

Explanatory Memorandum to Internal Regulations

INTRODUCTION

Before adopting the Internal Regulations¹, the Bureaux were bilaterally bound by a uniform model agreement called “Inter-Bureaux Uniform Agreement”. Furthermore, some Bureaux, in particular those in the European Economic Area (EEA) and other associated Bureaux, were signatories of an agreement known as the “Multilateral Guarantee Agreement”².

Even though the basis of these two agreements may be different (the first established on the existence of a Green Card, the second based on the assumption of insurance following on from the normally based concept). Both of these had the same objective, that is to say, to regulate the relationships between Bureaux.

We have noted throughout the years that these two agreements have developed differently. This statement is the basis of the standardisation project.

This standardisation was not easy to carry out as it is about finding a solution which will allow the combining of the text of an agreement bilaterally binding all Bureaux and a multilateral agreement which will only be obligatory for some of them. More specifically, the new document cannot be a multilateral agreement binding all Bureaux as the bilateral nature of the “Inter-Bureaux Agreement” had to be kept as it is. Moreover, the provisions of the “Multilateral Agreement” stem directly from the First European Directive regarding motor insurance and it is not conceivable to impose these provisions on all countries that are part of the Green Card System.

The solution put forward by the Working Group responsible for the drafting of the unification project was not to draft a new agreement but to draft a reference document called “Internal Regulations” the object of which would be “to govern the reciprocal relations between National Insurers' Bureaux thereby enforcing the provisions of Recommendation No 5 adopted on 25 January 1949”. This document is made up of obligatory provisions (which must be respected by all Bureaux) and optional provisions which only bind the Bureaux which have chosen to observe them within the framework of their relationships with other Bureaux. The commitment to respecting these obligatory and optional rules is embodied in a brief agreement signed bilaterally by the Bureaux (however this does not apply

¹ The Internal Regulations were adopted by the General Assembly of the Council of Bureaux on the 30th of May 2002 in Rethymno (Crete).

² The “Multilateral Guarantee Agreement” was signed in Madrid on the 15th of March 1991.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 | Council of

Bureaux Explanatory Memorandum to Internal Regulations to EEA Bureaux which, on applying the 1st Directive, are obliged to reach a multilateral agreement among themselves).

This solution has the advantage of preserving the bilateral nature of these agreements between Bureaux which all refer to a single document (The Internal Regulations). This document can, according to needs, be modified over time by the General Assembly of the Council of Bureaux without introducing the obligation to proceed to the signing of the modified bilateral agreements.

The standardisation of these two agreements was not the only aim of the Working Group. The group wanted to draft a document which was accessible to all those professionally involved in motor

insurance. It also wanted to put forward new solutions which follow on as much from the evolution of the system as from the adoption of the new community regulations.

The Working Group also drafted the current memorandum with a view to facilitating the reading of the Internal Regulations. This memorandum was officially approved in Lyon during the General Assembly of 2003.

The Internal Regulations were the subject of a publication in the Official Journal of the European Community. In view of the fact that any modification to these Regulations involves a new publication, which constitutes a lengthy and complicated procedure, the General Assembly of the Council of Bureaux decided in 2004 that any interpretations of the Internal Regulations would be inserted in the Explanatory Memorandum to the Internal Regulations. This would preferably be as an amendment to the wording of the latter ³.

The Internal Regulations begin with a preamble with a view to reminding us of the origin and the basic principles of the green card system as well as the developments which have taken place since it was created in 1951.

This preamble was completed in 2008 to take into account the updates brought to the original text of the Internal Regulations mainly following on from the 5th Directive on Motor Insurance ⁴.

Introduction

(1) Whereas in 1949 the Working Party on Road Transport of the Inland Transport Committee of the Economic Commission for Europe of the United Nations sent to the Governments of Member States a recommendation ⁵ inviting them to ask insurers covering third party liability risks in respect of the use of vehicles to conclude agreements for the establishment of uniform and practical provisions to enable motorists to be satisfactorily insured when entering countries where insurance against such risks is compulsory.

³ General Assembly of 2004 – Decision No. 3 – Interpretation of the Internal Regulations.

⁴ Directive 2005/14/EC of the 11th of May 2005.

⁵ Recommendation No 5 adopted on January 1949, superseded by Annex 1 of the Revised Consolidated Resolution on the Facilitation of Road Transport (R.E.4) adopted by the Working Party on Road Transport of the Inland Transport Committee of the Economic Commission for Europe of the United Nations, the text of which is provided as Appendix I

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 2 Council of Bureaux Explanatory Memorandum to Internal Regulations

(2) Whereas this recommendation concluded that the introduction of a uniform insurance document would be the best way to achieve that end and set out the basic principles of agreements to be concluded between insurers in the different countries.

(3) Whereas the Inter-Bureaux Agreement, the text of which was adopted in November 1951 by representatives of the insurers in States which, at the time, had responded favourably to the recommendation, formed the basis of the relationship between these insurers.

(4) Whereas:

(a) the purpose of the system, commonly known as the Green Card System, was to facilitate the international circulation of motor vehicles by enabling insurance of third party liability risks in respect of their use to fulfil the criteria imposed by the visited country and, in the case of accidents, to guarantee compensation of injured parties in accordance with the national law and regulations of that country;

(b) the international motor insurance card (Green Card), which is officially recognised by the government authorities of the States adopting the United Nations Recommendation, is proof in each visited country of compulsory civil liability insurance in respect of the use of the motor vehicle described therein;

(c) in each participating State a national bureau has been created and officially approved in order to provide a dual guarantee to:

- its government that the foreign insurer will abide by the law applicable in that country and compensate injured parties within its limits,

- the bureau of the visited country of the commitment of the member insurer covering third party liability in respect of the use of the vehicle involved in the accident;

(d) as a consequence of this non-profit-making dual mandate, each bureau is required to have its own independent financial structure based on the joint commitment of insurers authorised to transact compulsory civil liability insurance in respect of the use of motor vehicles operating in its national market which enables it to meet obligations arising out of agreements between it and other bureaux.

(5) Whereas:

(a) some States, in order to further facilitate international road traffic, have abolished Green Card inspection at their frontiers by virtue of agreements signed between their respective Bureaux, mainly based on vehicle registration;

(b) by its Directive of 24 April 1972⁶ the Council of the European Union proposed to the Bureaux of Member States the conclusion of such an agreement; then known as the Supplementary Inter-Bureaux Agreement, which was signed on 16 October 1972;

(c) subsequent agreements, based on the same principles, enabled the bureaux of other countries to become members; and these agreements were then collected into a single document signed on 15 March 1991 and called the Multilateral Guarantee Agreement.

⁶ Directive of the Council of 24 April 1972 (72/166/EEC) on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles and to the enforcement of the obligation to insure against such liability, the text of which is provided as Appendix II

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ³Council of Bureaux Explanatory Memorandum to Internal Regulations

(6) Whereas it is now desirable to incorporate all provisions governing the relations between bureaux into a single document, the Council of Bureaux, at its General Assembly held in Rethymno (Crete) on 30 May 2002 adopted these Internal Regulations.

(7) Whereas the General Assembly of Lisbon (Portugal) ratified, on 29 May 2008, the updates which were made to the current Internal Regulations related principally to the application of the 5th Motor Insurance Directive (Directive 2005/14/EC of 11 May 2005).

SECTION I - GENERAL RULES

Article 1 - PURPOSE

The purpose of these Internal Regulations is to govern the reciprocal relations between National Insurers' Bureaux thereby enforcing the provisions of Recommendation no. 5 adopted on 25 January 1949 by the Working Party on Road Transport of the Inland Transport Committee of the European Economic Commission of the United Nations, superseded by Annex 1 of the Consolidated Resolution on the Facilitation of Road Transport (R.E.4) adopted by the Inland Transport Committee at the sixty-sixth session which was held from the 17th to the 19th of February 2004, in its current version (hereinafter called "Recommendation n°5).

ARTICLE 1: Purpose

The purpose of these Internal Regulations is to govern the relations between National Insurers' Bureaux in the context of enforcing Recommendation n°5. In accordance with the name of the document – INTERNAL REGULATIONS – the definition of the purpose does not include any bodies other than the Bureaux so that only the Bureaux have direct rights under the Internal Regulations. In particular members or correspondents can only enforce rights arising from the Internal Regulations via the Bureaux.

Article 2 - DEFINITIONS

For the purpose of these Internal Regulations the following words and expressions shall have the meanings herein assigned to them and no other:

ARTICLE 2: Definitions

When compared with the two previous agreements this Section includes some new definitions (Insurer, Correspondent, Accident, Injured Party, Council of Bureaux) and other definitions no longer appear (Handling Bureau, Paying Bureau, Servicing Bureau).

The content of these definitions has been carefully considered to ensure that the wording selected is compatible with the text of Recommendation n° 5 and that of the European Directives relating to motor insurance.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ⁴Council of Bureaux Explanatory Memorandum to Internal Regulations

2.1 “National Insurers’ Bureau” (hereinafter called “Bureau”): means the professional organisation which is a Member of the Council of Bureaux and constituted in the country of its establishment pursuant to Recommendation n°5.

2.1 Each National Insurers’ Bureau shall fulfil three broad criteria. It shall:

- a) be a professional organisation,
- b) be a member in the Council of Bureaux, and
- c) fulfil the requirements of Recommendation n°5 which provide for:
 1. official recognition by the government of this country’s Bureau as a single organisation established by authorised insurers,
 2. membership of the Bureau being restricted to those insurers authorised to transact motor third party liability insurance,
 3. an obligation on all insurers authorised to transact motor third party liability insurance to become members of the Bureau,
 4. an obligation on all insurers authorised to transact motor third party liability insurance to share in the financing of the Bureau so that the Bureau is in a position to meet its financial obligations.

Furthermore it provides that the government of the country of each Bureau shall provide the United Nations Economic Commission for Europe with a written undertaking not to place any obstacles in the way of the export of currency required to meet the international obligations of the Bureau and also with written confirmation that the Bureau has the means to fulfil its financial obligations.

2.2 “insurer”: means any undertaking authorised to conduct the business of compulsory third party liability insurance in respect of the use of motor vehicles.

2.2 The definition of an Insurer requires that the insurer must be approved by the appropriate national authority to underwrite motor third party liability insurance. This definition does not preclude the insurer from operating in other classes of motor insurance but it is essential that the approval relates to motor third party liability insurance. The operational insurance undertaking may take any authorised legal form including that of Lloyd's.

2.3 “member”: means any insurer who is a member of a Bureau.

2.3 In compliance with Recommendation n°5 the definition of a Member does not distinguish between insurers authorised to provide motor third party liability insurance offering international territorial coverage and those offering a similar product but whose authorisation restricts them to “national” coverage only. For the purposes of these Internal Regulations only insurers authorised to provide
Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 5 Council of Bureaux Explanatory Memorandum to Internal Regulations

motor third party liability insurance offering international territorial coverage may be recognised as Members.

2.4 “correspondent”: *means any insurer or other person appointed by one or more insurers with the approval of the Bureau of the country in which the person is established with a view to handling and settling claims arising from accidents involving vehicles for which the insurer or insurers in question have issued an insurance policy and occurring in that country.*

2.4 The definition of a Correspondent lays down three conditions:

- a) Being appointed by one or more insurers via the National Bureau of which they are members,
- b) Being approved by the Bureau of the country of establishment,
- c) Being able to handle and settle motor third party liability claims.

Subject to any legal or regulatory provisions or conditions laid down by the Bureau of the country of establishment the function of Correspondent may be fulfilled by any organisation or natural person, such as a claims adjustor or lawyer.

2.5 “vehicle”: *means any motor vehicle intended for travel on land and propelled by mechanical power but not running on rails as well as any trailer whether or not coupled but only where the motor vehicle or trailer is made subject to compulsory insurance in the country in which it is being used.*

2.5 The definition of a Vehicle is to be construed in accordance with the legal provisions in force in the visited country and not those prevailing in the country of origin.

