



# **Explanatory Memorandum to Internal Regulations**

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## INTRODUCTION

Before adopting the Internal Regulations<sup>1</sup>, 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<sup>2</sup>”.

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 Guarantee Agreement” stem directly from the First European Directive regarding motor insurance and it was 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 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.

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

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<sup>3</sup>. 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<sup>4</sup>.

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<sup>5</sup>.

#### *Preamble*

*(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<sup>6</sup> 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.*

*(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*

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

<sup>3</sup> Official Journal L 192 of 31.7.2003, p.23 and ff.

<sup>4</sup> General Assembly of 2004 – Decision No.3 - Interpretation of the Internal Regulations.

<sup>5</sup> Directive 2005/14/EC of the 11th of May 2005. This directive has been repealed and replaced by Directive 2009/103/EC enforced on October 27<sup>th</sup> 2009

<sup>6</sup> 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

*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 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 1972<sup>7</sup> the Council of the European Community 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) 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).*

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<sup>7</sup> 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. This directive has been repealed and replaced by the 2009/103/EC Directive enforced on October 27<sup>th</sup> 2009

## 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 17<sup>th</sup> to the 19<sup>th</sup> 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 (see definition in Article 2.3) or correspondents (see definition in Article 2.4) 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**

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.

*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 underwrite 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 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 and the fact that this should or should not be obligatorily insured shall be understood in accordance with the legal provisions in force in the visited country and not those prevailing in the country of origin of the vehicle.
- The accidents involving vehicles with attached trailers should be resolved on the basis of the law applicable in the country of the accident<sup>8</sup>. This law mainly determines whether the claim must be dealt with by the insurer of the tractor or that of the trailer or whether this charge should be shared between them.

*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. This definition covers every accident irrespective of the number of vehicles involved, including cases where only one vehicle is involved.

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<sup>8</sup> [1985 – General Assembly, Item 2B\(b\) as modified in 2008](#)

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

- 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 the 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 Bureau member covering civil liability in respect of the use of a vehicle.*

- 2.9 Insurance Policy is defined as a compulsory 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 of one of the Council of Bureaux approved ‘models’. 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 Council of Bureaux, which was established in 1949, is currently filed as a non-profit-making international organisation under Belgian law of which the constitution is published in the Official Journal of this country (Annexes of the Journal dating from 05.01.2009).

### **ARTICLE 3 - HANDLING OF CLAIMS**

This article describes 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 (see definition of this term in Article 2.8). It specifically points out its obligation to provide information to the insurer at risk or the Guarantor Bureau, that is to say the Bureau of which said insurer is a member (see Article 6). 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 Council of Bureaux Constitution. We also note that the provisions commented on here respond to the stipulations of Article 5 of Directive 72/166/EEC (currently laid down in Article 6 of Directive 2009/103/EC) to which the Member States of the European Economic Area (EEA) are bound. This article provides that: “ *Each Member State shall ensure that, where an accident is caused in its territory by a vehicle normally based in the territory of another Member State, the national insurers' bureau shall (...) obtain information: - as to the territory in which the vehicle is normally based, and as to its registration mark, if any; - in so far as is possible, as to the details of the insurance of the vehicle, as they normally appear on the green card, which are in the possession of the person having custody of the vehicle, to the extent that these details are required by the Member State in whose territory the vehicle is normally based. Each Member State shall also ensure that the bureau communicates this information to the national insurers' bureau of the State in whose territory the vehicle is normally based.*”

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 Council of Bureaux 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 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 requested their approval.

However, if no Correspondent has been approved 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.

Certain insurance companies may, for linguistic or other reasons, entrust the management of a file to Intermediaries acting on behalf of the insurance company resident in the country of the company, leaving it to them to maintain contact with the Bureau of the country of accident until the file is finally closed. In the context of this mission, the said Intermediary acting on behalf of the insurance company may confirm insurance cover to the Bureau of the country of accident.

The Guaranteeing Bureau is bound by the confirmation of cover given by the Intermediary acting on behalf of the insurance company, and in particular when the insurance company is wound up, and the Guaranteeing Bureau has to substitute for it in obligations arising out of the claim.

The same principle should be applied when confirmation of cover has been given to the Bureau of the country of accident by a representative empowered for that purpose by the insurance company of the vehicle involved in the accident<sup>9</sup>.

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<sup>10</sup>.

When it is noted that a vehicle is the subject of a Green Card issued by an insurer and of an insurance contract issued by another insurer, the Bureau of the country of the accident shall only contact the insurer which delivered the Green Card, or its correspondent to the extent that the circulation of this vehicle is subject to being in possession of this document<sup>11</sup>.

*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, by agreement (see Annex III: Model Agreement between Bureaux), to deal with and, if necessary, to amicably settle claims with Injured Parties 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 to two levels: firstly due to the fact that the Bureau must deal with claims “in the best interests of the insurer who issued the Green Card or policy of insurance or, if appropriate, the Bureau concerned” (see Article 3.4) and thereafter by “the conditions or limits applicable under the compulsory motor civil liability insurance law in force in the country of accident” (see Article 3.5).

<sup>9</sup> [2001 – General Assembly, Decision N°11, modified in 2011 and modified in 2013](#)

<sup>10</sup> [1989 – General Assembly, Item 6\(b\)\(iii\)](#)

<sup>11</sup> [2005 – General Assembly, Decision N° 9 – Green Cards not issued in relation to a policy](#)

As the “Green Card System” is essentially based on civil liability, 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<sup>12</sup>.

*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, which principally implies that 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 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<sup>13</sup>.

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.

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<sup>12</sup> [1977 – General Assembly, Item 4 – 1979 – General Assembly, Item 1, modified in 2007](#)

<sup>13</sup> [2004 – General Assembly – Decision N° 8 - Handling of Claims](#)

*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 What should be understood by “the conditions or limits applicable under the compulsory motor civil liability insurance law in force in the country of accident”?

This wording follows on from a Court of Justice ruling (64/83) interpreting what appears in Article 2(2) of Directive 72/166/EEC (currently laid down in Article 2 a) of Directive 2009/103/EC) which provides that the National Bureau of each Member State is guarantor for the settlement of claims occurring on its territory caused by vehicles normally based in the territory of another Member State, *in accordance with the provisions of its own national law on compulsory insurance.*

The Court considered that this expression “*must be understood as referring to the conditions and limits of civil liability applicable to compulsory insurance, provided always that the driver of the vehicle at the time at which the accident occurred is deemed to be covered by valid insurance in conformity with that legislation*”.

The Court of Justice in this way confirms one of the fundamental principles of the Green Card system according to which the guarantee offered by the International Certificate of Insurance must correspond to the requirements of the national law on compulsory insurance of the country travelled in. This principle also applies when the Bureau of the country where the accident took place handles the claim on the basis that the vehicle is normally based in the territory of another Member State (See Section III Specific rules governing contractual relations between Bureaux based on deemed insurance cover).

The Bureau of the country where the accident took place is therefore obliged, within the framework of settling a claim, to respect the stipulations set out in the law on compulsory insurance in its country. However, these stipulations at the same time constitute the limits in which they must envisage the settlement of the claim even if the guarantee offered by the insurance contract taken out in the country of origin of the vehicle is in excess of the limits and conditions provided in the law of the country of the accident.

When this situation arises, the Bureau shall consult the insurer which issued the insurance contract in relation to that part of the claim which exceeds those conditions or limits. The consent of the insurer is required except in cases where, in accordance with the applicable law (that is to say, the national law),

the Bureau is to abide by contractual guarantees exceeding the conditions or limits provided by the compulsory motor civil liability insurance law of its country.

If the Bureau does not respect this obligation, it will overstep the limits of its decision-making powers and runs the risk of being subject to a refusal of reimbursement by the insurer for the part of the compensation exceeding the conditions or limits which should have been abided by. In this case, the Bureau will not be able to benefit from the guarantee provided for in Article 6.1 for this part of the compensation.

When Article 9 applies, that is to say when the claim for compensation is handled by the Bureau on the basis of a false, unauthorised or illegally altered Green Card, the compliance with the limits and conditions provided for in the law on compulsory insurance of motor insurance civil liability of the country where the accident occurred is indisputably imposed<sup>14</sup>.

When a Handling Bureau is ordered, by a court decision rendered in the Handling Bureau's country, to compensate a victim to an extent that is in excess of the conditions or limits applicable under the compulsory motor civil liability insurance law in force in the country of accident, the Guaranteeing Bureau shall only be held to guarantee the amounts that are not in excess of the applicable conditions or limits. Any amount exceeding these conditions or limits shall remain to be borne by the Handling Bureau.

This provision shall however not apply if the applicable law imposes 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<sup>15</sup>.

*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.

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<sup>14</sup> [2009 – General Assembly – Decision N° 5.3](#)

<sup>15</sup> [2013 – General Assembly – Decision N°5-6](#)

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 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.

**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 on from this principle 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 describes all the qualifications required to perform this function. It is not the responsibility of 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. The General Assembly of the Council of Bureaux (2009) has approved the use of the following three documents by Bureaux: 1) a model correspondents charter 2) A model handling and payment agreement and 3) Rules for Outsourcing. These documents can be changed according to the specific situation of each Bureau. They are on the Council of Bureaux website (<http://www.cobx.org/en/index-module-orki-page-view-id-376.html>).

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.

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.

Specific rules applicable when the insurance undertaking operates motor insurance under freedom of establishment or freedom to provide services, as foreseen by the EU legislation:

Insurance undertakings can operate in other countries than their Home Member State under freedom of establishment (through a branch office) or freedom to provide services (FOS). In both options the insurance undertaking is required to join the Bureau of the Member State where insurance activities are performed. Neither the branch office, nor the activity under FOS constitutes a legal entity in that country. The legal entity is the insurance undertaking. It follows that only the insurance undertaking can require the nomination of a correspondent. In the interest of transparency for victims, any one insurer should only be able to nominate one correspondent in another country.

The Bureau of the country of the nominated correspondent is in the best position to identify that an insurance undertaking proposes to nominate more than one correspondent and to take action. It is also in its interest to take action in view of the position of victims of accidents in its territory.

It will in such a situation refuse the nomination of the second correspondent and inform the Bureau which requested this nomination. That Bureau will then contact its member and invite it to harmonize the nomination of its correspondents in its own organization.

The following procedure shall apply if the nomination of a correspondent is requested:

If it comes to the knowledge of the Bureau which has to approve the nomination of a correspondent that the insurance undertaking, either for its activities in the Home Member State or for its branch office or under freedom of services, has already nominated another correspondent in the same country, it shall refuse the later nomination and it shall inform the Bureau which requested this nomination accordingly.

