expiry of the insurance policy. This doctrine aims to allow assets concerned by a death's blow to be insured, because the event linked to the loss operates during the policy which was currently in force.

The grip of the peril doctrine is, compared to death's blow, especially suited to deprivation of possession case. In most cases, deprivation of possession type perils often begin before permanency is known. A wait-and-see period is often required to declare a permanent deprivation of possession. In most cases of aircraft deprivation of possession, aircraft are leveraged by the hijackers to obtain something or to offset something. In the Butcher's judgement, for example, aircraft are restrained in Russia without any payments to offset European and American sanctions against Russia.

II- The uncertain trigger of the grip of the peril

The grip of the peril needs an event, a peril insured, to be triggered. Determining this event could be difficult regarding the old LSW555D clause which is used in many of hull war risk policies. There is a need to update this clause regarding the introduction by the judge Butcher of the grip of the peril notion. The core issue for the insurer is the uncertainty as to whether the aircraft was truly in the grip of the insured peril.

Regarding the recent events in Middle East, the issue we need to address is whether an airspace closure can be compared to a restraint or seizure of the aircraft for the purpose of the LSW555D clause at the end of February 2026, when the airspace over Middle Eastern countries was closed under recommendations and regulatory acts of government (e.g. EASA Conflict Zone Information Bulletins[8])

The event which grounded the aircraft was not itself an event of war, a peril insured under the section 1 of the LSW555D clause. It was an airspace closure decided by Gulf states governments in response to the threat of damages due to war to aircraft and their passengers and cargo if the operators are allowed to fly in Middle East.

The LSW555D clause provides that "*this Policy covers claims excluded from the Hull "All Risks" Policy from occurrences whilst the Aircraft is outside the control of the Assured by reason of any of the above perils*."
The listed perils include among others, war or confiscation, nationalization, seizure, restraint, detention, appropriation, requisition for title or use under the order of any government or public or local authority. But, what does "*outside of the control of the Assured by reason of any of the above perils*" mean?

We could use a framing device to distinguish between the different forms of perils due to war which cause the loss of control of the insured on his aircraft. The first layer could simply be the war or a war-related threat in the background, the second could be loss of control due to governmental or public safety response to the war and the third, simply a war-related insured

[8] Conflict Zone information Bulletin, CZIB 2026-03-R14, European Union Aviation Safety Agency 28/02/2026

peril operating on the aircraft. This distinction needs to be made because, actually, a loss of control due to public safety response does not automatically develop into a war risk peril causing damages to an aircraft, and a war-related background does not directly transform a regulatory restriction into an insured war peril.

Under the clause, even if it is accepted that the aircraft was no longer practically in the control of the Assured, because it could not depart, that loss of control must still be "by reason of" one of the insured war-risk perils. That causal link is essential. Here (Middle East tensions in February-March 2026) there was no war damages caused to grounded aircraft. The aircraft were grounded because of a regulatory prohibition on flying in certain airspace, and that could not be assimilated to a restraint or seizure. The restraint is defined in Arnould[9] ([24-28] quoted at [571] by Butcher in Russian Aircraft Lessors Policy Claims) by saying that: "*the most obvious cases of restraint are those where the assured is deprived by superior authority of possession of his property or where, although he retains possession the property is forcibly detained, for example by an embargo*". This definition shows the main difference between a restraint, seizure or detention by an act of a government and an airspace closure. The restraint is a legal or physical immobilization of the aircraft, instead of the airspace closure which is a navigation restriction. The airspace closure does not target the aircraft, but the sky.

Furthermore, airspace closure is general and affects aircraft regardless of its owner or operator. The article 9(a) of the Chicago Convention provides that "*a) Each contracting State may, for reasons of military necessity or public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged*." Based on this article, different criteria are mentioned in this definition to qualify an airspace closure (restriction or prohibition to fly over certain areas of his territory) to not be a restraint, detention or seizure of an aircraft. The airspace closure is justified by military necessity or public safety interest, and it is applicable uniformly, without distinction between aircraft of the State whose territory is involved and aircraft of all other States.