The accidents involving vehicles with attached trailers should be resolved on the basis of the law applicable in the country of the accident [C. of B.16.05.85 Item 2B (ii)(a)] as modified in 2008.

2.6 “accident”: *means any event causing loss or injury which may, pursuant to the law of the country where it occurs, fall within the scope of compulsory third party liability insurance in respect of the use of a vehicle.*

2.6 An Accident is defined as any event causing loss or injury falling within the scope of the law on compulsory motor third party liability insurance. The definition covers every accident irrespective of the number of vehicles involved, including cases where only one vehicle is involved.

2.7 “injured party”: *means any person entitled to claim compensation in respect of any loss or injury caused by a vehicle.*

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 6 Council of Bureaux Explanatory Memorandum to Internal Regulations

2.7 The definition of an Injured Party is based on the right to obtain compensation for property damage or personal injury. In practical terms this means that the victim of an accident and the Injured Party, as defined under the Internal Regulations, may be two different persons, typically a fatally injured victim whose surviving relatives would be entitled to claim compensation.

2.8 “claim”: *means any one or more claims for compensation presented by an injured party and arising out of the same accident.*

2.8 The definition of a Claim includes either one single claim or multiple claims for compensation on the condition that they arise from one and same event causing property damage or personal injury covered by motor third party liability insurance. The term “Claim” implies that the Injured Party submits a request for compensation. The mere occurrence of an event resulting in property damage or personal injury does not constitute a Claim.

2.9 “policy of insurance”: *means a contract of compulsory insurance issued by a member covering civil liability in respect of the use of a vehicle.*

2.9 Insurance Policy is defined as a motor third party liability insurance contract issued by a member of a Bureau.

2.10 “insured”: *means any person whose third party liability is covered by a policy of insurance.*

2.10 The Insured is defined as any person whose third party liability is covered by a policy of insurance. According to national legal and contractual provisions this person need not be the person who concluded the insurance contract.

2.11 “Green Card”: *means the international certificate of motor insurance conforming to any of the models approved by the Council of Bureaux.*

2.11 A Green Card is defined as the international certificate of motor insurance approved by the Council of Bureaux in any of its ‘model’ formats. The final responsibility for the model of a Green Card rests with the Working Party on Road Transport of the Inland Transport Committee of the Economic Commission for Europe of the United Nations.

2.12 “Council of Bureaux”: *means the body to which all Bureaux must belong and which is responsible for the administration and the operation of the international motor civil liability insurance system (known as the “Green Card System”).*

2.12 The definition of the Council of Bureaux does not need any specific explanation and is addressed in the Constitution of the Council of Bureaux.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 7 Council of Bureaux Explanatory Memorandum to Internal Regulations

ARTICLE 3: Handling of claims

This article depicts the obligations imposed on each Bureau when an accident involving a vehicle originating from a foreign country occurs in the territory for which it is competent.

Article 3 - HANDLING OF CLAIMS

3.1 When a Bureau is informed of an accident occurring in the territory of the country for which it is competent, involving a vehicle from another country it shall, without waiting for a formal claim, proceed to investigate the circumstances of the accident. It shall as soon as possible give notice of any such accident to the insurer who issued the Green Card or policy of insurance or, if appropriate, to the Bureau concerned. Any omission to do so shall however not be held against it.

If, in the course of this investigation, the Bureau notes that the insurer of the vehicle involved in the accident is identified and that a correspondent of this insurer has been approved in conformity with the provisions in Article 4, it shall forward this information promptly to the correspondent for further action.

3.1 The first paragraph of this sub-article binds the Bureau of the country of accident to commence investigation to enable a quick resolution of the case once an injured party presents a claim. It specifically points out its obligation to provide information to the insurer or to the other Bureau involved. This rule does not allow the Bureau of the country of accident to invite a claim but, at the same time, it anticipates a proactive approach to cases reported to the Bureau including, if necessary, making contact with the Injured Party. It is customary to ensure that the insurer, or the guarantor Bureau, is promptly informed of any potential claim. This rule does not include any sanction in case of an occasional failure to provide information but where there is a regular failure on the part of a Bureau to give early notice of a potential claim the guarantor Bureau (or Bureaux) should seek to resolve the situation by bilateral talks. If such dealings do not lead to the expected change then the guarantor Bureau (or Bureaux) should inform the Council of Bureaux as such behaviour might be regarded as a breach of the CoB Constitution.

The second paragraph of this sub-article obliges the investigating Bureau to forward the case to an approved Correspondent of an identified insurer for further handling. No specific sanction for failure to comply with this rule has been provided but again there should be an amicable settlement between the Bureaux involved. Frequent breaches of the rule would constitute a breach of the CoB Constitution.

3.2 On receipt of a claim arising out of an accident under the circumstances described above, if a correspondent of the insurer has been approved, the Bureau shall forward

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 8 Council of Bureaux Explanatory Memorandum to Internal Regulations

the claim promptly to the correspondent so that it may be handled and settled in conformity with the provisions of Article 4. If there is no approved correspondent, it shall give immediate notice to the insurer who issued the Green Card or policy of insurance or, if appropriate, to the Bureau concerned that it has received a claim and will handle it, or arrange for it to be handled, by an agent whose identity it shall also notify.

3.2 Once a claim is passed to a Bureau the latter is obliged to forward it promptly to the Correspondent so that the Correspondent may handle and settle the claim. In other words this means that, where a Correspondent is authorised to handle and settle a claim, the Bureau of the country of accident should not become involved unless through the exercising of its rights under Article 4.5 and exceptionally under Article 4.6. By handing the case over to the Correspondent the Bureau is released from any further obligation to inform the insurer and/or the guarantor Bureau as long as the Correspondent fulfils his responsibilities. It is then the responsibility of the Correspondent to provide appropriate information to the insurer who appointed him.

However, if no Correspondent has been appointed the Bureau itself is obliged to immediately inform the insurer or the guarantor Bureau that it has received a claim and that it will either handle the claim itself or appoint an agent to handle it. In the latter case the Bureau shall inform the insurer or the guaranteeing Bureau of the identity of the agent, paying particular attention to the provisions of Article 3.6 (conflict of interests). It is strongly recommended that all necessary steps be taken to ensure that this happens.

2005 General Assembly, Decision No. 9 - Green Cards not issued in relation to a policy

By application of article 3.1 and 3.2, the Bureau of the country of the accident shall only contact the insurer which delivered the Green Card, or its correspondent. No contact should be made with any insurer issuing any other policy of insurance relating to the vehicle involved in the accident.

3.3 The Bureau is authorised to settle any claim amicably or to accept service of any extra-judicial or judicial process likely to involve the payment of compensation.

3.3 Pursuant to this provision Bureaux adhering to the Internal Regulations authorise each other to deal with and, if necessary, to amicably settle claims with Injured Parties by legally binding agreement as well as to accept service of extra-judicial or judicial process and represent the Insured before any Court or any other competent body. Such wide powers extend from payment of the required compensation to rejection of the claim. However, these powers are limited on two levels: firstly by application of the provisions of Articles 3.4 and 3.5, secondly by those provisions applicable in the country of accident as described in Article 3.4. Although the concept of “in the best interest” is mentioned in Article 3.4, it has to be construed as an integral part of the limitation or guidelines for the execution of the legal powers.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 9 Council of Bureaux Explanatory Memorandum to Internal Regulations

Claims for which compensation must be paid under the Internal Regulations do not include those claims introduced by the driver (or his/her beneficiaries) covered under the insurance contract of the foreign vehicle involved in the accident when the driver is held responsible for the damage of which he/she is the victim.

This limitation does not concern cases where, pursuant to the law applicable, the holder of the vehicle is responsible for any injury/damage suffered by the driver of the vehicle, where s/he is considered as a third party, even if s/he is at fault. [C. of B.21.10.77 Item 4 and C. of B.17.5.79 Item 1] as modified in 2007

3.4 All claims shall be handled by the Bureau with complete autonomy in conformity with legal and regulatory provisions applicable in the country of accident relating to liability, compensation of injured parties and compulsory insurance in the best interests of the insurer who issued the Green Card or policy of insurance or, if appropriate, the Bureau concerned.

The Bureau shall be exclusively competent for all matters concerning the interpretation of the law applicable in the country of accident (even when it refers to the legal provisions applying in another country) and the settlement of the claim. Subject to this latter provision, the Bureau shall, on express demand, inform the insurer, or the Bureau concerned, before taking a final decision.

3.4 This Article grants complete discretion to a Bureau when handling and settling the claim in that it confirms that the Bureau is not required to seek instruction from the insurer or the guarantor Bureau. However, the Bureau or its appointed agent must act "in the best interest" of the insurer or the guarantor Bureau. In particular, when cases referred to it are serious, the Bureau or agent has a duty to provide, as soon as feasible, a realistic estimate of the total cost of the claim with a view to establishing adequate technical reserves.

If the insurer or the guarantor Bureau involved expressly asks to be informed by the Bureau handling the claim of its final decision before such a decision has been made then this Bureau shall fulfil this obligation. This duty to inform does not impede the discretion and competence of the Bureau as referred to in the paragraph above.

2004 General Assembly, Decision No. 8 - Handling of Claims

On application of Article 3.4, 1st paragraph of the Internal Regulations the Bureau (or its Agent) shall inform as soon as possible the insurer who issued the Green Card or policy of insurance or, if appropriate, the Bureau concerned, of the estimated future cost of both the Material Damage and Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ¹⁰Council of Bureaux Explanatory Memorandum to Internal Regulations

Bodily Injury elements of a particular claim. If during the handling of the claim the Bureau (or its Agent) becomes aware of additional information on the claim, suggesting an amendment to the amount(s) previously communicated, then any change of the estimated future cost shall be communicated as soon as possible to the insurer who issued the Green Card or policy of insurance or, if appropriate, to the Bureau concerned.

The decision is a consequence of the necessity that the claim is handled "in the best interest" of the insurer or of the Bureau involved.

3.5 When the settlement envisaged is in excess of the conditions or limits applicable under the compulsory motor civil liability insurance law in force in the country of accident whilst covered under the policy of insurance, it shall consult the insurer in relation to that part of the claim which exceeds those conditions or limits. The consent of such insurer is not required if the applicable law imposes on the Bureau the obligation to take account of the contractual guarantees in excess of such limits and conditions provided in the law relating to insurance against civil liability in respect of the use of motor vehicles in the country of accident.

3.5 Should the expected settlement of the claim exceed the conditions or limits applicable under the compulsory motor civil liability insurance law in force in the country of accident whilst being covered by the insurance policy the Bureau shall first consult the insurer in relation to that part of the settlement which exceeds those conditions or limits. The consent of the insurer to the proposed settlement is required except in cases where the Bureau is bound by its governing law to abide by higher contractual guarantees.

3.6 A Bureau may not of its own volition or without the written consent of the insurer or Bureau concerned, entrust the claim to any agent who is financially interested in it by virtue of any contractual obligation. If it does so, without such consent, its right to reimbursement shall be limited to one half of the sum otherwise recoverable.

3.6 An agent – in a different capacity than that of Correspondent – may be entrusted with the handling of a claim by the competent Bureau provided that he is not financially interested in the settlement of the claim. There are two exceptions: (1) where there is legally no other choice; (2) where the Bureau has the written consent of the insurer or the guarantor Bureau involved authorising the relinquishment of the handling and settlement of the claim in favour of a potentially financially interested body. The sanction for not fulfilling these provisions is significant as it reduces the right to reimbursement to 50% of the sum otherwise recoverable.