The Bureau thus informed shall then invite its member to decide on the nomination of a single correspondent for all its activities in the said country<sup>16</sup>.

In order to facilitate the daily application of this rule, a model wording has been prepared that must be used by a National Bureau when requesting the approval of the nomination of a correspondent in another country. The model wording can be included by the Bureaux in the format of their choice (it is

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<sup>16</sup> [2012-General Assembly, Decision N° 5-1](#)

a model wording; not a model letter) and is available on the CoB website (<http://www.cobx.org/en/index-module-orke-page-view-id-376.html>)<sup>17</sup>.

*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 (European Economic Area) Member States and Switzerland. These provisions result from the requirements of the 4<sup>th</sup> 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 shall be obliged to approve as Correspondent of the insurer any representative appointed by this insurer under the 4<sup>th</sup> Directive (2000/26/EC, repealed and replaced by 2009/103/EC directive since October 27<sup>th</sup> 2009).

*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 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.*

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<sup>17</sup> [2013 – General Assembly, Decision N°4-1](#)

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. We will note that the request for the appointment of second or reserve correspondents is NOT accepted<sup>18</sup>.

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<sup>19</sup>.

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.

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

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<sup>18</sup> [1999 – General Assembly, Item 7.11](#)

<sup>19</sup> [2005 – General Assembly, Decision N°8 – Proof of the acceptance of the nomination by a correspondent](#)

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, in any circumstances, by those agreed between the insurer and the 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<sup>20</sup>.

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.

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<sup>21</sup>.

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<sup>20</sup> [2005 – General Assembly, Decision N°6 – Reimbursement of payments by a correspondent](#)

<sup>21</sup> [2006 – General Assembly, Decision N°2 – Reimbursement of Correspondents](#)

*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.*

*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 disbursed by an insurer in the country of accident under similar circumstances,
  - c. The handling fee covering all other charges and calculated in accordance with the rules approved by the Council of Bureaux. A handling fee cannot be increased by V.A.T. or other local taxes<sup>22</sup>.

Any demand for reimbursement must necessarily contain the following information<sup>23</sup>:

1. The date of the demand
2. The name of the party addressing the demand (the handling party)
3. The name of the party to which the demand is addressed (the final debtor)
4. The number of the file of the final debtor (and the reference of the handling Bureau, if both are available)
5. The date and the country of the accident, the place of the accident only if available
6. Information regarding the responsible party:
  - a. For claims handled according to Section II : the number of the Green Card (if available, the number of the insurance policy)
  - b. For claims handled according to Section III: one of the criterion that determines the territory of the State in which the vehicle is normally based (the registration number of the vehicle, the insurance plate or the place of permanent residency of the person to which the vehicle belongs)
7. The sums that the final debtor must reimburse:
  - a. Compensation of the injured parties

<sup>22</sup> [1973 – General Assembly, Item 5 – 1974 – General Assembly, Item 4](#)

<sup>23</sup> [2011 – General Assembly, Decision N°9-2](#)

- b. External services (expert costs, lawyers' fees, etc.) if necessary
  - c. Handling fees, if necessary
  - d. The total amount, expressed in the national currency or in Euro
8. The compulsory information arising out of paragraph 1 of article 5.2 of the Internal Regulations
  9. Details regarding the bank of the handling party

The demand for reimbursement shall be addressed to the insurance undertaking that has issued the Green Card or the insurance policy even if this undertaking has delegated, in its country of establishment, the handling of claims occurred abroad to a loss adjuster<sup>24</sup>.

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<sup>25</sup>.

In this case, the demand for reimbursement of sums disbursed for external services and costs of legal proceedings as well as the demand for payment of the minimum handling fee shall be addressed:

- Within a period of maximum one year after the last negative response that a Bureau or the agent it has appointed has given to the claimant and that has remained without further reaction or that no legal action was taken by the injured party, or
- Within a period of maximum one year after the decision of a Court or any other competent body, refusing any compensation to the claimant, has become final and irrevocable or after that the decision has been rendered if, according to the applicable legal rules and proceedings, it is possible that such decision does not become final or irrevocable<sup>26</sup>.

The translation fees paid by the Bureau of the country where the accident took place or by their agent can be claimed back from the Guaranteeing Bureau or the insurer in question if they have been expressed in the best interest of the Guaranteeing Bureau or the insurer or at their request or finally in the event of legal proceedings<sup>27</sup>.

Procedure to be followed when the insurer at risk is in a state of insolvency:

All Guaranteeing Bureaux are bound by the debts of one of its members in a state of insolvency including any late interest due in carrying out the demands for reimbursement (see Article 5.2).

All Guaranteeing Bureaux, who are aware that a member is in a state of insolvency (winding-up or other) shall inform the Council of Bureaux Secretariat immediately as well as all other Bureaux.

<sup>24</sup> [2010 – General Assembly, Decision N°6-1](#)

<sup>25</sup> [2004 – General Assembly, Confirmation - Minimum Handling Fees](#)

<sup>26</sup> [2012-General Assembly, Decision N°6-1](#)

<sup>27</sup> [1989 – General Assembly, Item 6 b\)\(ii\) modified in 2007](#)

After having received this information, these Bureaux shall inform the Guaranteeing Bureau in question of all the pending demands for reimbursement addressed to the member in a state of insolvency as well as informing them of all the cases which are 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<sup>28</sup>.

*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. This late interest is also due when the Guaranteeing Bureau member is in a state of insolvency<sup>29</sup>.

No minimum amount of late interest is provided below which no demand could be addressed to the debtor. Bureaux which address demands for late interest are however invited to find an appropriate approach, bearing in mind that the aim of this disposition is not to be used for insignificant amounts. Regarding the debtor Bureaux, they are asked to fully reimburse the amounts claims and within the given timeframe<sup>30</sup>.

<sup>28</sup> [1994 – General Assembly, Item 2](#)

<sup>29</sup> [1994 – General Assembly, Item 2](#)

<sup>30</sup> [2011 – General Assembly, Decision N°9-1](#)

For Bureaux of EEA Member States, the terms “free of costs” shall be read in accordance with the relevant provisions of Directive 2007/64/EC as regards payment services which, regarding bank fees, shall imply that, as from 1<sup>st</sup> June 2010, fees between the Paying Bureau and the Demanding Bureau shall be shared if both of them are within the EEA and if the bank transfer made either in Euro or in another EEA currency does not imply any currency conversion for the Paying Bureau.

The Euro zone Bureaux are encouraged to use SEPA payment facilities (Single Euro Payments Area) for payment in Euro. For bank transfer between EEA Bureaux implying a currency conversion for the Paying Bureau or for bank transfer from or to a non-EEA Bureau, the demanding Bureau shall receive the amount free of costs<sup>31</sup>.

Contrary to what is stipulated in the first paragraph, 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.

Payment by cheque for the demand of reimbursement 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. 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 a cause of more problems for the beneficiary<sup>32</sup>.

*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 therefore may not 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.*

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<sup>31</sup> [2010 – General Assembly, Decision N° 6-2](#)

<sup>32</sup> [2006 – General Assembly, Decision N°1 – Means of Payment](#)

- 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.

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<sup>33</sup>.

*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 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 yet 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. The following rules are applicable to demands for reimbursement of deposits:

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.

<sup>33</sup> [1998 – General Assembly, Item 6.11](#)

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<sup>34</sup>.

*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 re-opened 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 claim for a handling fee<sup>35</sup>. The activities of the Bureau in the 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 which shall exist between Bureaux.

#### **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*

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<sup>34</sup> [2003 – General Assembly, Decision N°2 – Handling Fees: New rule for a provisional demand for reimbursement](#)

<sup>35</sup> [2004 – General Assembly, Confirmation : Minimum Handling Fees](#)

*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**

- 6.1 Each Bureau shall guarantee the reimbursement by its members of any amount (including late interest subject to a specific demand for reimbursement<sup>36</sup>) claimed by the Bureau of the country of accident or by the agent appointed by it.

This obligation of guarantee is imposed on the Bureau itself even if the member which issued the card or insurance cover is in a state of insolvency leading to its winding-up proceedings or bankruptcy. The potential intervention of a liquidator comes under the national law of the country where the insurance undertaking is (or was) authorised to carry out compulsory motor civil liability insurance and can at no time prevent the smooth functioning of the Green Card System<sup>37</sup>.

The demand for reimbursement shall be in accordance with the provisions specified in Article 5. In the event of non-conformity with the above mentioned article, the Bureau is free 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 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:

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<sup>36</sup> [2004 – General Assembly, Decision N° 7 : Obligation of guarantee - interest](#)

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.

No minimum amount of late interest is provided below which no demand could be addressed to the debtor. Bureaux which address demands for late interest are however invited to find an appropriate approach, bearing in mind that the aim of this disposition is not to be used for insignificant amounts. Regarding the debtor Bureaux, they are asked to fully reimburse the amounts claims and within the given timeframe<sup>38</sup>.

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.

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:

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<sup>37</sup> [1979 – General Assembly, Item 1C, modified in 2007](#)

<sup>38</sup> [2011 – General Assembly, Decision N°9-1](#)

- a) 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;
- b) 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:

- 1) late interest as referred to in a) cannot accrue for more than twelve months.
- 2) 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 undertaking.

A difference lies between the calculation method of late interest due by the Guaranteeing Bureau as described above and the method which results from the strict application of the text of Article 6.1. We have noticed that, in practice, both methods were used by the Bureaux in case of guarantee calls.

To avoid any ambiguity regarding that matter, during its 2010 meeting, the General Assembly has decided that both calculation methods were acceptable and stated that the choice of the calculation method lies with the loss adjuster. This means that the Guaranteeing Bureau has to respect the calculation method chosen by the loss adjuster. In that context, no dispute (via mediation or arbitration) on the chosen calculation method will be allowed. Since the On-line Guarantee Call System developed by the Council of Bureaux is a system for evidences only and is not decisive for any individual case and its particulars, its calculation method is to remain unchanged<sup>39</sup>.

To expedite the procedure and provide legal evidence the guarantee call shall, in all circumstances, be sent by fax or e-mail. It shall be supported with a copy of the original demand for reimbursement sent to the insurer under Article 5<sup>40</sup>. 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 the guarantee from the Bureau of which the insurer responsible is a member.

