

## ANNEX I DEFINITIONS

For the purposes of the present Protocol the definitions of the Insurance Directives apply. In addition, the following terms are used as defined below:

- a) **First Non-Life Directive:** First Council Directive of 24 July 1973 on the coordination of laws, Regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (73/239/EEC);

**Second Non-Life Directive:** Second Council Directive of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC (88/357/EEC);

**Third Non-Life Directive:** Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive);

**Consolidated Life Directive:** Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance;

**Reinsurance Directive:** Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC;

**Reorganisation/Winding-up Directive:** Directive 2001/17/EC of the European Parliament and of the Council of 19 March 2001 on the reorganisation and winding-up of insurance undertakings;

**4th Motor Insurance Directive:** Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC;

**Insurance Directives:** the above Directives, Council Directive of 22 June 1987 on the coordination of laws, regulations and administrative

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provisions relating to legal expenses insurance (87/344/EEC) and Council Directive 84/641/EEC on tourist assistance;

- b) **Third Country:** any state other than a Member State;
- c) **Competent Authority:** the national authorities which are empowered by law or regulation to supervise Undertakings and which are either Members of CEIOPS or have signed the Joinder Agreement in Annex V; for the purpose of chapters IV.6.5 and IV.6.6, the term can also designate any other authority or natural or legal person who is competent under Article 2.g) of the Reorganisation/Winding-up Directive;
- d) **Undertaking:** any undertaking which has received or is seeking authorisation in accordance with Article 4 of the Third Non-Life Directive, Article 4 of the Consolidated Life Directive or Article 3 of the Reinsurance Directive, or in accordance with Article 23 of the First Non-Life Directive or Article 51 of the Consolidated Life Directive;
- e) **Insurance Undertaking:** any undertaking which has received or is seeking authorisation in accordance with Article 4 of the Third Non-Life Directive or Article 4 of the Consolidated Life Directive, or in accordance with Article 23 of the First Non-Life Directive or Article 51 of the Consolidated Life Directive;
- f) **Reinsurance Undertaking:** any undertaking which has received or is seeking authorisation in accordance with Article 3 of the Reinsurance Directive;
- g) **Home State:** the Member State in which the head office of the Undertaking is situated;
- h) **Host State:**
  - (i) the Member State in which the Branch is situated; or
  - (ii) the Member State in which the risk is situated in accordance with Article 2(d) of the Second Non-Life Directive; or
  - (iii) the Member State of the commitment in accordance with Article 1(g) of the Consolidated Life Directive, where the risk is covered or the commitment entered into by an Undertaking or a Branch located in another Member State; or
  - (iv) the Member State in which a reinsurance undertaking provides services;
- i) **Member State of the commitment:** the Member State in which the policyholder has his habitual residence or, if the policyholder is a legal person, the Member State in which the establishment of that legal person which is covered by the policy is situated;

- j) **Member State of the risk:** the Member State which is:
- (i) the Member State where the property is located, when the insurance relates either to immovable property or immovable property and its contents, in so far as the latter are covered by the same insurance policy;
  - (ii) the Member State in which the policyholder took out the policy, in the case of a policy whose term is four months or less, covering risks incurred during a journey or a holiday, whatever the class of insurance involved;
  - (iii) the Member State in which the policyholder has his habitual residence or, if the policyholder is a legal person, the Member State in which the establishment of that legal person which is covered by the policy is situated, in all cases not explicitly referred to in the previous indents;
  - (iv) in specific cases, the Member State which makes the insurance compulsory;
  - (v) the Member State of registration, when the insurance relates to vehicles<sup>1</sup> of any kind;
- k) **Branch:** any agency or branch of an Undertaking, having regard to Article 3 of the Second Non-Life Directive, Article 1.1(b) of the Consolidated Life Directive and Article 2.1(d) of the Reinsurance Directive;
- l) **Insurance Branch:** the activities referred to in Article 23 of the First Non-Life Directive and in Article 51(1) of the Consolidated Life Directive;
- m) **Shareholders/Members:** shareholders and/or members according to Article 8 of the Life Directive, Article 8 of the Third Non-Life Directive and Article 12 of the Reinsurance Directive. However, this should not prevent Competent Authorities to exchange information also on Shareholders/Members not meeting the above criteria;
- n) **General Representative:** a natural or legal person with powers granted by the Undertaking to bind it in relation to third parties and to represent it in relations with the Competent Authorities and courts of the Host State. Only one General Representative can be responsible for all business carried on by way of freedom of establishment in the Member State(s) of establishment. If the General Representative is a legal person, the Host State can invite this legal person to appoint in turn a natural person to facilitate contact with the local authorities;
- o) **General Agents:** management of a Third Country Branch;

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<sup>1</sup> Including aircraft and ships and other vessels.

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- p) **National office:** a national insurance office within the meaning of Article 1(3) of Directive 72/166/EEC;
- q) **National Guarantee Fund:** the organisation referred to in Article 1, paragraph 4 of Directive 84/5/EEC, replaced by Article 2 of Directive 2005/14/EC;
- r) **Written Form:** the communication of information in any form which creates a record, including communication by post, fax and electronic means (including e-mail). The means of communication shall be dependent upon the acceptance by the Competent Authorities of the Home State and the Host State. Communications by post shall be accepted in any case.