Potential conflicts of interest may arise in circumstances other than where an agent acts as third party liability insurer for another vehicle involved in the same accident. A conflict of interest may also arise

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 11 Council of Bureaux Explanatory Memorandum to Internal Regulations

where certain other insurance products can be relied upon to cover the claim, for example a property insurance policy covering a private house damaged by a motor vehicle. Where Bureaux can identify such situations in advance they should always do so. Where Bureaux are, for valid reasons, unable to carry out such checks, they would be well advised to require the appointed agent himself to carry out such checks and, where conflicts of interest are identified, revert the case in point to the Bureau.

Language for Correspondence

That, in the absence of any bilateral understandings to the contrary, only the official languages of the System, English and French, should be used in correspondence. [C. of B. 19/20.10.89 Item 6(b)(iii)]

ARTICLE 4: CORRESPONDENTS

4.1 Subject to any agreement to the contrary binding it to other Bureaux and/or to any national legal or regulatory provisions, each Bureau shall set out the conditions under which it grants, refuses or withdraws its approval to correspondents established in the country for which it is competent.

However, this approval shall be granted automatically when requested in the name of a member of another Bureau for any establishment of this member in the country of the Bureau receiving the request provided that such establishment is authorised to transact insurance against civil liability in respect of the use of motor vehicles.

ARTICLE 4 : Correspondents

4.1 The first paragraph of this sub-article describes the basic principle governing the approval of Correspondents: i.e. each Bureau is free to establish – whilst acting within the limits of its national law (for example, prohibition of accrediting of loss adjusters) – the conditions under which it grants, denies or withdraws approval to Correspondents established in the country for which it is competent.

It follows that each Bureau shall produce a document able to be accessed (for reasons of transparency it would be desirable to display it on the website of each Bureau) by all candidates for the position of Correspondent established in its country. This document should describe all the qualifications required to perform this function. It is not for the Council of Bureaux to prescribe the contents of such a document. You may be well advised to remember that the “Green Card System” was established by the insurers and that it is therefore important for Bureaux to respond to their wishes whilst abiding by their national law.

In this regard it should be noted that each Bureau must abide by the principle of non-discrimination i.e. it cannot impose, without justification, on certain correspondents alone, conditions or charges (for example, surety deposits) which would not be imposed on others. Furthermore, should a Bureau require the payment of certain amounts by Correspondents, the same criterion of non-discrimination shall apply and the amounts charged shall be related to services actually provided on a non profit-making basis by the Bureau.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 12 Council of Bureaux Explanatory Memorandum to Internal Regulations

In this document each Bureau shall address the matter of the withdrawal of this approval. This is a sensitive matter which should be approached with caution as any withdrawal might result in financial consequences for the entity concerned. Each Bureau shall accept responsibility for the consequences of any litigation ensuing from any withdrawal judged to be unfair.

While each Bureau is free to unilaterally establish the conditions for granting or withdrawing such approval the Internal Regulations also provide the Bureaux with an option to agree upon common conditions bilaterally or multilaterally.

The second paragraph of sub-article 4.1 addresses a restriction of the independence of every Bureau in so far as any legally recognised establishment of a foreign insurer approved to transact motor insurance in accordance with the law in the country where the approval is requested shall be automatically approved. This confirms the pre-existing situation (Article 9 (a) of the Uniform Agreement).

The appointment of second or reserve correspondents is NOT accepted. [**C. of B. 3/4. 6.99 Item 7.11**]

4.2 Bureaux in the Member States of the European Economic Area undertake when receiving such a request, to approve as correspondents in their country claims representatives already appointed by insurers of the other Member States pursuant to Directive 2000/26/EEC. This approval cannot be withdrawn as long as the correspondent concerned retains its capacity as a claims representative under the said Directive unless it is in serious breach of its obligations under this Article.

4.2 This sub-article only concerns the Bureaux of the EEA Member States and Switzerland. These new provisions result from the requirements of the 4th European Motor Insurance Directive. This Directive provides that any insurer approved in one of the Member States shall appoint a claims representative responsible for handling and settling claims in each of the other Member States. It can be reasonably expected that the insurers would want their representative to at the same time perform the function of Correspondent approved by the Bureau of the country where this representative is established. The EEA Bureaux and Switzerland shall be obliged to approve as Correspondent of the insurer any representative appointed by this insurer under the 4th Directive.

4.3 Only a Bureau shall have the authority, on the request of one of its members, to send to another Bureau a request for approval of a correspondent established in the country of that Bureau. This request shall be sent by fax or e-mail and supported by proof that the proposed correspondent accepts the requested approval.

The Bureau concerned shall grant or refuse its approval within three months from the date of receipt of the request and shall notify its decision and its effective date

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 13 Council of Bureaux Explanatory Memorandum to Internal Regulations

to the Bureau that made the request as well as to the correspondent concerned. In the event of no response being received, approval shall be deemed to have been granted and to have taken effect on the expiry of that period.

4.3 The communication of a request for approval falls within the exclusive competence of the Bureau of which the insurer making the request is a member. It is provided that such request shall be sent by fax or e-mail so that the period of three months available to the recipient Bureau to decide on the request for approval may be verified. This request shall be supported by proof that the proposed Correspondent has agreed to the requested approval.

2005 General Assembly, Decision No. 8 - Proof of the acceptance of the nomination by a correspondent

In order to avoid unnecessary formalities, proof that the proposed correspondent accepts the nomination can consist of any credible and clear declaration of acceptance. This can also be made by the international organisation of which the local correspondent is a representative.

The Bureau receiving the request for approval shall grant or deny it within a period of three months from the date of receipt of the request. If there is no response within this period approval shall be deemed to have been granted. The Bureau shall also notify its decision and the date of its activation to the Bureau having sent the request as well as to the Correspondent concerned. It is not specified whether this decision should be justified. Subject to any legal considerations it would be helpful if a brief explanation were given in the case of denial.

4.4 The correspondent shall handle all claims in conformity with any legal or regulatory provisions applicable in the country of accident relating to liability, compensation of injured parties and compulsory motor insurance, in the name of the Bureau that has approved it and on behalf of the insurer that requested its approval, arising out of accidents occurring in that country involving vehicles insured by the insurer that requested its approval.

When any settlement envisaged exceeds the conditions or limits applicable under the compulsory motor civil liability insurance law applicable in the country of accident, whilst covered under the policy of insurance, the correspondent must comply with the provisions set out in Article 3.5.

4.4 It is clearly specified that, when handling and settling a claim, the approved Correspondent shall act in the name of the approving Bureau, thus providing Injured Parties with the same level of guarantee as they are entitled to expect from any national Bureau of any country of accident. The Correspondent also acts on behalf of the insurer having requested his approval, clearly signifying that the insurer is the principal debtor of the reimbursement.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ¹⁴Council of Bureaux Explanatory Memorandum to Internal Regulations

When the settlement envisaged is in excess of the conditions and limits applicable under the compulsory motor civil liability insurance law applicable in the country of accident, whilst being covered by the policy of insurance, the second paragraph imposes on the approved Correspondent the same obligation as that placed on the Bureau of the country of accident. In case of breach of this obligation the correspondent shall not have the right to avail himself of the guarantee offered under the second paragraph of Article 4.7.

4.5 The Bureau that has granted its approval to a correspondent recognizes it as exclusively competent to handle and settle claims in the name of the Bureau and on behalf of the insurer that requested its approval. The Bureau shall inform injured parties of this competence and forward to the correspondent any notifications relating to such claims. However it may, at any time and without any obligation to justify its decision, take over the handling and settlement of a claim from a correspondent.

4.5 Once approval has been granted the Correspondent shall have exclusive competence to handle and settle claims resulting from accidents caused by vehicles insured by the insurer having requested his appointment. Although this competence in handling and settling claims is exclusive the Bureau retains the authority to substitute itself for the Correspondent without any duty of justification. It is considered that only exceptional circumstances would justify such authority being exercised and then solely for the purpose of ensuring the efficient handling of claims.

4.6 If, for whatever reason, the Bureau that granted the approval is required to compensate any injured party in place of the correspondent, it shall be reimbursed directly by the Bureau through which the request for approval was sent, in accordance with the conditions set out in Article 5.

4.6 If, for whatever reason, a Bureau is required to make a payment in place of a Correspondent it shall be reimbursed directly by the Bureau which sent the request for approval. The demand for reimbursement shall be sent directly to the Bureau of which the insurer in question is a member, under the conditions set out in Article 5, which means that reimbursement shall be made within a period of two months from the date of the demand for reimbursement. In addition and in such a case it would seem appropriate for the Bureau having paid the compensation to inform the Bureau from which reimbursement is demanded of the reasons of its intervention.

4.7 Subject to the provisions of Article 4.4, the correspondent is free to agree with the insurer that requested its approval the conditions for reimbursement of sums paid to injured parties and the method for calculating its handling fees which agreement, however, shall not be enforceable against any Bureau.

If a correspondent is unable to obtain reimbursement of advance payments it has made in accordance with the conditions set out in Article 4.4 on behalf of the insurer that requested its approval, it shall be reimbursed by the Bureau that approved it. The latter Bureau shall subsequently be reimbursed by the Bureau of which the insurer in question is a member in accordance with the conditions set out in Article 5.

4.7 Insurers and their Correspondents are free to agree among themselves the terms for reimbursements and handling fees. These terms shall not, however, be enforceable against Bureaux which means that if a Bureau has to act in place of a Correspondent it shall do so in accordance with the rules set out in Article 5 and shall not be bound by those agreed between the insurer and the Correspondent.

The second paragraph provides that the Bureau having approved a Correspondent shall reimburse him for any sum (i.e. compensation, costs and charges relating to the compensation of injured parties, excluding the handling fee) that the Correspondent may have advanced and for which he fails to obtain reimbursement. Prior to making any such reimbursement the Bureau shall ascertain that payment has indeed been made in compliance with the provisions of Article 4.4. In other words, the Bureau shall ascertain that the Correspondent has taken all the steps which would have been taken if the Bureau had handled the claim itself. The Bureau shall subsequently be reimbursed in accordance with the conditions set out in Article 5 by the Bureau that sent the request for approval.

2005 General Assembly, Decision No. 6 – Reimbursement of payments by a correspondent

In the spirit of Article 5.1 of the Internal Regulations according to which a request for reimbursement shall be made within a maximum period of 1 year from the date of the last payment made in favour of an injured party, a correspondent who is unable to obtain reimbursement from the insurer can request reimbursement from the bureau that approved it within a maximum period of 1 year from the date of the last payment made in favour of an injured party.

The bureau which has reimbursed the correspondent shall request reimbursement from the bureau of which the insurer is a member within a maximum period of 1 year from the date of the last payment made in favour of the correspondent, as per Article 5.1.

2006 General Assembly, Decision No. 2 – Reimbursement of Correspondents

The second paragraph of Article 4.7 shall be interpreted in the sense that the request for reimbursement sent to the Bureau, of which the insurer is or was a Member, shall also include a handling fee if due and the late interest in accordance with the conditions set out in Article 5, but the requested handling fee and late interest shall not exceed the provisions of Articles 5.1.3 and 5.2. The handling fee and late interest shall be reimbursed to the approved correspondent by the Bureau which sent its request for reimbursement according to Article 5, after such amounts are received from the Bureau of which the insurer is or was a Member.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ¹⁶Council of Bureaux Explanatory Memorandum to Internal Regulations

4.8 When a Bureau is informed that one of its members has decided to dismiss a correspondent, it shall immediately so inform the Bureau that granted the approval. This latter Bureau shall be at liberty to determine the date on which its approval will cease to have effect.

When a Bureau that granted approval to a correspondent decides to withdraw it or is informed that the correspondent wishes to have its approval withdrawn, it shall immediately so inform the Bureau that forwarded the request for the approval of the correspondent. It shall also inform the Bureau of the date of the correspondent's effective withdrawal or the date on which its approval will cease to have effect.

4.8 This sub-article deals with the cancellation or withdrawal of approval.

Three different situations are envisaged:

- The insurer wishes to put an end to the contract binding it to a Correspondent,
- The Correspondent wishes to put an end to the contract binding him to an insurer,
- The Bureau decides to withdraw the approval it has granted to a Correspondent.