To qualify or not an airspace closure, which consequences of grounding an aircraft to be considered as falling within the definition of restraint, seizure or detention, we need to challenge the purpose of a "false" airspace closure. Is the objective of the government act to affect the asset or the control exercised by the operator over a specific aircraft? For example, it was not the case for the aircraft leased by Russian operators, the governmental order explicitly targeted those aircraft. The purpose of the airspace closure in Middle East in March 2026 was not an attempt by the governments of Gulf States to take control over aircraft grounded, but to prohibit operating in certain areas to preserve safety, regarding the context of war.

Thus, three criteria shall be used to distinguish an airspace closure from a seizure or restraint by a government. The airspace closure:

- Is adopted for military necessity or public safety;
- Concerns the use of airspace, not the taking of possession of an aircraft;
- Must be applied uniformly, without distinction between relevant categories of aircraft.

Thus, with this view, the closure may be war-related in its background, but the operative measure/cause remains a public safety restriction on navigation.

[9] Arnould, J. (2018). Arnould: law of marine insurance and average. (J. Gilman, M. Templeman, C. Blanchard, P. Hopkins, & N. Hart, Eds.; 19th edition / [edited by] Jonathan Gilman, QC-Mark Templeman, QC-Claire Blanchard, QC-Philippa Hopkins, QC-Neil Hart.). Sweet & Maxwell.

Nonetheless, Butcher, while defining the contours of the notion of "restraint", based his view on a judgment in marine insurance[10]. The Courts held that there has been a restraint only because the ships were simply prevented from continuing their journey to a certain destination under the common law because of the war in background. In this view, the airspace closure, which was a lawful restraint adopted to ensure safety, could be a restraint understood as perils listed in the LSW555D clause as a government peril.

The market has to make a choice to guarantee or not the risk of grounded aircraft because of an airspace closure in a context of war. This paper does not take a position on whether insurers should or should not bear the risk that remains a commercial and underwriting decision for the insurance market. However, the current wording of the LSW555D clause is insufficiently clear on this point, and insurers should adopt an explicit position in their policies to avoid uncertainty for their clients.

Therefore, to avoid a causation fight, there is a need to define the restraint, or add the case of an aircraft grounded in a war zone due to an airspace closure related to the threat of war. We could add the notion of airspace closure due to war as a measure lawfully adopted by a government or an international organization which affects the ability to fly an aircraft in a certain area, regardless of its owner or operator, for the purpose of military necessity or public safety by reason of any of the above perils.

To ensure that the notion of airspace closure due to war is applicable without the causation fight, we need to understand what "by reason of" means. Indeed, we need to define a war risk related event, which should be "any of the above perils", because what triggers the need for an airspace closure? Other layers in threat or war could be distinguished. Is an airspace closure caused by an actual war peril, an imminent threat of war, precautionary state response, or the fear of war? The world airspace could not be closed solely on the fear of war, this fear is in the narrative of a lot of governments in the world, and precautionary state response could also be an overprotective criterion, because everything is subject to interpretation. If we position ourselves as policy draftsman, as said by Mustill J "*The draftsman must have intended to stop somewhere: and that place must be the point at which an event ceases to be a cause of the loss and becomes merely an item of history*"[11]. That stopping point should be reached where war or an imminent hostile threat is certain, and not a remote fear of a conflict.

III- Temporal continuity after the policy expiration: the causal chain problem

To study further the temporal continuity after the policy expiry, we need to assume that the peril did attach during the policy period: the aircraft is in the grip of the peril. We now need to know what keeps the grip of the peril alive, and what could break the causal chain. The rupture of the causal chain implies that it would be the new insurance policy (if one exists) which supports the loss.