#### Guarantee Call "Pro Forma"

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

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<sup>39</sup> [2010 – General Assembly, Decision N°6-3](#)

<sup>40</sup> [2005 – General Assembly, Decision N° 10 – Documentation supporting a guarantee call](#)

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 here above, 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<sup>41</sup>.

A standardized form for the guarantee call as well as an instructions set approved by the General Assembly<sup>42</sup> are available to Bureaux (<http://www.cobx.org/>).

During the General Assembly of 26 May 2011 in Dubrovnik, the Council of Bureaux decided to approve a catalogue of qualified reasons to reject the guarantee calls drafted in the following terms<sup>43</sup>:

### 1) Reasons to reject a Guarantee Call arising from Article 5 of the Internal Regulations

Following the Explanatory Memorandum to the Internal Regulations, Article 6.1, states that: *"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."*

Hence, a Guarantee Call can be rejected by the Guaranteeing Bureau if the underlying demand for reimbursement of the Handling Party did **not contain all of the following information**:

1. The date of the demand
2. The name of the party issuing the demand (Handling Party)
3. The name of the party to which it is issued (Ultimate debtor)
4. The file number of the Ultimate debtor (and reference of the Guaranteeing Bureau, both if available)
5. The date and country of accident; place of accident only if known
6. Information on the liable party:

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<sup>41</sup> [2008 – General Assembly, Decision N° 4.3 : Guarantee Call "Pro Forma"](#)

<sup>42</sup> [2011 – General Assembly, Decision N° 9-5](#)

<sup>43</sup> [2011 – General Assembly, Decision N° 9-2](#)

a. for claims handled under Section II of the IR: the Green Card number (if available, policy or insurance number)

and

b. for claims handled under Section III of the IR: one of the criteria determining the territory of the State in which the vehicle is normally based (the registration number of the motor vehicle, the insurance plate or the permanent residence of the person who has custody of the vehicle)

7. The sums which are to be reimbursed by the Ultimate debtor:

a. compensation to injured parties

b. external services (Expert fees, lawyer fees, etc.) if applicable

c. handling fee, if applicable

d. late interest, if applicable

e. and the total sum in Euro or national currency<sup>44</sup>

8. Obligatory specifications arising from the 1st paragraph of art 5.2. of the Internal Regulations

9. And the bank details of the Handling Party

Moreover, following Article 5.1 of the IR, a Guarantee Call can be rejected in case the underlying reimbursements demand:

10. Was not sent by email or fax :

a. for claims handled under Section II of the IR: to the member of the Bureau which issued the Green Card or, if appropriate, to the Bureau concerned and

b. for claims handled under Section III of the IR: to the member of the Bureau which issued the policy of insurance or, if appropriate to the Bureau concerned

11. Was sent later than the maximum period of one year from the date of the last payment made in favour of an injured party

12. Was sent to the MTPL insurer of the liable party after CoB informed all the members about the suspension (due to bankruptcy, insolvency, etc.) of that insurer

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<sup>44</sup> The Bureaux that are not in the Euro area have the option to make reference to the possibility to pay in Euro the amounts expressed in the national currency (at the official and current exchange rate in the country of the claiming Bureau at the date of the demand).

## 2) Reasons to reject a Guarantee Call arising from Article 6 of the Internal Regulations

Moreover a Guarantee Call can be rejected by the Guaranteeing Bureau in any of the following situations:

1. Following Article 6 of the Internal Regulations, “no Guarantee Call shall be admissible if made more than two years after the despatch of the demand for reimbursement”.
2. The Guarantee Call can be rejected if it was sent before the end of the two-month period stipulated in Article 5.2. to the Guaranteeing Bureau.
3. A Guarantee Call should be regarded as invalid in the event that the Guaranteeing Bureau proves that the demand for reimbursement has already been fully settled by itself, its member or by one of its agents.
4. If Articles 4.5, 4.6 or 4.7 of the IR have been applied by the Handling Bureau, the Guarantee Call to the Bureau of which the insurer in question is a member, is not valid if the latter was not preceded by a reimbursement demand to the Guaranteeing Bureau in accordance with the conditions set out in art. 5 of the IR.
5. The Guarantee call can be rejected if it contains no reference to the relevant demand for reimbursement.
6. When the claim has been handled:
  - a) in absence of confirmation of guarantee from the insurer, or
  - b) in absence of a confirmation of guarantee in conformity with art. 8 or art. 13 depending whether Section II or II is applicable, or
  - c) in absence of a confirmation from the Bureau that the vehicle is normally based in the country for which the Bureau is competent, provided that the Guaranteeing Bureau took the negative position in conformity with art. 8 or art. 13 of the IR depending whether Section II or III is applicable.
7. The Guarantee Call was not sent by e-mail or fax.

If one of these qualified reasons under section 1) or section 2) above has been invoked by the Guaranteeing Bureau within one month since the date of the Guarantee Call, such Guarantee Call has to be considered as rejected. In case of disagreement by the Handling Bureau, the Handling Bureau will have to take the initiative for resolving the dispute by mediation or by arbitration.

*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 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.

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<sup>45</sup>.

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<sup>45</sup> [2005 – General Assembly, Decision N° 5 – The reimbursement of a bureau for sanctions paid](#)

## **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 17.1 of the Internal Regulations, which binds the Bureaux of the EEA Member States and to which the Bureaux of non EEA Member States have been associated.

The provisions of this section also apply to the relationship between two Signatory Bureaux of the Multilateral Agreement when it is regarding the settlement of a claim following on from an accident involving a vehicle registered in a third country (that is to say, a country where the Bureau is not a signatory of the Multilateral Agreement) when it is the subject of a Green Card issued by a member of one of these two Bureaux.

### **ARTICLE 7 - ISSUE AND DELIVERY OF GREEN CARDS**

#### **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.*

7.1 This sub-article deals with the responsibility of a Bureau for printing Green Cards. An option is offered to each Bureau: it may proceed to printing the Green Cards itself or it may authorise its members to print Green Cards conforming to the model proposed by the Council of Bureaux and approved by the UNECE<sup>46</sup>. Whatever the method selected, the Bureau bears the ultimate responsibility for the printing of Green Cards.

In 2008, the Council of Bureaux General Assembly adopted a new Green Card format. This was then approved by the Working Party on Road Transport of the Inland Transport Committee of the Economic Commission for Europe of the United Nations during their 130th session which took place in Geneva from the 29th to the 31st of October 2008<sup>47</sup>. It may be put into circulation as from the 1st of January 2009. However, the previous format can be used for two years, that is to say, until the 31st of December 2010. Once this deadline has elapsed, the Green Card issued under the old format will no

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<sup>46</sup> [1996-General Assembly, Item 3B modified in 2006](#)

<sup>47</sup> "The Working Party approved the new Green Card format that has been adopted by the 42<sup>nd</sup> General Assembly (for both horizontal and vertical models) as from 1st January 2009 with a two year transitional period (ending on 31st December 2010) in order to replace the current version of the Green Card."

longer be valid. However, this would not be the case if, having been issued during the transitional period, the expiry date goes beyond the 31st of December 2010<sup>48</sup>.

What happens if the modification of the Green Card is the result of the addition of the international letters of a new member or a member which has been reactivated?

The Bureaux and insurance undertakings which are members must first of all be reminded that they have two years to modify the Green Cards which they distribute to insureds. Those Green Cards which remain in circulation and which have not been updated within this timescale of two years will be considered as being valid for the specified period, for the countries shown on the Green Card and will not be rendered as being invalid.

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.

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.

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. 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<sup>49</sup>.

Pursuant to the decisions adopted in 2008 and previous currently valid provisions, the Green Cards must adhere to the following conditions:

Dimensions:

The dimension of the Green Cards is left at the discretion of each Bureau provided that it is not bigger than A4 format.

Structure of the text:

The standard text distributed by the Council of Bureaux must be reproduced in the provided order and the following 11 headers must appear on it:

1. The title of the document "INTERNATIONAL MOTOR INSURANCE CARD/CARTE INTERNATIONALE D'ASSURANCE" shall appear in English and French and 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

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<sup>48</sup> [2008 – General Assembly, Decision N°5.2](#)

<sup>49</sup> [2003 – General Assembly, Decision N°3](#)

on the Facilitation of Road Transport (R.E.4) adopted by the UN Economic Commission for Europe<sup>50</sup>. The order in which the main languages appear on the document is left at the discretion of each Bureau. The language in which the document is drafted is that of the issuing Bureau. However, the use of the latin alphabet is obligatory. The same information can be reproduced in other alphabets<sup>51</sup>.

2. Identity of issuing Bureau: the further addition of the Bureau's logo is authorised at the Bureau's discretion. The insertion, deletion or any other alteration of a Bureau's logo can never be deemed as constituting the falsification of the Green Card itself.
3. The validity period of the certificate. The mode of indication is optional, the year of validity can appear in either 2 figures or 4 figures.
4. The identification of the Green Card must conform to the following conditions: "Country code/Insurers code/number". The use of "Number" when referring to a policy or a serial number or to any other form of numbering is left to each Bureau to decide.
5. Identification of the insured vehicle by its registration, or in absence of this, by the chassis or motor number.
6. The heading "Category" takes on one of the seven options appearing at the bottom of this document. The words "and trailer" or "and caravan" can be added to this case if the law on compulsory insurance of the country visited does not require a separate Green Card to cover trailers and caravans<sup>52</sup>. It is left to the individual insurer to assess which option is most suitable for certain types of vehicles<sup>53</sup>.
7. The "make" of vehicle
8. The territorial validity takes the international letter of each country participating in the Green Card system. The card is valid in the country where the letters are not crossed out. The letters "TR" indicate that the Green Card is valid for the European and Asian part of Turkey<sup>54</sup>.  
A reference appears on the last line before the list of countries of the list of Bureaux on the back of the document.
9. The name and address of the policyholder to the insurer contract or the vehicle user.
10. A space is available to the insurer issuing the card who can add, in addition to their name and address (compulsory information), their logo, telephone and/or fax number, home page of their site, their e-mail address and other useful information to the insured. The insertion, deletion or any other modification of a Bureau's logo can never be deemed as constituting the falsification of the Green Card itself.
11. Signature of the insurer

Each card must indicate the internet link to the website of the Council of Bureaux and those of different Bureaux (this last piece of information is optional). The Council of Bureaux website address must appear (compulsory) at the front of heading 8. The website address of each Bureau (optional) can appear on the back under the Bureau's official name. The Council of Bureaux website address must also appear on the last line on the back of the Green Card (obligatory).