In these situations it is up to Bureau having granted the approval to determine the date on which the activity of the Correspondent shall end.

ARTICLE 5: CONDITIONS OF REIMBURSEMENT

5.1 When a Bureau or the agent it has appointed for the purpose has settled all claims arising out of the same accident it shall send, within a maximum period of one year from the date of the last payment made in favour of an injured party, by fax or e-mail to the member of the Bureau which issued the Green Card or policy of insurance or, if appropriate, to the Bureau concerned a demand for reimbursement specifying:

5.1.1 the sums paid as compensation to injured parties under either an amicable settlement or a court order;

5.1.2 the sums disbursed for external services in the handling and settlement of each claim and all costs specifically incurred for the purposes of a legal action which would have been disbursed in similar circumstances by an insurer established in the country of the accident;

5.1.3 a handling fee to cover all other charges calculated under the rules approved by the Council of Bureaux.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 17 Council of Bureaux Explanatory Memorandum to Internal Regulations

When claims arising out of the same accident are defended and settled without any compensation being paid, such sums as provided in 5.1.2 above and the minimum fee fixed by the Council of Bureaux in conformity with 5.1.3 above may be claimed.

ARTICLE 5: Conditions of reimbursement

5.1 The conditions for sending out a demand for reimbursement are as follows:

- a) All claims resulting from the same accident have been paid,
- b) The time interval between the date of the last payment made in favour of an Injured Party and the demand for reimbursement is less than or equal to one year,
- c) The demand is sent by fax or e-mail
- d) The demand specifies the sums:
 - a. paid as compensation to Injured Parties,
 - b. disbursed for external services (loss adjusters, etc) and costs of legal proceedings which would have been incurred by an insurer in the country of accident under similar circumstances,
 - c. for a handling fee to cover all other charges and calculated in accordance with the rules approved by the Council of Bureaux.

Where the claim has not resulted in compensation being paid, sums disbursed for external services and costs of legal proceedings may be claimed as well as the minimum handling fee as approved by the Council of Bureaux.

Translation costs incurred by the Bureau of the country of accident

- a) in the best interest of the Guarantor Bureau and/ or the insurer concerned
- b) in connection with legal proceedings
- c) at the request of the Guarantor Bureau and /or the insurer concerned

should be recoverable by the Bureau of the country of accident. **[C.of B. 19/20.10.89 Item 6(b)(ii)]**

as modified in 2007

5.2. The demand for reimbursement shall specify that the amounts due are payable in the country and in the national currency of the beneficiary, free of costs, within a period of two months from the date of demand and that, on expiry of that period, late interest at 12% per annum on the amount due from the date of the demand until the date of receipt of the remittance by the bank of the beneficiary shall apply automatically.

The demand for reimbursement may also specify that amounts expressed in the national currency are payable in Euro, at the official rate of exchange current in the country of the claiming Bureau at the date of the demand.

5.2 The demand for reimbursement shall specify that:

- a) the amounts due to the demanding Bureau are to be paid in its country and in the national currency of that country,
- b) the demanding Bureau shall receive the amount due free of costs (bank charges etc.),
- c) the amounts due shall be paid within 2 months of the date of the demand
- d) the payments received after the expiry of the 2 month period shall automatically attract late interest at 12% p.a. on the amount due from the date of the demand until the date of receipt of the remittance by the bank of the beneficiary.

A handling fee demanded under Article 5.1.3 of the Internal Regulations cannot be increased by V.A.T. or other local taxes. [C. of B. 17/18.5.1973 Item 5 and 17.10.75 Item 4] as modified in 2006
In response to the question - "Is interest on late payment due when the Member of the Paying Bureau is in a situation of insolvency" the following conclusions were agreed:

The decision of the General Assembly in May 1982 - that there should be no distinction with regard to interest between the situation in a normal case and one involving a Company in liquidation - should be re-affirmed. As a consequence the Guaranteeing Bureau had to be responsible in all cases for the debts of a Member which was in liquidation, including interest from the date of the first demand for reimbursement to that Member.

A Guaranteeing Bureau, in the knowledge that one of its Members was being placed in liquidation, should provide notice of that fact to the Secretary General and to all other Members. The Bureau in the country of accident, on receipt of such notifications, should as soon as possible notify the Guaranteeing Bureau of all outstanding reimbursement demands to the liquidated Member of that Bureau and of all cases currently being handled. Demands for reimbursement concerning claims settled after the liquidation of a Company shall be sent to the Bureau of which the Company is a Member. If the Bureau of the country of accident or its Member does not send the reimbursement demand directly to the Guaranteeing Bureau after the date of notification to the Council of Bureaux, the Guaranteeing Bureau is not obliged to pay penalty interest. The deadline for reimbursement of 60 days is calculated as of the date of receipt by the Guaranteeing Bureau as modified in 2006

Contrary to the above, the demand for reimbursement may be denominated in euros. The applicable rate shall be the official rate of exchange between the national currency of the demanding Bureau and the euro, as applicable in the country of the demanding Bureau at the date of the demand. [C. of B. 26/27.5.94 Item 2] as modified in 2006

2006 General Assembly, Decision No . 1 – Means of Payment

Payment by cheque is prohibited because it does not conform to Article 5.2, which provides that the amounts due are payable free of costs to the beneficiary. Payment by cheque always entails additional costs for the beneficiary, consisting not only of the fees requested by the bank, but also of the burden of additional administrative work that the beneficiary is obliged to complete in order to cash a cheque.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 19 Council of Bureaux Explanatory Memorandum to Internal Regulations

Moreover, cashing a cheque often entails lengthy timescales, which can be a cause of further delay and justify possible requests for reimbursement of late interest. Finally the possible misdirection of the letter accompanying a cheque can be cause of more problems for the beneficiary.

5.3 Under no circumstances shall demands for reimbursement include payments for fines, bail bonds or other financial penalties imposed upon an insured which are not covered by insurance against civil liability in respect of the use of motor vehicles in the country of accident.

5.3 Sums disbursed for the payment of financial sanctions levied against an Insured and which are not covered by motor third party liability insurance in the country of accident are not recoverable under the Internal Regulations and may not therefore be included in any demand for reimbursement.

5.4 Supporting documents, including the objective proof that compensation due to injured parties has been paid, shall be sent promptly on demand but without delay to the reimbursement.

5.4 Supporting documentation, including proof of payment, shall not form part of the demand for reimbursement. The Bureau demanding the reimbursement is obliged to communicate such documentation promptly, if requested by the other party to do so. However, reimbursement is not conditional on submission of this documentation. Delayed delivery of the supporting documentation neither suspends nor terminates the period of time allowed for reimbursement on the expiry of which interest becomes payable.

Proof of Payment by the Bureau of the country of accident

If the Guarantor Bureaux request proof of payment by the Bureau of the country of accident, it can be provided *by any means*. For example by producing one of the following documents:-

- a copy of the remittance advice/cheque or an order to transfer;
- the words "*paid on...*" on an order for payment or invoice;
- a cash-on-delivery receipt or certificate;
- a receipt;
- a computer print-out or copy of the computer screen form, or even, the proof of teletransmission between the handling entity and the recipient of the money. [C. of B. 4/5.6.98 Item 6.11]

5.5 Reimbursement of all sums cited in Articles 5.1.1 and 5.1.2 above may be claimed in accordance with the conditions set out in this article notwithstanding that the Bureau may not have settled all claims arising out of the same accident. The handling fee provided for under Article 5.1.3 above may also be claimed if the principal

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 20 Council of Bureaux Explanatory Memorandum to Internal Regulations

sum which is the subject of the reimbursement is in excess of the amount fixed by the Council of Bureaux.

5.5 It is permitted to request reimbursement of amounts paid as provisional payments, even if all claims

arising out of the same accident have not been settled. In such cases a handling fee may be claimed but only if the principal sum of the requested reimbursement exceeds the minimum amount fixed by the Council of Bureaux. Demanding Bureaux should refrain from claiming reimbursement of small amounts.

5.6 If, after satisfaction of a reimbursement demand, a claim is reopened or a further claim arising out of the same accident is made, the balance of the handling fee, if any, shall be calculated in accordance with the provisions in force at the time when the demand for reimbursement in respect of the reopened or further claim is presented.

5.6 In case of a reopened or further claim, the handling fee balance shall be calculated according to the rules of the Council of Bureaux valid at the time when the demand for reimbursement relating to the reopened or further claim is submitted.

5.7 Where no claim for compensation has resulted from an accident, no handling fee may be claimed.

5.7 If, for whatever reason, no claim is made the Bureau claiming reimbursement has no right to ask for

a handling fee. The activities of a Bureau in a country of accident carried out under Article 3.1 would justify reimbursement where expenses incurred are as described in Article 5.1.2. This is not intended to deter Bureaux from a proactive approach. It is intended to prevent other Bureaux from being approached with demands for reimbursement where there has been no material handling activity carried out which would justify a reimbursement. This is in keeping with the concept of reciprocity between Bureaux.

2003 General Assembly, Decision No.2 – Handling Fees: New rule for a provisional demand for reimbursement

1. The amount of handling fees payable shall be calculated on the basis of 15% of certain specified disbursements as specified in Article 5.1.1 of the Internal Regulations.
2. The handling fees payable shall be subject to a minimum fee of €200 and a maximum fee of €3,500.
3. If the disbursements calculated under the rules of Article 5.1.1 of the Internal Regulations result in a provisional demand for reimbursement of €1500 or more then a handling fee may be claimed. If the provisional demand for reimbursement is less than €1500 then no handling fee may be claimed.
4. If a claim for an additional provisional demand for reimbursement of €1500 or more is made then an additional provisional handling fee may be claimed. However, the cumulative handling fee paid shall not exceed the maximum handling fee which has been approved by

the General Assembly at the time of a demand for further reimbursement from the responsible bureau.

5. The minimum and maximum handling fee as specified in paragraph 2 and the minimum provisional demand for reimbursement before a handling fee may be claimed as specified in paragraphs 3 and 4 shall be subject to review by the Management Committee at the request of the membership. This review may result in a recommendation for change to the following General Assembly.

2004 General Assembly, Confirmation - Minimum Handling Fees

1. No handling fee may be claimed if no claim for compensation is made (Article 5.7)
2. A minimum handling fee is payable if a claim is made which is defended and settled without compensation by the handling bureau (Article 5.1).

ARTICLE 6: OBLIGATION OF GUARANTEE

6.1 Each Bureau shall guarantee the reimbursement by its members of any amount demanded in accordance with the provisions of Article 5 by the Bureau of the country of accident or by the agent that it has appointed for the purpose.

If a member fails to make the payment demanded within the period of two months specified in Article 5, the Bureau to which this member belongs shall itself make the reimbursement in accordance with the conditions described hereunder, following receipt of a guarantee call made by the Bureau of the country of accident or by the agent that it has appointed for the purpose.

The Bureau standing as guarantor shall make the payment within a period of one month. On expiry of that period, late interest at 12% per annum on the amount due, calculated from the date of the guarantee call to the date of receipt of the remittance by the beneficiary's bank, shall apply automatically.

The guarantee call shall be made by fax or e-mail within a period of twelve months after the date of despatch of the demand for reimbursement under Article 5. On expiry of that period and without prejudice to any late interest for which it may be liable, the liability of the Bureau standing as guarantor shall be limited to the amount claimed from its member plus a 12 months interest calculated at 12% per annum.

No guarantee call shall be admissible if made more than two years after the despatch of the demand for reimbursement.