This type of question often comes in case of war related event or loss. We need to ask ourselves: is this loss caused by a peril of war or anything else after? In other words, what is the proximate cause of loss? For example, we could quote damages caused by war instruments like bombs which did not explode during war but after when they are discovered during agricultural work or construction. This question is not resolved in the same way depending on jurisdiction the

[10] *British and Foreign Marine Insurance Co v Samuel Sanday & Co*, [1916] AC 650
[11] *Spinney's (1948) Ltd v Royal Insurance Ltd*, [1980] 1 Lloyd's Rep 406, 441–42

answer mostly depends on the understanding of causation. For example, the French Court heard a dispute concerning a farm worker who was handling an unexploded war device (bomb) that exploded during the process, causing him injury[12]. The insurer argued that the damage resulted from a foreign war and was therefore not liable under French law. The Courts ruled that the damage did not result from an act of war, given that it occurred after the official date of cessation of hostilities and "*a state of war no longer existed*". It was therefore incumbent upon the insurer to prove that the incident was indeed caused by an act of war, proof which was not provided in this case. In a divergent judgement, the English Court of Appeal found another answer to this question in *The University of Exeter v Allianz Insurance PLC*[13]. There, a bomb was dropped during World War II in Exeter. The bomb remained unexploded until unearthed by contractors in 2021, near student halls of residence built decades later. The necessary controlled detonation of the bomb damaged those buildings. The insurer relied on a war risk exclusion clause. But, unlike the French courts, the Court of Appeal held that the dropping of the bomb and its 2021 detonation were concurrent proximate causes of equal efficacy. For the English Court, the exclusion prevailed notwithstanding the decades gap between the two events according to the principle established by *Wayne Tank*[14].

So rather than a single bright-line rule, such as cessation of hostilities date, aviation insurance may find a framework in an older, but relevant authority: the test of unities developed in the Dawson's Filed arbitration.

The Dawson's Field case[15] deals with a question of aggregation of losses sustained by three different aircraft on the airstrip named Dawson's Field in Jordan. The three aircraft were blown up by different explosions, the question asked to the arbitrator was whether the destruction of the three aircraft was one occurrence or a series of occurrences? The arbitrator conceded that the answer would be subjective, and "*depends on the position and viewpoint of the observer and involves the question of degree of unity in relation to cause, locality, time and, if initiated by human action, the circumstances and purposes of the persons responsible*." As a simple side note of the arbitrator finds that "*having regard to the nature and size of aircraft such as these it is probably not very easy to blow them all up together simultaneously and by a single means. However given the means available, the P.FL.P. made a pretty good job of carrying out what I take to have been their decision, viz. to blow up the three aircraft together as nearly as they could.*" Trying to answer these questions would be called the *test of unities*. This test could be used as a list of criteria to distinguish an ordinary causal sequence from an independent intervening event capable of breaking the causal sequence. By analogy, these criteria can be used, not as a direct rule of causation, but as an interpretation grid to determine if a future event belongs to the same causal chain. Dawson's Field helps explain why not every factual change in the aircraft's situation amounts to break in the chain of causation. The relevant question is whether the later event still shares sufficient unities with the original peril.

For example, Butcher in Russian Lessor Policy Claims at paragraph 972 describes a situation in which the causal chain could be broken. One of the aircraft leased by a Russian airline was flying to Mexico City but landed instead in Hong Kong on 9 March 2022, before it flew back to Russia. The message from the Russian Ministry of Transport on the 5 March 2022 is

[12] Cour d'appel de Bourges, 16 May1956, *Mutuelle Générale Française c. Graillot et Buguet*, RGAT 1956, p. 154. And Cour de cassation (Ch. Civ., 1ère sect. Civ.), 28 April 1958, *Buguet c. Mutuelle Générale Française*, RGAT 1959, P. 447

[13] *The University of Exeter v Allianz Insurance PLC*, [2023] EWCA Civ 1484

[14] *Wayne Tank and Pump Co Ltd v Employers Liability Assurance Corpn Ltd*, [1974] QB 57

[15] (Award by Michael R.E. Kerr, QC) Dawson's Field and Cairo Excess Loss Reinsurances, April 1972