<sup>50</sup> [1994 – General Assembly, Item 4 b\)\(ii\) modified in 2007](#)

<sup>51</sup> [1999 – General Assembly, Item 7](#)

<sup>52</sup> [1954 – General Assembly, Item 2 modified in 2006](#)

<sup>53</sup> [1959 – General Assembly, Item 8 modified in 2006](#)

<sup>54</sup> [1968 – General Assembly, Item 6](#)

The text appearing on the back of the Green Card starts with a “Note for the insured”. After that comes “Names and addresses of Bureaux”. The complete mention of the name of the country preceded by its official abbreviation is compulsory.

Specific case: issuing a Green Card in the case of permanently “transmittable registration plates”:

Permanently transmittable registration plates are a special type of registration plate which are not allocated to a specific vehicle and can be used for all categories of vehicles defined in the insurance contract. Such plates can have different names in different countries (e.g.: “commercial plates”, “test plates”, etc.) and usually they are delivered to car dealers, second hand car market operators or other special entities. There, where such plates can be legally used for more than one category of a vehicle, the display of this information on the Green Card requires a harmonized approach. Hence, Item N° 6 of the Green Card (Category of Vehicle) should bear the code G (others). The way to fill Item N° 7 of the Green Card (Make of Vehicle) and to add possible data on the optional space of the Green Card called useful information is left at the discretion of each Bureau according to its national law and to the practicability of the situation<sup>55</sup>.

Co-existence of a Green Card and of a Frontier Insurance:

It has been decided that in the case of co-existence of a Green Card and of a Frontier Insurance, priority should be given to the Frontier Insurance<sup>56</sup>.

*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 for vehicles registered in a third country and valid for the EEA countries and Switzerland<sup>57</sup>.

Specific case: Green Card issued for vehicles despatched from one EEA Member State to another.

Art.4.4 §1 of the 5th Motor Insurance Directive (currently, Article 15 of Directive 2009/103/EC) creates an exception to the rules and provides for that when a vehicle is despatched within the EEA from one Member State to another Member State, the insurance risk moves to the Member State of destination for a period of 30 days, even if the vehicle remains normally based in the Member State of origin. The MTPL insurance cover is to be bought in this specific case only in the MS of destination.

<sup>55</sup> [2009 – General Assembly, decision N°5-2](#)

<sup>56</sup> [1997 – General Assembly, point 9.9 modified in 2007](#)

In that context, Art. 7.2 of the IR does not restrict the issuing of a Green Card (certificate of an insurance policy), by an insurance undertaking active in the Member State of **destination if a vehicle is being dispatched from one EEA Member State to another**. This means that this Green Card will remain valid during 30 days even, if an accident occurs in a Section II country.

However, for countries within Section III, the Green Card will have no relevance for the claim handling and the related relationships among the Bureaux concerned which will be governed by the normally based principles implying thus no change to the rules applicable for Section III. The Green Card will only be relevant for obtaining information to identify the insurer (ultimate debtor).

According to the 5th Motor Insurance Directive, the MTPL insurance policy issued for a despatched vehicle by the insurer of the Member State of destination shall not exceed 30 days.

Should an insurer issue such a Green Card for a longer period than 30 days, its Bureau's guarantee shall not apply after the expiry of the 30 days as then the vehicle will not be a risk situated in the country of that Bureau, but the insurer shall cover the related risk until the final expiry date of the MTPL insurance policy<sup>58</sup>.

*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 Any insurer may, with the authorisation of the Bureau of which it is a member<sup>59</sup>, 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.

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<sup>57</sup> [1995 - General Assembly, Item 2D](#)

<sup>58</sup> [2009 - General Assembly, decision 5-2](#)

<sup>59</sup> [1996 - General Assembly, 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.

#### **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

When the Bureau of the country where the accident took place receives a claim based on the existence of a Green Card, it must firstly question whether it is able to deal with this claim.

If the Bureau is in possession of the original version of the Green Card or a replica of it (Green Cards issued by some Bureaux have such copies), the Bureau normally has the elements available to allow it to consider its ability to respond to the demand for reimbursement.

The question is asked whether the Bureau in possession of a photocopy of the Green Card was able to decide on its ability to deal with the claim. The following rules have been adopted regarding this<sup>60</sup>:

- *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 Bureau of the validity of that Green Card*

When dealing with a claim how must a Bureau understand the question of competence if the only proof of existence of a Green Card comes from producing a Police Report (or in any document issued by a public authority)?

The answer to the question is the following<sup>61</sup>: If the Police Report contains the essential details of the Green Card, that is to say: the name or the international letters of the Bureau, the Insurer's name and/or code and the number of the Green Card 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 to the insurer which issued the Green Card or to its approved correspondent as soon as possible.

If the period of validity is not recorded in the Police Report, the request for confirmation of the validity is obligatory. It is the responsibility of the insurer, or should the case arise of the Bureau of which the insurer is a member to provide evidence that the Green Card was no longer valid at the date of the accident. If, however, there was a legal procedure and the Court accepted that according to the information recorded in the Police Report, the Green Card was valid at the time of the accident then the Bureau of the country of the accident would have to be reimbursed the amounts disbursed on the carrying out of the legal decision.

As a general rule, when the Bureau receives a claim based on the existence of a Green Card, it is still in the interest of the Bureau of the country of the accident (or its agent) to request confirmation of the validity from the insurer which issued the Green Card.

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<sup>60</sup> [1992 – General Assembly, Item 5\(ii\)](#)

<sup>61</sup> [2005 - General Assembly, Decision N°3](#)

Data recorded on the Green Card is a preferred means of identification of the insurance company as the Green Card includes the name and address of the insurance company in box 10 and the insurance company's code in box 4. This identification code must appear on the Green Card<sup>62</sup> It allows for the full identification of the insurer (name, address telephone number, fax, etc.) due to the member lists that each Bureau regularly updates and makes available to other Bureaux<sup>63</sup>.

If they do not swiftly obtain a satisfactory response when reverting to the insurer, the Bureau has the right, pursuant to the procedure provided for in Article 8, to send this request to the Bureau under whose authority this Green Card has been issued.

What does this procedure make provisions for?

The Bureau of the country of the accident (or its agent) will send, by fax or e-mail a request for the confirmation of the validity of a Green Card identified as having been issued with the authorisation of the Bureau which made the request.

This Bureau has three months as from the date of the request to provide a definitive answer.

This period has been shortened to 6 weeks for accidents occurring as from 1st January 2011<sup>64</sup>.

In the event of no reply being received within three months the Green Card shall be deemed to be valid which means that if the Bureau of the country of the accident decides to proceed to the compensation of the injured party in accordance with the provisions of Article 3, it may ask the Bureau which requested the confirmation of validity to reimburse the amounts disbursed.

What should be understood, in the context of Article 8, by an identified Green Card?

As a general rule, the Bureau of the country of the accident must submit all information in its possession in order to facilitate the research of the Bureau which made the request. However, the following information is essential for enabling a Green Card to be identified, in accordance with Article 8 of the Internal Regulations<sup>65</sup>:

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

If the Bureau which received the request is not in a position, on the basis of this information, to respond immediately in a definitive manner then 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.

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<sup>62</sup> [1999 – General Assembly, Decision N°5.7](#)

<sup>63</sup> [2005 – General Assembly, Decision N°7](#)

<sup>64</sup> [2010 – General Assembly, Decision N° 6-4](#)

<sup>65</sup> [2004 – General Assembly, Decision N°4](#)

**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*

**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.

On a number of occasions, the General Assembly has had the opportunity to specify the conditions of the application of this provision.

Those cards considered as being valid and undertaking the responsibility of the Bureau in the name of which they have apparently been issued are<sup>66</sup>:

- Green Cards where the registration number of the vehicle has been modified;
- Green Cards where the name of the policyholder has been substituted by that appearing on the insurance policy;
- Green Cards not signed by the insurer;
- Green Cards where the name of the member (Box 4) or the identity of the insurer (Box 8) are not mentioned but where the name of the issuing Bureau appears;
- Green Cards of which the format is not in accordance with the model recognised by the Working Party on Road Transport of the of the Inland Transport Committee of the UNECE;
- Green Cards reproduced accurately and having false information;
- Green Cards indicating the identity of the Guaranteeing Bureau (whether it is in Box 2 or in the general information), without having the member code (Box 4) and/or the identity of the insurer (Box 8);
- Green Cards on which handwritten or typed additions have been added;
- Green Cards where the logo of the Bureau or that of the insurance undertaking have been altered.

On the other hand, those cards not considered as Green Cards and which, consequently, does not undertake the responsibility of the Bureau in the name of which they were apparently issued<sup>67</sup>:

<sup>66</sup> [1998 – General Assembly, Items 6.8 and 6.9 ; 1999 – General Assembly, Item 7.2-5 ; 2005 – General Assembly, Decision N° 4 ; 2008 – General Assembly, Decision N°5.2](#)

<sup>67</sup> [1999 – General Assembly, Item 7.2-5](#)

- Green Cards which do not have the member code (if it exists), nor the identity of the insurer (Box 8), nor the identity of the Guaranteeing Bureau (whether in Box 2 or in the general information);
- Green Cards not having the identity of the Guaranteeing Bureau (whether in Box 2 or in the general information) but having the member code (if it exists) (Box 4) and/or the identity of the insurer.

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.

A Bureau can invoke Article 9.2 only when a Green Card which is false, unauthorized or illegally altered, relates to a vehicle which is not legally registered in that Bureau's country. Under the concept "not legally registered vehicle", the following should be understood:

### **1. Either a vehicle bearing**

- registration plates issued or purporting to be issued under the authority of another country;
- no plates when such a vehicle is obliged to bear ones;
- registration plates which do not correspond to this vehicle;
- registration plates which no longer correspond to this vehicle.

### **However in case of:**

- temporary registration plates only, the Bureau's guarantee shall not apply for accidents occurring more than 6 months after the expiry date of these plates and provided that the vehicle was not reregistered in another country prior to the accident (this limitation of 6 months shall not apply in case of registration plates other than the temporary ones);
- permanent registration plates, the Bureau's guarantee shall apply, when the registration of the vehicle was cancelled and if the vehicle was not re-registered in another country prior to the accident. This guarantee of the Bureau shall apply only for accidents occurring until 6 months after the cancellation of the registration of the vehicle;

### **2. Or a vehicle that has never been registered in the country of the Guaranteeing Bureau.**

The Bureau in whose name the Green Card is purported to be issued is entirely responsible for providing evidence according to the means in place in its country for this purpose, that the vehicle is not legally registered in its country.