ARTICLE 6: Obligation of guarantee

A Guaranteeing Bureau should regard itself as responsible for Claims arising under Green Cards or policies issued by a Member, even if in liquidation, and should accept that it had an obligation to deal with any relevant liabilities covered by Green Cards or policies issued by that Member. Whilst complicated legal matters might arise between the Guaranteeing Bureau and the Official Liquidator of the Country, this was a domestic matter which should not interfere with the smooth-working of the Green Card System. [C. of B 17/18.5.79 Item 1C] as modified in 2007

6.1 Each Bureau shall guarantee the reimbursement by its members of any amount claimed by the Bureau of the country of accident or by the agent appointed by it. The demand for reimbursement shall be made in compliance with the provisions in Article 5. In case of non-compliance with this article the Bureau shall be released from any obligation of guarantee.

According to Article 5.2, the amounts claimed are payable within a period of two months from the date of the demand for reimbursement. On expiry of that period the Bureau of the country of accident or, in its place, its agent may contact the Bureau of the insurer owing the initial reimbursement and claim payment of the outstanding amount. This guarantee call shall have the effect of making the guarantor Bureau responsible for the amounts claimed under the following conditions:

The guarantor Bureau shall pay the amount claimed within one month of the date of the guarantee call. To avoid double payment it would be advisable for the guarantor Bureau to inform its member of the payment it has made under the guarantee. Thereafter, the insurer owing the initial reimbursement will have to settle payment of the amount claimed with its own Bureau.

If payment is not made by the guarantor Bureau within the period of one month, late interest at 12% per annum shall automatically become due by rights from the guarantor Bureau without any further reminder. This interest shall run from the date of the guarantee call to the date of receipt of the remittance by the bank of the beneficiary.

The procedure therefore develops in two stages.

1° - The first stage relates to the demand for reimbursement sent by the Bureau of the country of accident or its agent to the insurance company having issued the Green Card or the insurance contract covering the vehicle involved in the accident (Article 5).

At this stage the insurance company shall proceed with the reimbursement claimed from it within a period of two months from the date of the demand. On expiry of this period the insurance company shall be liable to pay late interest calculated at the rate of 12% per annum on the amount claimed as principal and accruing from the date of the demand until the date of receipt of the remittance by the bank of the beneficiary.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ²³Council of Bureaux Explanatory Memorandum to Internal Regulations

If the Bureau of the country of accident or its agent has not received the reimbursement within the period of two months it may call on the guarantee of the guarantor Bureau.

2° - The second stage therefore refers to the guarantee call which the Bureau of the country of accident or its agent is entitled to make to the guarantor Bureau, namely the Bureau of which the insurance company responsible for the demand for reimbursement is a member (Article 6.1).

The Bureau standing as guarantor shall have one month from the date of receipt of the guarantee call to arrange the required reimbursement i.e. the amount of the claim sent to the insurance company plus late interest calculated at a rate of 12% per annum and accruing until the date of the guarantee call.

If this payment is not made within the period of one month the guarantor Bureau shall be liable to pay to the Bureau of the country of accident or to its agent:

The amount claimed from it - namely the amount initially claimed from the insurance company plus late interest calculated at a rate of 12% per annum accruing from the date of the demand for reimbursement made to the insurance company until the date of the guarantee call;

Additional late interest calculated at a rate of 12% per annum on the amount referred to in a) above - that is principal and interest - and accruing from the date of the guarantee call until the date of receipt of the remittance by the bank of the beneficiary.

However two restrictions of the Bureau's obligations have been provided at this second stage:

Late interest as referred to in a) cannot accrue for more than twelve months.

No guarantee call shall be admissible if made to the guarantor Bureau more than two years after the date of the first demand for reimbursement sent to the insurance company.

To expedite the procedure and provide legal evidence the guarantee call shall, in all circumstances, be sent by fax or e-mail. As the guarantee call shall cease to be admissible if made more than two years after the date of the initial demand for reimbursement made to the insurer, the Bureau's guarantee obligation become extinct on expiry of that period.

The first stage reimbursement remains due and shall be settled between the parties involved (including the first stage interest which is not time-barred) but without any guarantee from the Bureau of which the insurer responsible is a member.

2004 General Assembly, Decision No. 7 - Obligation of guarantee interest

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ²⁴Council of Bureaux Explanatory Memorandum to Internal Regulations

Subject to the clarification that the Insurer should be requested to pay additional interest in the first instance

1. It is permissible under the provisions of the Internal Regulations article 5 to demand reimbursement for interest only.
2. In the event of a failure to pay interest according to Article 5, on the part of the member of the Guaranteeing Bureau, this would justify the launching of the Guarantee Call procedure as per Article 6 of the Internal Regulations.

2005 General Assembly, Decision No. 10 - Documentation supporting a guarantee call

For a guarantee call made under Article 6.1, it is sufficient that the request is supported with a copy of the original demand for reimbursement sent to the insurer under Article 5. Additional documentation can be requested by the guarantor bureau from its member. Nevertheless, if the guarantor bureau exceptionally requests documentation supporting the guarantee call, for clarification purposes, from the bureau of the country of accident, the bureau should assist it in the best spirit of cooperation.

2008 General Assembly, Decision No. 4.3 – Guarantee Call “Pro Forma”

After having settled the claim(s), the Bureau of the country where the accident took place (or the agent that it has appointed for the purpose) sends a demand for reimbursement pursuant to Article 5.1 of the Internal Regulations to the insurance undertaking which issued the Green Card or the insurance policy relating to the vehicle involved in the accident. However, in certain circumstances (for example, in the case of absence of insurance, a false Green Card, an insurance undertaking in winding-up proceedings, a Bureau operating frontier insurance, Art. 4.7.§2 of the I.R., etc.), this demand for reimbursement is addressed directly to the Bureau concerned. In this case, if the Bureau receiving the demand does not execute the reimbursement within the two month period then no Guarantee Call can be sent to the Bureau. This is on the basis of the legal principle according to which it is not possible to be the guarantor of one’s own debt. This lack of feasibility indirectly leads to the fact that the non-payment of the demand for reimbursement by this Bureau will not appear on the list of unexecuted Guarantee Calls which has to be sent to the Secretariat of the Council of Bureaux within the framework of the continuous monitoring of the Members’ fulfilment of Guarantee Calls.

In order to avoid this unsatisfactory situation, the Bureaux (or their agents) are asked in the situation envisaged hereabove, to issue “pro forma” Guarantee Calls to the Bureaux which do not respect the two-month period and as such allowing the Council of Bureaux Secretariat to draw up a report on the matter. Terms and conditions of Art. 6 of the Internal Regulations shall also apply to the Guarantee Calls pro forma”.

6.2 Each Bureau guarantees that its members shall instruct the correspondents whose approval they have requested to settle claims in conformity with the provisions of the first paragraph of Article 4.4 above and

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ²⁵Council of Bureaux Explanatory Memorandum to Internal Regulations

forward to those correspondents or to the Bureau of the country of accident all documents concerning all claims entrusted to them.

6.2 The purpose is to guarantee that claims made by Injured Parties shall be settled in conformity with the legal and regulatory provisions applicable in the country of accident insofar as they relate to liability, compensation of Injured Parties and compulsory motor insurance. That is why each Bureau shall ensure and guarantee that its members instruct the Correspondents whose approval they have requested to settle all claims arising out of an accident in conformity with the said provisions. Moreover, Correspondents shall receive instructions to pay compensation in the name of the Bureau of the country of accident and on behalf of the insurer having appointed them for the purpose. Finally, each Bureau shall ensure that its members forward to their Correspondents or to the Bureau handling the claims all documents concerning these claims or which are required in settling them.

2005 General Assembly Decision No. 5 - The reimbursement of a bureau for sanctions paid

If a claim is not handled by an approved correspondent in conformity with the provisions in the first paragraph of Article 4.4 and that, as a result of such lack of performance, the Bureau of the country of accident is required to pay sanctions as provided by the national regulatory provisions, this Bureau, if it has not been reimbursed by the correspondent involved, after a reminder sent by fax or e-mail, shall be reimbursed directly by the Bureau through which the request for approval was sent, in accordance with the conditions set out in Article 5, by analogy with the provisions of Article 4.6.

This decision shall apply to claims arising from accidents which occur on or after the 1st July 2005.

SECTION II: SPECIFIC RULES GOVERNING CONTRACTUAL RELATIONS BETWEEN BUREAUX BASED ON THE GREEN CARD

The provisions of this section apply where contractual relations between Bureaux are based on the Green Card.

This Section governs the relations between Bureaux when either both parties or one party have (has) not signed the Agreement between the National Insurers' Bureaux of the Member States of the European Economic Area and other Associate Bureaux (hereafter called the "Multilateral Agreement"), referred to in Article 10.1 of the Constitution of the Council of Bureaux, which binds the Bureaux of the EEA Member States and to which the Bureaux of non EEA Member States have been associated. It also governs the relations between the Bureaux which have signed the Agreement between EEA Bureaux and the Associate Bureaux in the following circumstances:

Firstly, in the event that a vehicle being used in the country of one Signatory Bureau is exempted from compulsory motor insurance but is required to hold a Green Card when entering the country of another Signatory Bureau.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ²⁶Council of Bureaux Explanatory Memorandum to Internal Regulations

Secondly, in the event that a vehicle coming from a country, the Bureau of which is not a signatory of the Multilateral Agreement, holds a Green Card issued by one of the Signatory Bureaux and causes an accident in the territory of another Signatory Bureau.

ARTICLE 7: ISSUE AND DELIVERY OF GREEN CARDS

7.1 Each Bureau shall be responsible for printing its Green Cards or shall authorize its members to print them.

ARTICLE 7: Issue and delivery of Green Cards

7.1 This sub-article deals with the responsibility of a Bureau for printing Green Cards. A Bureau may authorise its members to print Green Cards conforming to the model approved by the Council of Bureaux. Bureaux should instruct their members accordingly. Whatever the method selected, the Bureau bears the ultimate responsibility for the printing of Green Cards.

When the Insured has a trailer or a caravan attached to his vehicle the words "and trailer" or "and caravan" may be added against the category of vehicle recorded in box No. 6 on the Green Card, if the compulsory motor TPL law of the visited country does not require a separate Green Card to cover trailers and caravans. [C. of B. 1.4.54 Item 2] as modified in 2006.

The question as to how "multi-purpose" vehicles (eg. Kombiwagen in Germany, utility vehicles, estate cars, station wagons, etc.) should be designated in the code space on the Green Card should be left to the individual Insurer which issued the document. [C. of B. 28/29.5.59 Item 8] as modified in 2006.

The format of the Green Card, as regards the inclusion therein of the International Circulation Letters and particulars of all Member Bureaux, had been continued ever since 1951 and indeed, as recently as October 1995, the Principle Working Party on Road Transport of the Economic Commission for Europe had adopted the proposal of the Council for a revised format of the Green Card which recorded the International Circulation Letters and the particulars of the Bureaux of all Member Countries. In this connection it was important to have regard to the provisions of Article 3(d) of the Uniform Agreement which specified that - Certificate of Insurance means the International Motor Insurance Card (Green Card) in the form or forms approved by the Principal Working Party on Road Transport.

a) All Green Cards should conform to the specimen lodged with the Economic Commission for Europe and, as a consequence, the International Circulation Letters and the particulars of the Bureaux of all Member Countries should be displayed on the Green Card in accordance with the prescribed sequence.

b) If Insurers did not wish their Green Cards to be valid for certain countries then they should cross out the International Circulation Letters of those countries.

c) Bureaux were strongly recommended to intervene in this matter with their Members and to inform them that they had to observe the rules concerning the content of their Green Cards.

d) The time-limit for up-dating Green Cards should be two years, as decided at the Meeting of the General Assembly in 1994, from the date of the admission of a new member, or any other amendment to the format of the text which was approved by the Principal Working Party on Road Transport.

e) Green Cards which did not conform to the latest specimen lodged by the Principal Working Party on Road Transport should nevertheless be considered valid in the event of an accident occurring within their period of validity, after the expiry of the mentioned time-limit (2 years) also in Member Countries the International Letters of which were not recorded in the Green Card.