understood by Butcher as the event which triggered the grip of the peril. According to the policy, the lessor needs to attempt to arrest or to repossess his aircraft. Would this event of landing in Hong Kong have broken the causal chain? Butcher reasoned in a manner close to the test of unities to conclude that although the aircraft physically flew to Hong Kong, that fact alone was not enough to break the causal chain. The judge considered the wider factual matrix: the airline was domiciled in Russia, the same governmental peril (message of the Russian Ministry of Transport) continued to operate (unity of cause), with the same purpose, to prevent the repossession/recovery of aircraft by their owners (unity of purpose), with the same circumstances (Nordwind is a Russian airline, which part of the same political environment that other Russian airlines). It can also be considered that we are within the same unit of time, given the type of loss, namely the permanent loss of possession of an aircraft, there is no significant temporal break. The weakening unity here is the unity of location because the aircraft was not physically in Russia. However, for airworthy aircraft – as opposed to those grounded – this unity could be weakened. This shows that the test of unities does not require perfect unity. What matters is whether sufficient unity remains for the original peril to continue operating as the effective cause. If the other unities remained sufficiently strong, the causal chain may not be broken.

The reopening of the airspace in Middle East raises the same issue we could apply the test of unities to see if this reopening breaks the causal chain of the grip of the peril. We could understand that the reopening of the airspace is a strong indication that the prior peril has come to an end, using the test of unities by analogy. The unity of cause is broken because of the closure of the airspace, which was the operative cause grounding the aircraft, no longer exists. The unity of circumstances is also modified, because the aircraft is no longer in the same situation of compulsory operational immobilization. The unity of purpose disappears as well, since the governmental aim of preventing aircraft from operating in the dangerous area has come to an end. Unlike the situation described by Butcher, in relation to the flight to Hong Kong, where FATA Message continued to operate on the aircraft despite a factual change in its position, the reopening of the airspace means that the original peril no longer operates, because it was directly related to the location. In such cases, war or threat of war remains only part of the background, but not a cause that could be a continuation of the loss of control. Therefore, the grip of the peril should be regarded as terminated in these conditions.

Conclusion

This paper tried to determine when a war risk peril occurring within a policy period triggers coverage that persists beyond its expiry, and what breaks the causal chain sustaining it. Mr justice Butcher – in Russian Aircraft Lessor Policy Claims judgement – used time the principle of the grip of the peril in June 2025. Yet, this landmark reasoning left two structural questions unanswered: what constitutes a triggering peril, without going so far as outright deprivation of possession, and what could break the causal sequence of the grip of the peril?

The March 2026 Middle East conflict exposed both gaps at once. This paper has argued that the closure of airspace, although linked to a context of war, may not by itself and with certainty constitute a “seizure” or "restraint" within the meaning of the LSW555D clause. Drawing on the Chicago Convention’s definition of lawful, uniform, safety motivated flight restrictions, and on Arnould’s classic formulation of restraint as deprivation or forced detention, three cumulative criteria were proposed (military necessity or public safety, absence of intent to take possession of a specific aircraft and uniform application) to distinguish mere airspace closure from a triggering peril listed in the LSW555D clause.

On the causal chain question, this paper has argued that the test of unities developed in the Dawson's Field arbitration (cause, locality, time and purpose) offers a more reliable interpretative grid than any threshold or criterion based on elapsed time or legislative acts, as the contrasting outcomes from different jurisdictions (English and French) confirm. Applied to Butcher's reasoning on the Hong Kong diversion of the aircraft leased to Russian lessees, and by contrast with the reopening of Gulf airspace, the test suggests that, especially, unities of cause and purpose, are decisive in determining whether the original peril continues to operate as the effective cause of loss.

Finally, classifying a loss as a war risk is far from straightforward and often leads to disputes, given the wide range of events that can fall under the war risk peril's category, combined with complex issues of causation and timing. A more structural tension within the war risk insurance market is the inability of insurers to apply effective actuarial methods, requiring the application of notices of cancellation or premium adjustments. Such complexity threatens the insurability of these risks and, by extension, the viability of operating air routes across increasingly vast areas of the contemporary world. The current war risk market exacerbates inequalities between different airlines serving regions with higher levels of war risk, with airlines that find difficulties to obtain war risk insurance at reasonable costs[16].
Ultimately, the promise of war risk insurance in civil aviation can only be sustained if the entire contractual framework is updated, with new policy wording and clauses which reflect 21st century geopolitical realities and legally clarified by jurisdictions.

[16] Rebecca Perkins, *Aviation War market pricing fractures under Gulf exposures, Insurance Insider*, 1 April 2026