This Bureau shall also assist the loss adjuster as much as possible in the claims handling.

This decision shall not apply retroactively but shall apply to accidents occurring after 1st July 2010 onwards<sup>68</sup>.

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<sup>68</sup>[2010 – General Assembly – Decision N°6-5](#)

This text replaces the the text of Decision N°3 adopted by the General Assembly in 2006 which was stated that a Bureau could invoke the provision laid down in Article 9.2 only when a vehicle bears registration plates issued or purporting to be issued under the authority of another country.

Certain technical issues related to Article 9 have resulted, in 2010, in a decision of the General Assembly in the following wording:

1. No authorization to sell Green Card in a country where no Bureau exists.

According to Article 9 of the Internal Regulations (IR), the Bureau, which has not given authorization to its members to sell Green Cards in a country where no Bureau exists, is responsible for false, unauthorized or illegally issued Green Cards which were issued to vehicles registered in its country only. The Bureau's guarantee will not apply for a false, unauthorized or illegally issued Green Card issued to a vehicle registered in another country than the country in question.

2. Authorization to sell Green Card in a country where no Bureau exists

The guarantee provided by a Bureau, which has given authorization to its member(s) according to Article 7.3 of IR to sell Green Cards in a country where no Bureau exists, will be wider since, this guarantee will apply:

- for Green Cards issued for a vehicle registered in the country of the Bureau;
- and for Green Cards issued to the vehicle registered in the country(ies) where the authorization has been given.

In those cases, the authorizing Bureau will then be responsible for all false, unauthorized or illegally altered Green Cards irrespective of the nationality of the registration plate of the vehicle covered by the Green Card.

Regardless of the situation referred to in points 1 or 2 here above, the Bureau's guarantee will also apply for other situations than false, unauthorized or illegally altered Green Cards such as for instance:

in case of a genuine Green Card issued by mistake by a member company to a vehicle registered in another country where a Bureau exists;

in case of a genuine Green Card issued to a vehicle registered in a country where no Bureau exists and where no authorization was given. For instance, a member company was authorised to issue Green Cards in Georgia and issued them by mistake to vehicles registered in Armenia.

This implies that in these situations, the Bureau is also responsible for possible mistakes of its member companies.

If they wish to do so, the Bureaux can recommend to their member companies to pay more attention to and eventually to check the delivery of Green Cards to avoid possible mistakes; it is also recommended to the Bureau that they should have sufficient measures to be taken against their defaulting members, if necessary.

3. Frontier Insurance

As far as frontier insurance is concerned, the situation varies between EEA and non-EEA Bureaux since the frontier insurance delivered to a vehicle registered in a non-EEA country to enter into or to circulate in an EEA territory may contain a Green Card which has to cover the whole EEA territory. However, on such a

Green Card, the non-EEA countries are usually crossed out as it is not permissible to issue frontier insurance policies with Green Cards outside the EEA territories and Switzerland. The EEA frontier insurance operators are thus not obliged to cover non-EEA territory.

Hence, the Bureau's guarantee will thus never apply in the event of a false unauthorized or illegally issued Green Card which may be identified as covering Frontier Insurance only, purporting to have been sold with or without the authorization of the Bureau to sell Green Cards in a country where no Bureau exists<sup>69</sup>.

Specific situation resulting from the European Regulation (5<sup>th</sup> MID):

Art.4.4 §1 of the 5<sup>th</sup> Motor Insurance Directive (currently laid down in Article 15 of the 2009/103/EC Directive) provides for that when a vehicle is despatched within the EEA from one Member State to another Member State, the insurance risk moves to the Member State of destination for a period of 30 days, even if the vehicle remains normally based in the Member State of origin. Hence in case the despatched vehicle bears a false, unauthorised or illegally altered Green Card, the guarantee of the Bureau of destination of the country where the Green Card is purported to be issued cannot apply during those 30 days since the vehicle remains registered in the Member State of origin<sup>70</sup>.

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<sup>69</sup> [2010 – General Assembly, Decision N° 6-6](#)

<sup>70</sup> [2009 – General Assembly, Decision N°5.3](#)

## **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 states the criteria determined by article 1 (4) of the 72/166/EEC directive (currently article 1.4 a), b), c) of the 2009/103/EC directive) on the basis of which is determined the territory of the State where the vehicle is normally based.

Specific questions examined by the Signatories of the Multilateral Agreement relating to the normally based concept:

**Genuine registration plates obtained fraudulently**

Can a genuine registration plate obtained from the Licensing Authorities on the basis of false particulars be used as a criterion to determine where a vehicle is normally based or should it be regarded as a false registration plate?

It was agreed by the Signatories that, provided the Licensing Authorities took the necessary steps prior to issuing a registration plate, this plate 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<sup>71</sup>.

**Vehicle bearing a Trade Plate**

Can Trade Plates borne by a vehicle allow to identify the country in which this vehicle is normally based?

The Signatories 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 Multilateral Agreement, as evidence to identify the country in which the vehicle concerned was "normally based"<sup>72</sup>.

**Frontier Insurance**

How must we handle the situation of a vehicle that is not insured in the country where it is normally based and whose Bureau is a Signatory of the Multilateral Agreement, while it is covered under the Frontier Insurance of another country?

The Signatories have agreed that, since the Frontier Insurer has received a premium, the latter should be responsible for Third Party claims if the contract was applicable in the country of the accident<sup>73</sup>.

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<sup>71</sup> [1985 – General Assembly, point 2B \(ii\)\(c\)](#)

<sup>72</sup> [1986 – General Assembly – point 2B](#)

<sup>73</sup> [Signatories Committee 21.11.91, point 5.i](#)

### Solutions to certain specific situations described here after

1<sup>st</sup> situation: unidentified car, unidentified driver, but vehicle believed to be from a particular country; evidence of country based on:

- 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
- 2) as in (1) above but no evidence of nationality letter(s);

Solution adopted by the Signatories: the Multilateral 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<sup>74</sup>.

2<sup>nd</sup> situation: identified car; unidentified driver (false name and address given); registration number false; no evidence of insurance available.

Solution adopted by Signatories: Multilateral Agreement should not be applicable<sup>75</sup>.

*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 text of the 5<sup>th</sup> European Motor Insurance Directive (text currently laid down in the Article 1.4) d) of the 2009/103/EC 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.

Interpretation of Article 11.1.2 in case of an expired insurance plate (or another distinguishing sign) or a plate which does not correspond or no longer corresponds to the vehicle:

If a vehicle, not required to bear a registration plate but an insurance plate or another distinguishing sign, bears an expired plate or bears a plate which does not correspond or no longer corresponds to the vehicle, Article 11.1.3 shall be applicable.

The question has arisen how to deal with the situation of a vehicle that bears an expired insurance plate at the date of an accident in a MGA country other than that in which the plate was delivered.

<sup>74</sup> [1974 – General Assembly, point 3B modified in 2008](#)

<sup>75</sup> [1974 – General Assembly – point 3B modified in 2008](#)

Contrary to the situation of an expired (or otherwise non corresponding) registration plate, for which Article 11.2 provides a solution, there is no similar provision for vehicles under Article 11.1.2. The history of Article 1 of the Motor Insurance Directive, which provides the legal basis for Article 11 of the Internal Regulations, is not crystal clear either, nor does the jurisprudence of the EU Court of Justice provide an answer.

The Signatories have agreed that, in the absence of conclusive Court decisions, Article 11 is to be interpreted as a cascade system. If no valid insurance plate is available, Article 11.1.3 comes into view and the Member State in which the vehicle is normally based is the Member State of permanent residence of the custodian of the vehicle<sup>76</sup>.

*The provisions of this section do not apply to:*

#### **ARTICLE 12 – EXEMPTIONS**

*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.*

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<sup>76</sup> [2012-General Assembly, Decision N°5-2](#)

**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 1<sup>st</sup> European Directive as modified by the 5<sup>th</sup> Directive (currently laid down in Article 5 of the 2009/103/EC 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 5<sup>th</sup> 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 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 9<sup>th</sup> 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.

In accordance with the Signatories' Committee's decisions adopted in May 2010, this period has been shortened to 6 weeks for accidents occurring as from 1<sup>st</sup> January 2011. However, it is admitted that for a duration of 2 years (until 1st January 2013), a delayed information on the registration of the vehicle from the national registration authorities is a qualified reason for not giving a definitive answer within 6 weeks to the request for confirmation of the territory in which the vehicle is normally based. However, such a definitive answer shall be provided within two months at the very latest. Any Guaranteeing Bureau which has not received the needed information from its national registration authorities within the period of 6 weeks since the date of the loss adjuster's request has to inform the loss adjuster accordingly within this period of time. Without this information, it shall be deemed to be confirmation of the normally based territory on the expiry of the 6 week period<sup>77</sup>.

As agreed by the 1999 Signatories' meeting and reconfirmed in 2001, the use of the 'Model' letter of enquiry by the Bureau of the country where the accident took place in order to send it to a potential Guaranteeing Bureau to determine whether a vehicle is 'normally based' in that country shall be obligatory for Signatories Bureaux.

This 'Model' letter shall include date and location of accident, make and type of vehicle, name and address of the parties - if known. It is recommended to enclose to this 'Model' letter, all essential documents such as "constat amiable", etc ... in order to facilitate the identification of the vehicle.

The purpose of the reply to this 'Model' letter is:

- to confirm that the vehicle involved in a specific accident is normally based in the territory of the replying Bureau

and/or

- to indicate the possible insurer of the liable vehicle.

If it is impossible for a Bureau to fulfil both of the above-mentioned purposes, this should not preclude it from already fulfilling one of them. A Bureau can first indicate the possible insurer of the liable vehicle, without confirming that the said vehicle is normally based in the territory of that Bureau. If however, after a 6-week period following the request, the Bureau has not denied that the vehicle is normally based in the territory of the Bureau, the vehicle will be considered as normally based in that territory<sup>78</sup>.

In case a potential Guaranteeing Bureau is at that particular time not in a position to confirm the normally based territory due to missing information, it should inform the loss adjuster about this situation and it should provide all missing information as soon available, bearing in mind that if no definitive answer is given within the time limit to confirm the normally based territory (see recommendation 5.1 for details), it shall be deemed to be confirmed that the vehicle is normally based in that Bureau's territory.