This decision was modified in 2001 as follows:

a) Green Cards already in circulation and which were not updated on expiry of the two-year period shall be considered as valid for the period stated, for those countries specified on the Green Card and which have not been deleted.

b) To reconsider the decision of 1996 under which Green Cards that do not conform after the expiry of the two-year period are nevertheless valid in countries whose international identity letters are not on the Green card. Therefore as from 1st July 2001, Green card cover will only be given for those countries shown on the Green Card and which are not crossed out [C. of B. 30/31.5.96 Item 3B] as modified in 2006

2008 General Assembly, Decision No. 5.2 – Validity of a Green Card issued under the old format.

If a Green Card is validly issued under the old format for more than 1 year (e.g. 5years) within the transitional period of 2 years following the introduction of the new GC format, it will remain valid for the whole duration of its validity even if its validity goes beyond the transitional period of 2 years (Bureaux to inform their members and custom authorities accordingly). However, any Green Card issued under the old format after the expiry of the transitional period of 2 years for the introduction of the new GC format will not be considered as valid anymore.

The language to be used in the Green Card should be the language of the country of the issuing Bureau, with the title of the document being expressed in addition in English and French, as specified in Art. 14 of Annex 1 of the Revised Consolidated Resolution on the Facilitation of Road Transport (R.E.4) adopted by UN Economic Commission for Europe in Geneva in February 2004.[C. of B. 26/27.3.94 Item 4] as modified in 2007

In a case of co-existence of a Green Card and Frontier Insurance, priority should be given to the Frontier Insurance. [C. of B. 5/6.6.97 Item 9.9] as modified in 2007

7.2 Each Bureau shall authorize its members to issue Green Cards to their insureds solely for vehicles registered in any country for which it is competent.

7.2 The Bureau shall authorise and instruct its members to issue Green Cards for vehicles registered in any country for which it is competent. In certain cases the Bureau may be competent for more than one country - for example the Swiss Bureau for Liechtenstein and the French Bureau for Monaco.

This provision does not restrict the issuing of Green Cards as certificates of a frontier insurance policy valid for the EEA countries and Switzerland in accordance with the decision of the 1995 General Assembly. [C.of B. 18/19.5.95 Item 2D]

7.3 Any member may be authorised by its Bureau to issue green cards to its insureds in any country where no Bureau exists provided that the member is established in that country. This option is limited to vehicles registered in the country in question.

7.3 This sub-article follows Article 4 of the Uniform Agreement. Any insurer may, with the authorisation of the Bureau of which it is a member, issue Green Cards to its insureds for vehicles registered in a country where no Bureau exists and where the insurer has a duly authorised Establishment. Establishment means any office, branch or subsidiary in the country concerned which is officially approved by the authorities for the transacting of motor insurance in that country. It should be noted that the guarantee of a Bureau shall apply in all cases cited in the second paragraph of Article 9.

Each Bureau should be responsible for controlling whether each Member concerned is established in a particular country in accordance with the above criteria [C. of B. 30/31.5.96 Item 3E]

The Secretariat should be notified of all cases in which a Bureau in accordance with the rule mentioned above, has authorised one of its Members to issue Green Cards in a country where no Bureau exists. The Secretariat shall inform all Members of the Council of Bureaux [C. of B. 30/31.5.96 Item 3E].

7.4 All Green Cards are deemed to be valid for at least fifteen days from their date of inception. In the event that a Green Card is issued for a lesser period, the Bureau having authorised the issuing of the Green Card shall guarantee cover to the Bureaux in the countries for which the card is valid for a period of fifteen days from the date of inception of its validity.

7.4 A Green Card is deemed to be valid for at least 15 days from its inception date. If the Green Card has been issued for a lesser period it will nevertheless be valid for fifteen days under the guarantee of the Bureau that authorised the issuing of the Green Card.

7.5 Where an agreement signed between two Bureaux is cancelled under Article 16.3.5, all Green Cards delivered in their name for use in their respective territories shall be null and void as soon as the cancellation becomes effective.

7.5 This sub-article deals with the effect on Green Cards of any cancellation of the agreement (Article 16.3.5). All Green Cards issued in the name of the Bureaux concerned shall be invalid from the effective date of the cancellation.

7.6 Where an agreement is cancelled or suspended by the application of Article 16.3.6, the residual period of validity of the Green Cards delivered in the name of the Bureaux concerned for use in their respective territories shall be determined by the Council of Bureaux.

7.6 If a Bureau's membership is suspended or if it ceases to be a CoB member (Article 16.3.6), resulting in the cancellation or suspension of the agreement, the Council of Bureaux shall determine the residual period of validity of the Green Cards issued in the name of the Bureau concerned.

Turkey

A Green Card bearing the letters "TR" must be regarded as valid for the whole of Turkey, and that if it was not wished to make a Card valid for the whole of Turkey the letters "TR" should be crossed out from the document. [C. of B. 24.10.68 Item 6]

Article 8 – CONFIRMATION OF THE VALIDITY OF A GREEN CARD

Any request for confirmation of the validity of an identified Green Card sent by fax or e-mail to a Bureau by the Bureau of the country of accident or by any agent appointed for the purpose shall be given a definitive answer within three months of the request. In the event of no such response then on expiry of that period, the Green Card shall be deemed to be valid.

ARTICLE 8: Confirmation of the validity of a Green Card

This provision provides for a procedure similar to that applying to the confirmation of territory in which a vehicle is "normally based", as previously agreed by the signatories of the MGA (henceforth known as the "Multilateral Agreement") and transposed in the provisions of Section III, Article 13.

If the Bureau of the country of accident or its agent request confirmation of the validity of an identified Green Card the reply should be sent within three months of the date of the request. The Bureau that sends the request for confirmation should supply all the information in its possession for identifying the Green Card. This information may consist of any particulars of the Green card, for example: the card number or any proof of confirmation of cover as approved by the 1999 General Assembly. The request for confirmation should be sent by fax or e-mail. In the event of no reply being received within three months the Green Card shall be deemed to be valid.

2004 General Assembly, Decision No. 4 – Minimum information to identify a Green Card

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ³⁰Council of Bureaux Explanatory Memorandum to Internal Regulations

In accordance with Article 8 of the Internal Regulations the following minimum information shall be provided to enable a Green Card to be identified:-

- i) The name or the international letters of the Bureau, and
- ii) The Insurer's name and/or code, and

iii) The number of the Green Card

Should more information be desired it should be provided when available. Should the information not be available to the bureau of the country from which the Green Card originated, this bureau remains responsible for investigating and attempting to identify the Green Card in line with the spirit of cooperation existing between members of the System.

2005 General Assembly, Decision No. 3 – The validity of a Green Card recorded in a police report

Decision No. 4 of the General Assembly of 27th May 2004 in Luxembourg is implemented according to the following text:

Decision No. 4 of the General Assembly of 27th May 2004

In accordance with Article 8 of the Internal Regulations the following minimum information shall be provided to enable a Green Card to be identified:

- i) The name or the international letters of the Bureau, and*
- ii) The insurer's name and/or code, and*
- iii) The number of the Green Card*

When the above mentioned details are recorded in the Police Report (or in any document issued by a public authority) together with the period of validity (inception/expiry date), the Green Card shall be deemed to be valid and confirmation of validity should not be requested by the Bureau in the country of the accident. Nevertheless the Bureau in the country of the accident shall give notice of the accident or of the claim as soon as possible to the insurer which issued the Green Card or to its approved correspondent according to Articles 3.1 and 3.2.

If the period of validity is not recorded, the Bureau in the country of accident should request confirmation of the validity and the Bureau in whose name the Green Card has been issued is wholly responsible for providing evidence that the Green Card was no longer valid at the date of the accident. If, however, there was a legal procedure and the Judge accepted the information recorded in the Police Report, as a result of which the Bureau of the country of accident was condemned, there would have to be a certainty of reimbursement from the Guarantor Bureaux [**C. of B. 22/23.10.92 Item 5(ii)**].

2005 General Assembly, Decision No. 7 - Identification of insurers by means of a code

The obligations imposed on the bureau of the country of accident as specified in Articles 3.1 and 3.2 of the Internal Regulations, imply that the bureau is in a position to quickly identify the insurance company covering the vehicle involved in the accident. Data recorded on the Green Card is a preferred means of identification of the insurance company as the Green Card includes not only the name and address of the insurance company (box 8) but also the insurance company's code (box 4).

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ³¹ Council of Bureaux Explanatory Memorandum to Internal Regulations

The insurance company's code must obligatorily be recorded in box 4 in conformity with the decision taken in 1999 by the General Assembly of the Council of Bureaux in Oxford. This code is either the administrative code normally attributed to each company by the national supervisory authority or a specific code attributed by the bureau of which the company in question is a member. To ensure that the necessary checks are made possible, each bureau shall place at the disposal of all other bureaux a list of its member companies showing not only the name and address of every company but also its administrative code. To avoid extensive exchange of data between bureaux, each bureau shall put the list of its members on the website of the Council of Bureaux or link a list on its own website to the Council of Bureaux website. This list should include the name (in their national languages), address, administrative code or specific code attributed by the Bureau, telephone number, fax, e-mail and website address, if available, of its members and should be updated when changes occur. When a bureau of the country of accident notes a discrepancy between the information at its disposal and that shown on the website of the Council of Bureaux, it shall promptly communicate with the bureau concerned with the aim of obtaining the necessary confirmation. It is also recommended that the full address of the insurance company and its administrative code be recorded in any request for the designation of a correspondent.

Photocopy of a Green Card

With regard to a question as to whether a Bureau of the country of accident was able to settle a claim if it had only a photocopy of a Green Card - or whether it had to await the confirmation of the Guarantor Bureaux that the particular Green Card was valid - the following rules were adopted:

- A photocopy of a Green Card shall not be regarded as equal to an original unless the Bureau of the country of accident is able to certify that the photocopy has been taken in its Country, from an original document, by the employees of the Bureau of the country of accident or the Police Authorities.
- In the case of a photocopy of a Green Card, which had not been certified by the Bureau of the country of accident or by the Police Authorities, the Bureau of the country of accident should obtain confirmation from the Guarantor Bureaux of the validity of that Green Card. [C. of B. 22/23.10.92

Item 5(ii)]

Article 9 – FALSE, UNAUTHORISED OR ILLEGALLY ALTERED GREEN CARDS

Any Green Card presented in a country for which it is valid, purporting to be issued under the authority of a Bureau shall be guaranteed by that Bureau, even if it is false, unauthorised or illegally altered.

However, the Bureau's guarantee shall not apply where a Green Card relates to a vehicle which is not legally registered in that Bureau's country, with the exception of the circumstances specified in Article 7.3

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ³²Council of Bureaux Explanatory Memorandum to Internal Regulations

ARTICLE 9: False, unauthorised or illegally altered Green Cards

The first paragraph provides that the Bureau shall guarantee that any Green Card presented in a CoB member country is deemed to have been issued under its authority even if it transpires that it is false, unauthorised or illegally altered. The decisions of the General Assembly regarding the validity of Green Cards shall apply to these cases.

The second paragraph introduces a rule according to which the Bureau's guarantee applies only to Green Cards attached to vehicles which are legally registered in its country. The purpose of this rule is to exclude illegally altered Green Cards issued to vehicles which are not registered in the country of the Bureau from the Bureau's guarantee unless the Bureau agrees to extend its guarantee to them. However, this rule does not apply to cases referred to in Article 7.3.

