

23rd March 1998

## **TO ALL MEMBERS**

Dear Sirs,

### **INTERNATIONAL GROUP AGREEMENT**

The International Group has prepared this Circular which it is hoped will be helpful to Members.

#### **1. BACKGROUND**

As reported in Circular to Members No.5:240 dated 23rd October 1997 the International Group on 16th September last year formally responded to the European Commission's Statement of Objections issued in June. Copies of the Group's Response were available to any Member who wished to review the details in full, but a summary of the background and the principal issues raised in the Statement of Objections was set out in that Notice.

At a meeting between representatives of the Group and Commissioner Van Miert and his officials on 18th September, the Commission accepted the value of the Clubs' claims sharing arrangements and said that they had no intention of doing anything which might destroy the system. On the extent of cover issue they welcomed the reduction in the level of overspill cover to 2.5% but they still had the complainant's views to consider. They were also pleased that the reinsurance issue would be addressed.

On the IGA, they said that they wished to examine whether the Agreement might be improved although they recognised that in a mutual context full "price" competition is not appropriate. They suggested that the system might be made more "vibrant" perhaps by looking at administrative costs.

In accordance with the Commission's invitation to conduct further discussions, representatives of the Group met with DGIV officials during October. Since the Group felt that the Commission's concerns in relation to the level of cover and reinsurance issues had been substantially met, the discussions focused principally on the IGA. The Group's position is that modification to make the IGA quotation procedures as light a restraint as possible had already been agreed in exhaustive dialogue with the Commission between 1981 and 1985.

On 23rd October 1997, the Commission formally invited the Group to put forward proposals by 14th November, and stated that it intended to "finalise" the case before

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20th February 1998. Group Members felt that proposals might be developed to supplement the IGA procedures that would increase transparency especially in the context of administration costs. This would enable Members to make a simple and direct comparison between the costs of individual Clubs and would add a new dimension to the competitive environment in which the Clubs already operate. Exploratory proposals were developed to create a level playing field for disclosure by Group Clubs of administrative costs by the creation of an expense ratio for each one based on a five year average calculated on an uniform basis. The Group submitted these suggestions on 14th November.

In December Group Managers met DGIV officials who indicated that the Group's transparency proposal was not acceptable but it was not possible to discuss the proposals in detail. DGIV suggested a more radical solution applying the IGA only to pooling and reinsurance costs. The Group emphasised that such a proposal was unworkable, because it would lead to discriminatory practices which the IGA is designed to restrain. Efforts to conduct further discussions with DGIV have so far been unsuccessful.

## **2. CURRENT POSITION**

On 13th February, in a letter from Commissioner Van Miert, the Commission rejected the Group's transparency proposal, and asked for further proposals to be submitted by 20th March failing which DGIV would invite the Group to the oral hearing which it had requested in its response to the Statement of Objections.

The Group has sent a reply based on the following points:

- (a) **IGA** The Group made clear its view that the Commission should renew the exemption of the IGA as it stands. The Group has emphasised that the transparency proposal would make a real contribution to the competitive environment in which the Clubs operate without damaging the Group's mutual system. The Group has once more pressed for an opportunity to explain the proposal in detail, particularly since it appears from Mr. Van Miert's letter that the proposal has not been properly understood.
- (b) **Level of Cover** The Group re-emphasises the arguments already advanced to support the new limit of about US\$4.25 billion as the consensus solution arrived at unanimously by all Group Clubs.
- (c) At the same time the Group points out that since DGIV has not resolved the issue by 20th February 1998, as they intended, an uncertainty now exists about the validity of the overspill system because the new limit has not been approved by DGIV. The Group is therefore pressing for an urgent resolution of this issue.
- (d) **The Reinsurance Issue** Agreement has been reached subject to minor drafting modifications which currently appear to pose no difficulties to the Group.

### 3. NEXT STEPS

- (a) The Group will be in close contact with shipowners and their organisations to respond to enquiries and offers of further support to build on that already provided.
- (b) Other important support has already been developed in a number of European States and within the European Commission. The Group will be intensifying contacts with European institutions and Governments, to develop further support.
- (c) The Group will continue to press for further discussions with DGIV.
- (d) In case such discussions do not take place, the Group is preparing for an Oral Hearing (a date of 24th April has already been reserved by DGIV). It is important to stress that an Oral Hearing is not an adversarial process or a judicial hearing but an opportunity to present the Group's case to European Member States and for the Group and others to raise questions with DGIV.

Copies of the Group's reply to Commissioner Van Miert are available for any Member who wishes to review the Group's arguments fully. A reaction to the Group's reply is awaited and Members will be kept advised of developments.

Yours faithfully,  
A. BILBROUGH & CO. LTD. (MANAGERS)