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<sup>77</sup> [Signatories Committee 27.5.10, Decision 5-1](#)

<sup>78</sup> [2013 – General Assembly, Decision N° 4-2](#)

Therefore, the Bureau of the country of accident is authorised to handle and settle the claim immediately after:

1. the confirmation of the cover by the insurer, or;
2. the confirmation by the Guaranteeing Bureau of the territory where the vehicle is normally based, or;
3. at the expiry of the time limit to confirm the normally based territory (see recommendation 5.1 for details) if no definitive answer to the 'Model' letter has been provided<sup>79</sup>.

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<sup>79</sup> [Signatories Committee 27.5.10, Decisions 5-2](#)

**ARTICLE 14 – DURATION OF THE GUARANTEE**

*14.1 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**

14.1 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 5<sup>th</sup> 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.*

**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.

## **SECTION IV - RULES GOVERNING AGREEMENTS BETWEEN NATIONAL INSURERS' BUREAUX**

### **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.*

*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 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

### *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**

Any 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.

## SECTION VI – RESOLUTION OF DISPUTES BETWEEN BUREAUX

### **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.*

*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**

Mediation<sup>80</sup> and arbitration rules are dealt with in a separate regulation (<http://www.cobx.org/en/index-module-orki-page-view-id-276.html>). Arbitration refers to the Arbitration Rules established by UNCITRAL (United Nations Commission on International Trade Law).

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<sup>81</sup>.

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<sup>80</sup> [The mediation rules are brought into effect as of the 1st of July 2008 \(2008 – General Assembly, Decision N°10.1 Mediation\) They have been modified during the General Assembly of 26 May 2011 \(Decision N° 9-3\). These modification have come into force the day of their adoption.](#)

<sup>81</sup> [CoB 5/6.6.97 revised in 2007](#)

## SECTION VII – ENTRY INTO FORCE

### *ARTICLE 20 - ENTRY INTO FORCE*

#### **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.*

**TEXT OF THE DECISIONS ADOPTED BY THE GENERAL ASSEMBLY OF THE COUNCIL OF BUREAUX ACCORDING TO THE ARTICLES OF THE INTERNAL REGULATIONS**

**NB: The figures between brackets in front of the text on the decisions refer to the decisions in the footnotes.**

**Section I – General Rules**

Article 1: Purpose

Article 2: Definitions

**(8) 1985 – General Assembly, Item 2B (b) modified in 2008**

The accidents involving vehicles with attached trailers should be resolved on the basis of the law applicable in the country of the accident

Article 3: Handling of Claims

**(9) 2001 – General Assembly, Decision N°11 – Confirmation of cover**

2011 – General Assembly, Decision N°9-4

Certain insurance companies which, for linguistic or other reasons, may entrust the management of a file to Intermediaries acting on behalf of the insurance company resident in their country, leaving it to them to maintain contact with the Bureau of the country of accident until the file is finally closed. In the context of this mission, the said Intermediary acting on behalf of the insurance company may confirm insurance cover to the Bureau of the country of accident.

The Guaranteeing Bureau is bound by the confirmation of cover given by the Intermediary acting on behalf of the insurance company, and in particular when the insurance company is wound up, and the Guaranteeing Bureau has to substitute for it in obligations arising out of the claim.

The same principle should be applied when confirmation of cover has been given to the Bureau of the country of accident by an intermediary of the insurance company (broker, for example) of the vehicle involved in the accident.

2013 – General Assembly, Decision 5-5

The General Assembly is invited to approve the following Recommendation:

Decision N°5-5 to amend Decision N° 9 – 4 of the 2011 GA

To approve the revised decision N° 11 of the 2001 GA

#### Confirmation of cover

Certain insurance companies may, for linguistic or other reasons, entrust the management of a file to Intermediaries acting on behalf of the insurance company resident in the country of the company, leaving it to them to maintain contact with the Bureau of the country of accident until the file is finally closed. In the context of this mission, the said Intermediary acting on behalf of the insurance company may confirm insurance cover to the Bureau of the country of accident.

The Guaranteeing Bureau is bound by the confirmation of cover given by the Intermediary acting on behalf of the insurance company, and in particular when the insurance company is wound up, and the Guaranteeing Bureau has to substitute for it in obligations arising out of the claim.

The same principle should be applied when confirmation of cover has been given to the Bureau of the country of accident by a representative empowered for that purpose by the insurance company of the vehicle involved in the accident.

#### **(10) 1989 - General Assembly, Item 6 (b) (iii) - Language for Correspondence**

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.

#### **(11) 2005 - General Assembly, Decision N° 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.

#### **(12) 1977 - General Assembly, Item 4 – 1979 – General Assembly, Item 1, modified in 2007**

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.

#### **(13) 2004 – General Assembly – Decision N° 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 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

#### **(14) 2009 - General Assembly - Decision N° 5.3**

What should be understood by “the conditions or limits applicable under the compulsory motor civil liability insurance law in force in the country of accident”?

This wording follows on from a Court of Justice ruling (64/83) interpreting what appears in Article 2(2) of Directive 72/166/EEC which provides that the National Bureau of each Member State is guarantor for the settlement of claims caused by vehicles normally based in the territory of another Member State, *in accordance with the provisions of its own national law on compulsory insurance*.

The Court considered that this expression “*must be understood as referring to the conditions and limits of civil liability applicable to compulsory insurance, provided always that the driver of the vehicle at the time at which the accident occurred is deemed to be covered by valid insurance in conformity with that legislation*”.

The Court of Justice in this way confirms one of the fundamental principles of the Green Card system according to which the guarantee offered by the International Certificate of Insurance must correspond to the requirements of the national law on compulsory insurance of the country travelled in. This principle also applies when the Bureau of the country where the accident took place handles the claim on the basis that the vehicle is normally based in the territory of another Member State.

The Bureau of the country where the accident took place is therefore obliged, within the framework of settling a claim, to respect the stipulations set out in the law on compulsory insurance in its country. However, these stipulations at the same time constitute the limits in which they must envisage the settlement of the claim even if the guarantee offered by the insurance contract taken out in the country of origin of the vehicle is in excess of the limits and conditions provided in the law of the country of the accident.

When this situation arises, the Bureau shall consult the insurer which issued the insurance contract in relation to that part of the claim which exceeds those conditions or limits. The consent of the insurer is required except in cases where, in accordance with the applicable law (that is to say, the national law), the Bureau is to abide by contractual guarantees exceeding the conditions or limits provided by the compulsory motor civil liability insurance law of its country.

If the Bureau does not respect this obligation, it will overstep the limits of its decision-making powers and runs the risk of being subject to a refusal of reimbursement by the insurer for the part of the compensation exceeding the conditions or limits which should have been abided by. In this case, the Bureau will not be able to benefit from the guarantee provided for in Article 6.1 for this part of the compensation.

When Article 9 applies, that is to say when the claim for compensation is handled by the Bureau on the basis of a false, unauthorised or illegally altered Green Card, the compliance with the limits and conditions provided for in the law on compulsory insurance of motor insurance civil liability of the country where the accident occurred is indisputably imposed.

**(15) 2013 – General Assembly, Decision N°5-6**

The Explanatory Memorandum to the Internal Regulations is hereby supplemented with the following text (to be inserted after Article 3.5):

“When a Handling Bureau is ordered, by a court decision rendered in the Handling Bureau's country, to compensate a victim to an extent that is in excess of the conditions or limits applicable under the compulsory motor civil liability insurance law in force in the country of accident, the Guaranteeing Bureau shall only be held to guarantee the amounts that are not in excess of the applicable conditions or limits. Any amount exceeding these conditions or limits shall remain to be borne by the Handling Bureau.

This provision shall however not apply if the applicable law imposes 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.”

The second paragraph is inserted to be in conformity with the second sentence of Article 3.5 of the Internal Regulations.

Article 4: Correspondents

**(16) 2012 – General Assembly, Item 5.1**

1. Decision nr 5.3 of the 2010 General Assembly is withdrawn.

2. The following procedure shall apply if the nomination of a correspondent is requested:

If it comes to the knowledge of the Bureau which has to approve the nomination of a correspondent that the insurance undertaking, either for its activities in the Home Member State or for its branch office or under freedom of service, has already nominated another correspondent in the same country, it shall refuse the later nomination and it shall inform the Bureau which requested this nomination accordingly.

The Bureau thus informed shall then invite its member to decide on the nomination of a single correspondent for all its activities in the said country.

The following text shall be inserted in the Explanatory Memorandum:

The following procedure shall apply if the nomination of a correspondent is requested:

If it comes to the knowledge of the Bureau which has to approve the nomination of a correspondent that the insurance undertaking, either for its activities in the Home Member State or for its branch office or under freedom of service, has already nominated another correspondent in the same country, it shall refuse the later nomination and it shall inform the Bureau which requested this nomination accordingly.

The Bureau thus informed shall then invite its member to decide on the nomination of a single correspondent for all its activities in the said country.

Explanation:

Insurance undertakings can operate in other countries than their Home Member State under freedom of establishment (through a branch office) or freedom to provide services (FOS). In both options the insurance undertaking is required to join the Bureau of the Member State where insurance activities are performed. Neither the branch office, nor the activity under FOS constitutes a legal entity in that country. The only legal entity is the insurance undertaking. It follows that only the insurance undertaking can require the nomination

of a correspondent. In the interest of transparency for victims, any one insurer should only be able to nominate one correspondent in another country.

The Bureau of the country of the nominated correspondent is in the best position to identify that an insurance undertaking proposes to nominate more than one correspondent and to take action. It is also in its interest to take action in view of the position of victims of accidents in its territory.

It will in such a situation refuse the nomination of the second correspondent and inform the Bureau which requested this nomination. That Bureau will then contact its member and invite it to harmonise the nomination of its correspondents in its own organisation.

#### **(17) 2013 – General Assembly, Decision N°4-1**

The General Assembly is invited to approve the following Recommendation:

When requesting the approval of a correspondent, National Bureaux shall use the model wording as proposed in Annex 1 to the Report of the Specific Rules Committee. National Bureaux are free to choose the format in which the wording will be included.

This decision shall enter into force on 1st January 2014.

#### **(18) 1999 – General Assembly, Item 7.11**

The appointment of second or reserve correspondents is NOT accepted.

#### **(18) 2005 - General Assembly, Decision N° 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.

#### **(19) 2005 - General Assembly, Decision N° 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.

#### **(20) 2006 - General Assembly, Decision N° 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.

Article 5: Conditions of reimbursement

**(21) 1973 – General Assembly, Item 5 – General Assembly 1974, Item 4 modified in 2006**

A handling fee demanded under Article 5.1.3 of the Internal Regulations cannot be increased by V.A.T. or other local taxes as modified in 2006.