2003 General Assembly, Decision No.3 – The validity of existing green cards for a new or a reactivated member bureau

1. The decisions of the 1996 and 2001 General Assemblies (Appendix, paragraphs 1 and 2) regarding the two-year time limit to update Green Cards shall remain valid and unchanged.
2. For new or reactivated member bureaux there is no automatic extension of the territorial validity of the Green Cards of other members to the new bureau unless the letters of the new bureau are displayed on the Green Card and are not crossed out.
3. However, the Council of Bureaux will allow special bilateral agreements between a new bureau and another bureau to recognise the existing Green Cards of the other bureau until the cards have been reprinted or until two years have expired providing both bureaux so agree. However, such special bilateral agreements are not enforceable under the agreements of the Council of Bureaux against any bureau.
4. A hand-written, typewritten or machine-written addition of the international identity letters of a Bureau on a Green Card is absolutely not valid in the sense that such addition shall not be interpreted as an extension of the guarantee given by a Green Card whose international identity letters have been added on the Green Card.
5. A hand-written, typewritten or machine-written addition on a Green Card of the international identity letters of a Bureau shall not be considered as an unauthorised or illegal alteration for the consequences foreseen by Article 9 of the Internal Regulations.

2003 General Assembly, Decision No.4 – Supply of Green cards to motorists of a suspended bureau

Member bureaux are permitted to authorise their member insurers to issue Green Cards to the motorists of the country of a suspended bureau if they so decide. The Council of Bureaux should be informed of each authorisation given.

2005 General Assembly Decision No. 4 - The validity of handwritten and machine-written changes to a Green Card

- a) Decision No. 5, paragraph 1, of the 1999 General Assembly (Appendix, paragraph 3), that the addition of handwritten or typewritten alterations to a Green Card is valid if approved by an insurer, is revoked.

b) Any handwritten, typewritten or machine-written addition on a Green Card is absolutely not valid in the sense that such addition shall not be interpreted as a modification of the guarantee given by a Green Card.

2006 General Assembly Decision No. 3 – Registration illegally altered and recorded on a Green Card –A Bureau can invoke Article 9, paragraph 2, only when a vehicle bears registration plates issued or purporting to be issued under the authority of another country.

Incomplete or Altered Green Cards

Incomplete or altered Green Cards are to be considered valid in the following cases:-

Green Cards not signed by the Insurer

- Green Cards where the members code (box 4) or the insurer's identity (box 8) are not complete but the name of the Guarantor Bureaux is stated
- Green Cards that do not conform to the format recognised by the Principal Working Party for Road Transport in Geneva provided that they contained essential information in the structure recognized by the insured concerned. [C. of B. 5/6.6.98 Item 6.8]

2008 General Assembly Decision No. 5.2 – Alteration of Bureau's logo or Insurer's logo.

Neither the alteration to the Bureau's logo nor the alteration to the Insurer's logo (when used) can be invoked by a Bureau as a reason to exclude its guarantee according to the Internal Regulations.

False Green Cards

False Green Cards are to be considered valid in the following cases:-

- Green Cards where the vehicle registration number has been altered.
- Green Cards where the name of the policyholder has been changed from that of the original policy. [C. of B. 4/5.6.98 Item 6.9]

• A Green Card accurately reproduced (from a genuine original) and including false information is valid under the provisions of Article 9.

• A Green Card showing the identity of the Guarantor Bureaux (either in Box 2 or in the general instructions) but not showing the Member's code [Box 4] and/or the Insurer's identity [Box 8] is valid under the provisions of Article 9.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ³⁴Council of Bureaux Explanatory Memorandum to Internal Regulations

- A Green Card showing none of the following: Member's code (if any) [Box 4]; Insurer's identity [Box 8]; Guarantor Bureaux's identity (either in Box 2 or in the general instructions) is NOT valid as the document does not constitute a Green Card.
- A Green Card not showing the Guarantor Bureaux's identity (either in Box 2 or in the general instructions) but including the Member's code (if any) [box 4]; and/or the Insurer's identity [Box 8] is NOT valid as the document does not constitute a Green Card. [C. of B. 3/4.6.99 Item7.2-5]

SECTION III: SPECIFIC RULES GOVERNING CONTRACTUAL RELATIONS BETWEEN BUREAUX BASED ON DEEMED INSURANCE COVER

The provisions of this section apply when the relations between Bureaux are based on deemed insurance cover, with certain exceptions.

Article 10 – OBLIGATIONS OF THE BUREAUX

The Bureaux to which the provisions of this section apply shall guarantee, on a full reciprocity basis, the reimbursement of all amounts payable under these Regulations arising out of any accident involving a vehicle normally based in the territory of the State for which each of these Bureaux is competent, whether the vehicle is insured or not.

ARTICLE 10: Obligations of the Bureaux

This article sets out the principle according to which each Bureau shall guarantee that all amounts disbursed by other Bureaux as a result of accidents involving vehicles normally based in its territory shall be reimbursed, whether these vehicles are insured or not.

Article 11 – THE NORMALLY BASED CONCEPT

11.1 The territory of the State in which the vehicle is normally based is determined on the basis of any of the following criteria:

11.1.1 the territory of the State of which the vehicle bears a registration plate; whether this is permanent or temporary.

11.1.2 where no registration is required for the type of vehicle but the vehicle bears an insurance plate, or a

distinguishing sign analogous to a registration plate, the territory of the State in which the insurance plate or the sign is issued;

11.1.3 where neither registration plate nor insurance plate nor distinguishing sign is required for certain types of vehicles, the territory of the State in which the person who has custody of the vehicle is permanently resident.

ARTICLE 11: The “normally based” concept

11.1 This sub-article reaffirms the definition of the territory in which a vehicle is normally based as established by the 1st European Motor Insurance Directive.

Genuine registration plates obtained fraudulently

It was noted that the Signatories had considered the question of whether a genuine registration plate obtained from the Licensing Authorities on the basis of false particulars should be regarded as a false registration plate for the purposes of the Supplementary Agreements. [C.of B. 16/17.5.85 Item 2 B(ii)(c)]

Solution: It was agreed by the Signatories that, provided the Licensing Authorities took the necessary steps prior to issuing a registration plate, that had to be regarded as the identification of the country, in which the vehicle to which it was allocated was "normally based", even if the application for that registration plate was discovered to have been based on false particulars or documentation.

Vehicle bearing a Trade Plate

It was noted that the Signatories had considered the question of whether a vehicle bearing a Trade Plate should be considered as "normally based" in the country in which the plate was issued. The Signatories, in this connection, had been informed of the fact that whilst a difference of opinion between the Bureaux concerned was partially related to the facts of the particular case the question raised was one of principle which had regard to the fact that Trade Plates, by their very nature, were not normal registration plates in that they were transferred from vehicle to vehicle which was perhaps not a satisfactory basis for determining in which country a vehicle bearing such a plate was "normally based". Also it had been mentioned that the decision of the Council in 1977 might be relevant to the extent that this indicated that a genuine registration plate which, at the time of an accident, was being used on a vehicle which differed from the vehicle for which that registration plate had been issued should be regarded in the same manner as a false registration plate. [C. of B.16/17.10.86 Item 2B]

Solution: On the particular case, the Signatories had decided that liability should be borne by the Bureau of the country in which the Trade Plate had been issued. On the question of principle, they had agreed that, **provided the Trade Plate was affixed to the vehicle by the authorised user of the vehicle, or the authorised user's agent**, then this should be accepted, for the purposes of the Supplementary Agreement, as evidence to identify the country in which the vehicle concerned was "normally based".

Frontier Insurance

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ³⁶Council of Bureaux Explanatory Memorandum to Internal Regulations

A vehicle "normally based" in one Signatory country, and not insured in that country, which was covered under the Frontier Insurance of another country. If there was an insurance cover by way of a Frontier Insurance, then the Frontier Insurance which had received the premium should be responsible for the Third Party claims if the Frontier Insurance was applicable in the accident country. This included a case, involving a vehicle which was uninsured in the "home" country, where the motorist purchased cover from an Insurer in the visited country. **(Signatories 21.11.91/Item 5.i)**

Guidelines

Unidentified car; unidentified driver, but vehicle believed to be from a particular country, evidence of country based on:

- 3.1 *registration number which, although recognizable as being from a pattern used in a particular country, had been incorrectly recorded, nationality letters confirmed evidence of nationality; or*

- 3.2. *as in (i) above but no evidence of nationality letter(s); or*

Solution: The Supplementary Agreement should not be regarded as applicable in any of these situations because, in the absence of precise particulars of the registration number, the country of origin could not be positively established. **[C. of B./17.10.74 Item 3B]** as modified in 2008.

Identified car; unidentified driver (false name and address given); registration number false; no evidence of insurance available.

Solution: Section III of the Internal Regulations should not be applicable. **[C. of B/17.10.74 Item 3B]** as modified in 2008.

11.2 *If a vehicle required to bear a registration plate bears no plate or bears a registration plate which does not correspond or no longer corresponds to the vehicle has been involved in an accident, the territory in which the accident occurred shall, for the settlement for any resulting claim, be deemed to be the territory where the vehicle is normally based.*

11.2 This sub-article addresses the problem arising from accidents caused by vehicles bearing false registration plates. The solution that has been adopted conforms to the 5th European Motor Insurance Directive and implies that accidents caused by vehicles bearing false registration plates shall be dealt with by the Guarantee Fund of the country of accident.

2008 General Assembly, Decision No 3.5

The text of Art. 11.2 has been modified in light of the need to place it in conformity with the 5th MID and the French version.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ³⁷Council of Bureaux Explanatory Memorandum to Internal Regulations

Article 12 – EXEMPTIONS

The provisions of this section do not apply to:

12.1 *vehicles registered in countries other than the countries of the Bureaux subject to the provisions of this section and for which a Green Card has been delivered by a member of any of these Bureaux. In the event of an accident involving a vehicle for which a Green Card has been issued the Bureaux concerned shall act according to the rules set out in Section II.*

ARTICLE 12: Exemptions

12.1 This sub-article applies when a Member of a Bureau issues Green Cards to their insureds under the conditions foreseen by Article 7.3.

12.2 *vehicles belonging to certain persons, if the State in which they are registered has designated in the other States an authority or body responsible for compensating injured parties in accordance with the conditions prevailing in the country of accident.*

12.3 *certain types of vehicles or certain vehicles bearing a special plate of which the list is determined by each Member State and communicated to other Member State and to the Commission.*

The list of vehicles referred to under Articles 12.2 and 12.3 as well as the list of authorities or bodies appointed in the other States shall be drawn up by each State and communicated to the Council of Bureaux by the Bureau of that State.

12.2 and 12.3 The wording of these sub-articles is directly inspired by the text of Article 4 of the 1st European Directive as modified by the 5th Directive.

2008 General Assembly, Decision No 3.5

The text of Art.12 has been modified in light of the need to place it in conformity with the 5th MID.

Article 13 – CONFIRMATION OF THE TERRITORY IN WHICH A VEHICLE IS NORMALLY BASED

Any request for confirmation of the territory in which a vehicle is normally based sent by fax or e-mail to a Bureau by the Bureau of the country of the accident or by any agent appointed for the purpose shall be given a definitive answer within three months of the request. In the event of no such response being received then on the expiry of that period there shall be deemed to be

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 38 Council of Bureaux Explanatory Memorandum to Internal Regulations

confirmation that the vehicle is normally based in that Bureau's territory.

ARTICLE 13: Confirmation of the territory in which a vehicle is normally based

This Article introduces into the Internal Regulations the rule already adopted by the Multilateral Guarantee Agreement Signatories at their meeting in Bled on 9th September 1999 according to which each Bureau is given a period of three months to confirm that the vehicle in question is normally based in its territory.

Time limit of confirmation "normally based"

The use of the 'Model' letter of enquiry from the Bureau of the country where the accident took place to a potential Guaranteeing Bureau to determine whether a vehicle is 'normally based' in that country shall be obligatory for Signatory Bureaux.

It was agreed that:

- Handling Bureau should provide as much information as possible to assist potential Paying Bureau to determine if the vehicle was 'normally based' in a country.
- This should include additional information on the make and model (type) of vehicle where this was available but this was not mandatory.
- The format of the 'model' letter could be varied to take account of the local computing requirements. **(Signatories 9.9.99/Item 3b. Confirmed 20.9.01/Item 4)**

Article 14 – DURATION OF THE GUARANTEE

The Bureaux may limit in time the duration of the guarantee due in accordance with Article 10 for all vehicles, on the basis of reciprocal agreement signed with other bureaux and communicated to the Council of Bureaux.

ARTICLE 14: Duration of the guarantee

This article allows for the continuation of the agreement concluded between some Bureaux known as the “Luxembourg Protocol” (now cancelled) and other agreements concluded to meet the same end.

2008 General Assembly, Decision No 3.5

The text of Art. 14 has been modified in light of the need to place it in conformity with the 5th MID.

Article 15 – UNILATERAL APPLICATION OF GUARANTEE BASED ON A DEEMED INSURANCE COVER

Save legal provisions to the contrary, Bureaux may agree on any unilateral application of this section within the context of their bilateral relations.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ³⁹Council of Bureaux Explanatory Memorandum to Internal Regulations

ARTICLE 15: Unilateral application of guarantee based on deemed insurance cover

This article addresses the situation arising when a Bureau of a non-EEA country joins the Multilateral Agreement and, during the transitional period to be provided pending the adoption of changes in legislation allowing the guarantee to be applied on a reciprocal basis.

The application of this Article shall be mentioned in a suspensive clause according to Annex 3 of the Agreement between the National Insurers' Bureaux of the Member States of the European Economic Area and other Associate States.

2004 General Assembly, Decision No. 11 – Freedom of Services

The Signatories of the Multilateral Agreement unanimously decided that:

- i) The Internal Regulations are to be interpreted thus: that a Bureau in the country of the accident has under all circumstances to address its request for reimbursement to the Claims Representative of the insurance company acting in FOS nominated in the country where the vehicle is normally based, or if appropriate to the Bureau in that country;
- ii) The Freedom of Services Agreement will regulate relations between the Bureau of the country where the vehicle is normally based, or under whose authority the Green Card was issued and the Bureau of establishment of the FOS insurer, and that this Agreement is signed by the Bureaux of the EEA countries.

SECTION IV: RULES GOVERNING AGREEMENTS BETWEEN NATIONAL INSURERS' BUREAUX (MANDATORY PROVISIONS)

Article 16 – BILATERAL AGREEMENTS - CONDITIONS

16.1 *Bureaux may conclude bilateral agreements between themselves whereby they undertake within the context of their reciprocal relations to abide by the mandatory provisions of these Internal Regulations, as well as the optional provisions specified herein.*

16.2 *Such agreements shall be signed in triplicate by the contracting Bureaux, each of whom shall retain a copy. The third copy shall be sent to the Council of Bureaux which shall, after consultation with the concerned parties, inform them of the date commencement of their agreement.*

16.3 *Such agreements shall include clauses providing:*

16.3.1 *identification of the contracting Bureaux, mentioning their status as Members of the Council of Bureaux and the territories for which they are competent.*

16.3.2 *their undertaking to abide by the mandatory provisions of these Internal Regulations.*

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ⁴⁰Council of Bureaux Explanatory Memorandum to Internal Regulations

16.3.3 their undertaking to abide by such optional provisions as mutually chosen and agreed.

16.3.4 reciprocal authorities granted by these Bureaux, in their own name and on behalf of their members, to settle claims amicably or to accept service of any extra-judicial or judicial process likely to lead to the payment of compensation resulting from any accident within the scope and purpose of these Internal Regulations.

16.3.5 unlimited duration of the agreement, subject to the right of each contracting Bureau to terminate it on twelve months notice simultaneously notified to the other party and to the Council of Bureaux.

16.3.6 automatic cancellation or suspension of the agreement if either contracting Bureau ceases to be a Member of the Council of Bureaux or has its membership suspended.

16.4 A model of this agreement is appended. (Annex III).

ARTICLE 16: Bilateral agreements – conditions

These provisions set out binding obligatory conditions that must be fulfilled by Bureaux concluding a bilateral agreement. In contrast to Sections II and III, which set out optional provisions depending upon whether the contractual relationship between Bureaux is based on a Green Card or deemed insurance cover, Section IV lists all essential information that must be included in a bilateral agreement and a model of such an agreement is appended. This agreement must include a binding undertaking to abide by the mandatory provisions and also by such optional provisions as are mutually chosen and agreed as specified in the agreement.

ARTICLE 17: EXCEPTION

17.1 By derogation to Article 16, the Bureaux of Member States of the European Economic Area shall, in conformity with Article 2 of the European Directive of 24th April 1972 (72/166/EEC) signify their reciprocal acceptance of these Internal Regulations by a multilateral agreement the commencement date of which is determined by the Commission of the European Union in collaboration with the Council of Bureaux.

ARTICLE 17: Exception

Article 17.1 provides for an exception to the general bilateral nature of the agreement cited in Article 16 insofar as the Bureaux of Member States of the EEA and Switzerland shall conclude a multilateral agreement with a common date of entry into force to be fixed by the European Commission in collaboration with the Council of Bureaux.

17.2 The Bureaux in non-member States of the European Economic Area may commit to this multilateral

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 41 Council of Bureaux Explanatory Memorandum to Internal Regulations

agreement by respecting the conditions fixed by the competent committee as acknowledged in the Constitution of the Council of Bureaux.

Article 17.2 enables non-Member States of the EEA to join the Multilateral Agreement.

SECTION V: PROCEDURE FOR AMENDING THE INTERNAL REGULATIONS (MANDATORY PROVISIONS)

Article 18 - PROCEDURE

18.1 *Any amendment to these Regulations shall fall within the exclusive competence of the General Assembly of the Council of Bureaux.*

18.2 *By derogation to the above:*

a) any amendment to the provisions set out in Section III shall fall within the exclusive competence of the committee as acknowledged in the Constitution of the Council of Bureaux. Those provisions are binding on Bureaux which, although not members of this committee, have elected to apply Section III in their contractual relations with other Bureaux, and

b) any amendment to Article 4.2 shall fall within the exclusive competence of the Bureaux of the European Economic Area.

ARTICLE 18: Procedure

Under the previous system any change to the provisions of the Uniform Agreement or Multilateral Guarantee Agreement necessitated a re-signing of new agreements by the Bureaux. This was unwieldy and time-consuming. Article 18 provides a much simpler means for amending the detailed provisions of agreements without a new round of signatures. Any such amendments to the Internal Regulations are within the sole and exclusive competence of the General Assembly. However any amendment to the provisions set out in Section III is the exclusive prerogative of the committee, as acknowledged in the Constitution of the Council of Bureaux, as the Articles relating to registration plates are of no effect on Bureaux whose relationships are based exclusively on Green Cards.

Article 19 – RESOLUTION OF DISPUTES BETWEEN BUREAUX

Any dispute arising out of these Internal Regulations or related to them shall be resolved by mediation or by arbitration.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ⁴²Council of Bureaux Explanatory Memorandum to Internal Regulations

The rules of the mediation and the arbitration are dealt with in a separate regulation approved by the General Assembly of the Council of Bureaux.

ARTICLE 19: Mediation rules and arbitration clause

2008 General Assembly, Decision No 4.1

Mediation and arbitration rules are dealt with in a separate regulation (see CoB website). Arbitration refers to the Arbitration Rules established by UNCITRAL (United Nations Commission on International Trade Law).

These Internal Regulations clearly provide for settlement of disputes between parties using a method laying down specific rules to be applied to any difficulty that may arise in the course of arbitral proceedings, particularly those arising from one of the parties failure to cooperate.

Application of the method based on the appointment of three arbitrators and an appointing authority (as provided in Article 19 of the Internal Regulations):

The arbitral proceedings commence on the date on which the “claimant” (party initiating recourse to arbitration) gives to the “defendant” (the other party) a notice of arbitration including the information specified in Article 3 of the Rules and, in particular, the relief or remedy sought. This notification may also include the name of the arbitrator appointed by the “claimant”.

The Rules provide that each party shall appoint one arbitrator and that the two arbitrators thus appointed shall choose the third arbitrator, who shall act as the presiding arbitrator of the tribunal. If within thirty days the “defendant” has not appointed an arbitrator, this second arbitrator shall, on request of the “claimant”, be appointed by the appointing authority (President of the Council of Bureaux or, if not available, the Vice-President). If within thirty days the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the appointing authority, who shall secure the appointment of an independent and impartial arbitrator.

To ensure impartiality of arbitrators the Rules provide a procedure for challenging arbitrators (Articles 10 to 12).

As regards arbitral proceedings per se the Rules provide that “*the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate provided that the parties are treated with equality and that, at any stage of the proceedings, each party is given every opportunity of presenting its case.*” This is a fundamental principle which, if not fully complied with, may cause the award to be challenged in Court.

The place of arbitration is determined by the parties. If no agreement can be reached, the place of arbitration shall be determined by the arbitral tribunal.

The arbitral tribunal fixes the period of time within which the “claimant” shall communicate his statement of claim to the “defendant” and to the arbitrators (unless the statement of claim is included in the notice of arbitration). This statement shall include a statement of the facts, the points at issue and the relief or remedy

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ⁴³Council of Bureaux Explanatory Memorandum to Internal Regulations

sought. The “defendant” shall communicate his statement of defence in writing to the “claimant” and to the arbitrators within the period of time fixed by the arbitral tribunal. Special circumstances excepted these periods should not exceed forty-five days.

The Rules also contain various provisions relating to production of evidence, organisation of hearings (when requested by the parties), interim measures of protection (when necessary in respect of the subject-matter of the dispute), appointment of experts as well as failure by the parties to abide by the periods of time allowed. All of these provisions are directly inspired by Court rules of proceedings and enable arbitrators to perform their function in the best conditions whilst preserving the rights of the parties to the dispute.

As regards the award, the Rules provide that it shall be made by a majority of the arbitrators. It shall be made in writing and shall be final and binding on the parties. It is made by application of the law designated by the parties as applicable to the substance of the dispute or, failing this, the law determined by the conflict of laws rule which the arbitral tribunal considers applicable to the case.

Finally, the Rules address the question of costs which, in principle, shall be borne by the unsuccessful party. These costs are fixed in the award. They include arbitrators’ fees and expenses (travel, experts etc.) Arbitrators’ fees shall be reasonable in amount, taking into account the disputed sum, the complexity of the subject matter and the time dedicated to it. It is also provided that the appointing authority may contribute to the fixing of the arbitrators’ fees (Article 39). The arbitration clause of the Internal Regulations of the Council of Bureaux provides that it shall decide upon the fees of arbitrators and the claimable costs. These provisions, when made public, shall be binding on arbitrators unless otherwise agreed by the parties.

When two or several Bureaux involved in the handling of a claim for compensation submitted by an injured party or his/her dependents, come into conflict on the application of the Internal Regulations their duty is to make all useful contacts, including referring the matter to the Secretary General of the Council of Bureaux, with a view to resolving the issue amicably. If these actions fail, the parties concerned shall submit the dispute to arbitration in accordance with the conditions provided in Article 19 of the Internal Regulations. The arbitration procedure cannot, however, apply to those matters which are the subject of a Court decision rendered against the Bureau in the country of the accident at the request of the injured party or his/her beneficiaries. [C. of B. 5/6.6.97 Item 9.10] revised 2007

2008 General Assembly, Decision No 10.1 Mediation

The mediation rules are brought into effect as of the 1st of July 2008.

ARTICLE 20: Entry into force

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 44 Council of Bureaux Explanatory Memorandum to Internal Regulations

Article 20 Entry into force

1. The provisions of the current Internal Regulations will come into force on the 1st of July 2008. On this date, it will supersede the version of the Internal Regulations adopted in Rethymno on the 30th of May 2002.

2. By way of derogation from Article 20.1, Article 11, Article 12.3 and Article 14 come into force retrospectively for accidents occurring from the 11th of June 2007 onwards.

Internal Regulations Explanatory Memorandum – Issued 2003, Updated 2004, 2005, 2006, 2007, 2008 ⁴⁵