**(22) 2011 – General Assembly, Decision N°9-2**

To approve the catalogues of minimum obligatory data for a demand for reimbursement and qualified reasons to reject a Guarantee Call.

**(23) 2010 – General Assembly, Decision N°6-1**

Considering the practical difficulties to obtain information on the extent of the mandate delivered to the Claims Handling Agencies, it is recommended to the loss adjuster for claims handled by Claims Handling Agencies to send the demand for reimbursement to the insurance undertakings.

**(24) 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 loss adjuster (Article 5.1).

**(25) 2004 - General Assembly, Decision N°6-1**

To include the following specification in the Explanatory Memorandum (under Article 5.1, as a new paragraph, after the paragraph "Where the claim has not resulted in compensation being paid..."):

In this case, the demand for reimbursement of sums disbursed for external services and costs of legal proceedings as well as the demand for payment of the minimum handling fee shall be addressed:

- Within a period of maximum one year after the last negative response that a Bureau or the agent it has appointed has given to the claimant and that has remained without further reaction or that no legal action was taken by the injured party

Or

- Within a period of maximum one year after a decision of a Court or any other competent body, refusing any compensation to the claimant, has become final and irrevocable or after that decision has been rendered if, according to the applicable legal rules and proceedings, it is possible that such decision does not become final or irrevocable.

This decision shall be without prejudice to other provisions of the Internal Regulations, and more specifically Article 5(6).

This decision enters into force on 1st July 2012 and will have to be applied as from 1st July 2013 to all open files, irrespective of the date of the accident or of the date of the claim.

**(26) 1989 – General Assembly, Item 6 b) (ii), modified in 2007**

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

**(27) 1994 – General Assembly, Item 2**

A Guaranteeing (Issuing) 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 (Handling) 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.

**(28) 1994 – General Assembly, Item 2**

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.

**(29) 2011 – General Assembly, Decision N°9-1**

To introduce no minimum amount of late interest for which no request could be claimed, neither under art 5, nor under art 6 and this for the following reasons:

The members of CoB and their respective markets are operating in a different economic situation and it is therefore difficult to propose such an amount.

CoB leaves the decision to the discretion of the Handling Bureau whether they want to release the Guaranteeing Bureau from any unsubstantial fraction of an outstanding late interest amount.

Nevertheless the CoB invites:

1. All Handling Bureaux to find for them an appropriate approach, taking into consideration that the purpose of the Guarantee Call is not to use them for insignificant outstanding amounts of late interest.
2. All the Guaranteeing Bureaux to reimburse Handling Bureaux fully and in time.

### (30) 2010 – General Assembly, Decision N° 6-2

Provision of Art. 5.2 of the IR relating to 'free of cost' shall be read in accordance with the relevant provisions of Directive 2007/64/EC (Payment Services Directive) as regards bank fees as from 1st June 2010. This implies that a share of bank fees between the Paying and Demanding Bureaux if both of them are within the European Economic Area and if the bank transfer made either in Euro or in another EEA currency does not imply any currency conversion for the Paying Bureau.

The Bureaux of the Euro area are encouraged to use SEPA payment facilities for payment made in Euro. For bank transfer between EEA Bureaux implying a currency conversion for the Paying Bureau or for bank transfer from or to a non-EEA Bureau, the demanding Bureau shall receive the amount free of costs.

### (31) 2006 - General Assembly, Decision N° 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. 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 a cause of more problems for the beneficiary.

### (32) 1998 - General Assembly, Item 6.11: 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.

**(33) 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

**(34) 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 loss adjuster (Article 5.1).

Article 6: Obligation of guarantee

**(35) 2004 - General Assembly, Decision No. 7 - Obligation of guarantee interest**

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.

**(36) 1979 – General Assembly. Item 1C, modified in 2007**

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.

#### **(37) 2011 – General Assembly, Decision N°9-1**

To introduce no minimum amount of late interest for which no request could be claimed, neither under art 5, nor under art 6 and this for the following reasons:

The members of CoB and their respective markets are operating in a different economic situation and it is therefore difficult to propose such an amount.

CoB leaves the decision to the discretion of the Handling Bureau whether they want to release the Guaranteeing Bureau from any unsubstantial fraction of an outstanding late interest amount.

Nevertheless the CoB invites:

3. All Handling Bureaux to find for them an appropriate approach, taking into consideration that the purpose of the Guarantee Call is not to use them for insignificant outstanding amounts of late interest.
4. All the Guaranteeing Bureaux to reimburse Handling Bureaux fully and in time.

#### **(38) 2010 – General Assembly, Decision N°6-3**

Both calculation methods (calculation method based on the Internal Regulations and calculation method based on the Explanatory Memorandum) are acceptable.

The choice of the calculation method lies with the loss adjuster. This means that the Guaranteeing Bureau has to respect the calculation method chosen by the loss adjuster. In that context, no dispute (via mediation or arbitration) on the chosen calculation method will be allowed. Since the On-line Guarantee Call System developed by the Council of Bureaux is a system for evidences only and is not decisive for any individual case and its particulars, its calculation method is to remain unchanged.

#### **(39) 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.

#### **(40) 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".

**(41) 2011- General Assembly, Decision N°9-5**

To approve the standardized form for a Guarantee Call, together with the instruction set.

**(42) 2011- General Assembly, Decision N° 9-2**

To approve the catalogues of minimum obligatory data for a demand for reimbursement and qualified reasons to reject a Guarantee Call.

**(44) 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 1<sup>st</sup> July 2005.

**Section II – Specific rules governing contractual relations between Bureaux based on the Green Card**

Article 7.1

**(45) 1996 – General Assembly, Item 3B, 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.

**(47) 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. 5 years) 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.

**(48) 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.

**(49) 1994 – General Assembly, Item 4 b) ii) modified in 2007**

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.

**(50) 1999 – General Assembly, Item 7.9**

The use of the latin alphabet is obligatory. The same information can be reproduced in other alphabets.

**(51) 1954 – General Assembly, Item 2 modified in 2006**

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.

**(52) 1959 – General Assembly, Item 8 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.

**(53) 1968 – General Assembly, Item 6**

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.

(54) 2009 – General Assembly, decision n°5-2 (1st part)

Permanently transmittable registration plates are a special type of registration plate which are not allocated to a specific vehicle and can be used for all categories of vehicles defined in the insurance contract. Such plates can have different names in different countries (e.g.: “commercial plates”, “test plates”, etc.) and usually they are delivered to car dealers, second hand car market operators or other special entities. There, where such plates can be legally used for more than one category of a vehicle, the display of this information on the Green Card requires a harmonized approach. Hence, Item N° 6 of the Green Card (Category of Vehicle) should bear the code G (others). The way to fill Item N° 7 of the Green Card (Make of Vehicle) and to add possible data on the optional space of the Green Card called useful information is left at the discretion of each Bureau according to its national law and to the practicability of the situation.

(55) 1997- General Assembly, point 9.9 modified in 2007

In the case of co-existence of a Green Card and of a Frontier Insurance, priority should be given to the Frontier Insurance.

Article 7.2

(56) 1995 – General Assembly, Item 2D

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.

(57) 2009 – General Assembly, decision 5-2 (2<sup>nd</sup> part)

Art.4.4 §1 of the 5th Motor Insurance Directive creates an exception to the rules and provides for that when a vehicle is despatched within the EEA from one Member State to another Member State, the insurance risk moves to the Member State of destination for a period of 30 days, even if the vehicle remains normally based in the Member State of origin. The MTPL insurance cover is to be bought in this specific case only in the MS of destination.

In that context, Art. 7.2 of the IR does not restrict the issuing of a Green Card (certificate of an insurance policy), by an insurance undertaking active in the Member State of destination **if a vehicle is being dispatched from one EEA Member State to another**. This means that this Green Card will remain valid during 30 days even, if an accident occurs in a Section II country.

However, for countries within Section III, the Green Card will have no relevance for the claim handling and the related relationships among the Bureaux concerned which will be governed by the normally based principles implying thus no change to the rules applicable for Section III. The Green Card will only be relevant for obtaining information to identify the insurer (ultimate debtor).

According to the 5th Motor Insurance Directive, the MTPL insurance policy issued for a despatched vehicle by the insurer of the Member State of destination shall not exceed 30 days.

Should an insurer issue such a Green Card for a longer period than 30 days, its Bureau's guarantee shall not apply after the expiry of the 30 days as then the vehicle will not be a risk situated in the country of that Bureau, but the insurer shall cover the related risk until the final expiry date of the MTPL insurance policy.

Article 7.3

#### **(58) 1996 – General Assembly, Item 3E**

Each Bureau should be responsible for controlling whether each Member concerned is established in a particular country in accordance with the above criteria.

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.

Article 8

#### **(59) 1992 – General Assembly, Item 5(ii) - 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.

#### **(60) 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.

**(61) 1999 – General Assembly, Decision N° 5.7**

The use of an identification code for the insurer in Box 4 of the Green Card is obligatory

**(62) 2005 – General Assembly, Décision N° 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).

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.

#### **(63) 2010 – General Assembly, Decision N° 6-4**

To shorten the 3 month period needed to confirm the Green Card cover to 6 weeks. This 6 week period to confirm the Green Card cover will apply to accidents occurring as from 1 January 2011.

#### **(64) 2004 - General Assembly, Decision No. 4 – Minimum information to identify a Green Card**

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
- 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.

#### **(65) 1998 – General Assembly, Items 6.8 and 6.9 ; 1999 – General Assembly, Item 7.2-5 ; 2005 – General Assembly, Decision N° 4 ; 2008 – General Assembly, Decision N° 5.2.**

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.

#### **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.
- 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.

The validity of handwritten and machine-written changes to a Green Card

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.

#### **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.

#### **(66) 1999 – General Assembly, Item 7.2-5**

- 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.

#### **(67) 2010 – General Assembly, Decision N° 6-5**

A Bureau can invoke Article 9.2 only when a Green Card which is false, unauthorized or illegally altered, relates to a vehicle which is not legally registered in that Bureau's country. Under the concept "not legally registered vehicle", the following should be understood:

##### **1. Either a vehicle bearing**

- registration plates issued or purporting to be issued under the authority of another country;
- no plates when such a vehicle is obliged to bear ones;
- registration plates which do not correspond to this vehicle;
- registration plates which no longer correspond to this vehicle.

**However in case of:**

- temporary registration plates only, the Bureau's guarantee shall not apply for accidents occurring more than 6 months after the expiry date of these plates and provided that the vehicle was not reregistered in another country prior to the accident (this limitation of 6 months shall not apply in case of registration plates other than the temporary ones);
- permanent registration plates, the Bureau's guarantee shall apply, when the registration of the vehicle was cancelled and if the vehicle was not re-registered in another country prior to the accident. This guarantee of the Bureau shall apply only for accidents occurring until 6 months after the cancellation of the registration of the vehicle;

## **2. Or a vehicle that has never been registered in the country of the Guaranteeing Bureau.**

The Bureau in whose name the Green Card is purported to be issued is entirely responsible for providing evidence according to the means in place in its country for this purpose, that the vehicle is not legally registered in its country.

This Bureau shall also assist the loss adjuster as much as possible in the claims handling.

This decision shall not apply retroactively but shall apply to accidents occurring after 1st July 2010 onwards.

### **(68) 2010 – General Assembly, Decision N°6-6**

1. No authorization to sell Green Card in a country where no Bureau exists according to Article 9 of the Internal Regulations (IR), the Bureau, which has not given authorization to its members to sell Green Cards in a country where no Bureau exists, is responsible for false, unauthorized or illegally issued Green Cards which were issued to vehicles registered in its country only. The Bureau's guarantee will not apply for a false, unauthorized or illegally issued Green Card issued to a vehicle registered in another country than the country in question.

2. Authorization to sell Green Card in a country where no Bureau exists

The guarantee provided by a Bureau, which has given authorization to its member(s) according to Article 7.3 of IR to sell Green Cards in a country where no Bureau exists, will be wider since, this guarantee will apply:

- for Green Cards issued for a vehicle registered in the country of the Bureau;
- and for Green Cards issued to the vehicle registered in the country(ies) where the authorization has been given.

In those cases, the authorizing Bureau will then be responsible for all false, unauthorized or illegally altered Green Cards irrespective of the nationality of the registration plate of the vehicle covered by the Green Card.

Regardless of the situation referred to in points 1 or 2 here above<sup>82</sup>, the Bureau's guarantee will also apply for other situations than false, unauthorized or illegally altered Green Cards such as for instance:

in case of a genuine Green Card issued by mistake by a member company to a vehicle registered in another country where a Bureau exists;

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<sup>82</sup> Text added after the General Assembly in order to avoid any confusion on the scope of the following text

in case of a genuine Green Card issued to a vehicle registered in a country where no Bureau exists and where no authorization was given. For instance, a member company was authorised to issue Green Cards in Georgia and issued them by mistake to vehicles registered in Armenia.

This implies that in these situations, the Bureau is also responsible for possible mistakes of its member companies.

If they wish to do so, the Bureaux can recommend to their member companies to pay more attention to and eventually to check the delivery of Green Cards to avoid possible mistakes; it is also recommended to the Bureau that they should have sufficient measures to be taken against their defaulting members, if necessary.

### 3. Frontier Insurance

As far as frontier insurance is concerned, the situation varies between EEA and non-EEA Bureaux since the frontier insurance delivered to a vehicle registered in a non-EEA country to enter into or to circulate in an EEA territory may contain a Green Card which has to cover the whole EEA territory. However, on such a Green Card, the non-EEA countries are usually crossed out as it is not permissible to issue frontier insurance policies with Green Cards outside the EEA territories and Switzerland. The EEA frontier insurance operators are thus not obliged to cover non-EEA territory.

Hence, the Bureau's guarantee will thus never apply in the event of a false unauthorized or illegally issued Green Card which may be identified as covering Frontier Insurance only, purporting to have been sold with or without the authorization of the Bureau to sell Green Cards in a country where no Bureau exists.

#### [\(69\) 2009 - General Assembly, Decision N° 5.3 – Despatched Vehicles](#)

Art.4.4 §1 of the 5th Motor Insurance Directive provides for that when a vehicle is despatched within the EEA from one Member State to another Member State, the insurance risk moves to the Member State of destination for a period of 30 days, even if the vehicle remains normally based in the Member State of origin. Hence in case the despatched vehicle bears a false, unauthorised or illegally altered Green Card, the guarantee of the Bureau of destination of the country where the Green Card is purported to be issued cannot apply during those 30 days since the vehicle remains registered in the Member State of origin.

### **Section III – Specific Rules Governing Contractual Relations Between Bureaux Based on Deemed Insurance Cover**

Article 10

Article 11

#### [\(70\) 1985 – General Assembly, point 2 B\(ii\)\(c\) - 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.

**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.

#### (71) 1985 – General Assembly, point 2B - 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.

**Solution:** In the case studied, 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".

#### (72) Signatories Committee 21.11.91 Point 5.i – Frontier Insurance

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 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 country of the accident. 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.

#### (73) 1974 – General Assembly, point 3B – 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 as modified in 2008.

**(74) 1974 – General Assembly, point 3B – Guidelines**

*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 as modified in 2008.

Article 12

Article 13

**(75) 2012 - General Assembly – Decision 5-2**

The interpretation of Article 11 of the IR as worded in the following Recommendation has been confirmed:

If a vehicle, not required to bear a registration plate but an insurance plate or another distinguishing sign, bears an expired plate or bears a plate which does not correspond or no longer corresponds to the vehicle, Article 11.1.3 shall be applicable.

The following text shall be inserted in the Explanatory Memorandum:

If a vehicle, not required to bear a registration plate but an insurance plate or another distinguishing sign, bears an expired plate or bears a plate which does not correspond or no longer corresponds to the vehicle, Article 11.1.3 shall be applicable.

The question has arisen how to deal with the situation of a vehicle that bears an expired insurance plate at the date of an accident in a MGA country other than that in which the plate was delivered.

Contrary to the situation of an expired (or otherwise non corresponding) registration plate, for which Article 11.2 provides a solution, there is no similar provision for vehicles under Article 11.1.2. The history of Article 1 of the Motor Insurance Directive, which provides the legal basis for Article 11 of the Internal Regulations, is not crystal clear either, nor does the jurisprudence of the EU Court of Justice provide an answer.

The Signatories have agreed that, in the absence of conclusive Court decisions, Article 11 is to be interpreted as a cascade system. If no valid insurance plate is available, Article 11.1.3 comes into view and the Member State in which the vehicle is normally based is the Member State of permanent residence of the custodian of the vehicle.

**(77) Signatories Committee 27.5.10, Decision 5-1**

To shorten the 3 month period needed to confirm the normally based territory to 6 weeks. This 6 week period to confirm the normally based territory will apply to accidents occurring as from 1 January 2011.

However, it is admitted that for a duration of 2 years (until 1st January 2013), a delayed information on the registration of the vehicle from the national registration authorities is a qualified reason for not giving a definitive answer within 6 weeks to the request for confirmation of the territory in which the vehicle is normally based. However, such a definitive answer shall be provided within two months at the very latest.

Any Guaranteeing Bureau which has not received the needed information from its national registration authorities within the period of 6 weeks since the date of the loss adjuster's request has to inform the loss adjuster accordingly within this period of time. Without this information, it shall be deemed to be confirmation of the normally based territory on the expiry of the 6 week period.

**(78) 2013 – General Assembly, Decision N°4-2**

The Signatories of the Agreement between the national insurers' Bureaux of the Member States of the European Economic Area and other Associate States (Multilateral Agreement) are invited to approve the following Recommendation:

In the Explanatory Memorandum to the Internal Regulations, the 5th, 6th and 7th paragraphs of the comments under Article 13 shall be deleted and replaced by the following:

"The purpose of the reply to this 'Model' letter is:

to confirm that the vehicle involved in a specific accident is normally based in the territory of the replying bureau

and/or

to indicate the possible insurer of the liable vehicle

If it is impossible for a Bureau to fulfil both of the above-mentioned purposes, this should not preclude it from already fulfilling one of them. A Bureau can first indicate the possible insurer of the liable vehicle, without confirming that the said vehicle is normally based in the territory of that Bureau. If however, after a 6-week period following the request, the Bureau has not denied that the vehicle is normally based in the territory of the Bureau, the vehicle will be considered as normally based in that territory

This decision shall enter into force on 1st January 2014.

**(78) Signatories Committee 27.5.10, Decision 5-2**

As agreed by the 1999 Signatories' meeting and reconfirmed in 2001, the use of the 'Model' letter of enquiry by the Bureau of the country where the accident took place in order to send it to a potential Guaranteeing Bureau to determine whether a vehicle is 'normally based' in that country shall be obligatory for Signatories Bureaux.

This 'Model' letter shall include date and location of accident, make and type of vehicle, name and address of the parties - if known. It is recommended to enclose to this 'Model' letter, all essential documents such as "constat amiable", etc ... in order to facilitate the identification of the vehicle.

The purpose of the reply to this 'Model' letter is to confirm the normally based territory of the vehicle involved in a specific accident. It will thus activate the guarantee of the Bureau concerned.

The reply to this 'Model' letter may not be used to indicate the possible insurer of the liable vehicle and at the same time be accompanied with a statement that it cannot be considered as a confirmation of the normally based territory.

When answering to this 'Model' letter, the Guaranteeing Bureau can also indicate the possible insurer of the vehicle involved in the accident, but the subsequent invalidation of the insurance validity shall not affect the confirmation of the normally based territory, previously received from the Guaranteeing Bureau.

In case a potential Guaranteeing Bureau is at that particular time not in a position to confirm the normally based territory due to missing information, it should inform the loss adjuster about this situation and it should provide all missing information as soon available, bearing in mind that if no definitive answer is given within the time limit to confirm the normally based territory (see recommendation 5.1 for details), it shall be deemed to be confirmed that the vehicle is normally based in that Bureau's territory.

Therefore, the Bureau of the country of accident is authorised to handle and settle the claim immediately after:

1. the confirmation of the cover by the insurer, or;
2. the confirmation by the Guaranteeing Bureau of the territory where the vehicle is normally based, or;
3. at the expiry of the time limit to confirm the normally based territory (see recommendation 5.1 for details) if no definitive answer to the 'Model' letter has been provided.

Article 14

Article 15

#### **Section IV - Rules Governing Agreements Between National Insurers' Bureaux**

Article 16

Article 17

#### **Section V - Procedure For Amending The Internal Regulations**

Article 18

#### **Section VI – Resolution of disputes between Bureaux**

## Article 19

**(79) 1997 – General Assembly, point 9.10 – Settlement of Disputes Between Bureaux**

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.

**Section VII – Entry into force**

## Article 20

**(80) Council of Bureaux 5/6.6.97 modified in 2007**