

## **Reinsurance Working Party - Meeting**

**Stockholm, Sweden, 13th January 1999, 10am**

### **Minutes**

**A meeting of the AIDA Reinsurance Working Party was held on 13 January 1999 in Stockholm**

**The following members were present: Colin Croly (Chairman), Birgitta Buren, Viveka Beckeman, Charlotte Boij, John Butler, Michelle George, Michael Gill, Lars Grundborn, Lena Kjellenberg Heynes, Gudrun Ingvarsson, Ulrich Jaeger, Tyrel Jonsson, Jens Karlsson, Richard Kennedy, Charlotte Lundquist, Pal Ljostad, Rose-Marie Lundstrom, Michael Mendelowitz, Rob Merkin, Lars Molgaard, Michael Rets and Mikael Rosenmejer.**

**Apologies were received from: Christian Bouckaert, Jose Antonio Casso del Castillo, Lorenzo Capotosti, Javier Carvallo, Patrick Le Corff, Jorge Gameiro, Tim Griffiths, Alistair Gunn, Mikael Hagopian, Jurgen Hubener, Rachel Levitan, Kathy Posner, Daniel Schmidt, Alex Schneeberger and Nancy Vila.**

**Colin Croly welcomed members of the Working Party and also others attending the meeting. He explained the general objective of publishing an International Comparative Study of Reinsurance Law, and the role of Working Party meetings in generating and discussing questionnaires. The first volume in the series which makes up the International Comparative Study of Reinsurance Law, What is Reinsurance, is now published by LLP Limited.**

### **Questionnaire No. 2 "Follow the Settlements"**

**Rob Merkin introduced the Second Report, Follow the Settlements, and drew attention to some of the differences between legal systems, including costs, punitive damages and the meaning of "follow the fortunes". The report would be circulated, to make sure that answers to the questionnaire had been interpreted properly. Any comments were to go to Colin Croly by 28 February 1999. Thereafter the manuscript would go to LLP for publication.**

### **Questionnaire No. 3 "Proper Law"**

This report was tabled in Marrakech and was now complete subject to minor comments which anyone might have. The deadline for responses to Colin Croly was 15 February 1999. Thereafter the manuscript would go to LLP for publication.

#### Questionnaire No. 4 "Event"

This questionnaire has been out for some time. Michael Mendelowitz reported that there were not enough responses to produce a report, and those who have yet to respond were urged to do so as soon as possible, with a view to submitting the report to LLP for publication by the end of the year. The new deadline is 30 June 1999, and the draft report will be tabled at the next meeting of the Working Party.

#### Questionnaire No. 5 "Custom and Practice"

Only one response has been received to this questionnaire to date, despite the 31 October 1998 deadline for submissions. The new deadline for responses is 30 June 1999, and the draft report will be tabled at the next meeting of the Working Party.

#### Questionnaire No. 6 "Cut-Through and Transfer Reconstruction Issues"

Copies of the questionnaire were tabled. Michael Gill introduced the questionnaire. He emphasised that this was very much a first draft, based on Australian experience. Feedback was requested from those with experience from other jurisdictions. It was agreed that an explanatory memorandum should be attached to the questionnaire. Various suggestions were made for the improvement of the questionnaire, including the separation of law from practice, and the removal of insolvency regimes from the scope of the questionnaire. Michael Gill invited comments on the questionnaire, copied to Michael and Colin Croly by the end of February 1999, and it would then be finalised. Michael's e-mail address is: [mjg@sydney.PhillipsFox.com.au](mailto:mjg@sydney.PhillipsFox.com.au).

#### Questionnaire No. 7

A questionnaire is required for the autumn meeting. One possible topic raised at the Marrakech meeting is the liability of intermediaries. Rob Merkin agreed to produce a

draft questionnaire for the next meeting. There is a possibility of a new AIDA working party on intermediaries being established, and it was agreed that Rob Merkin would consult with Gerard Kamphuizen, the convenor of the new working party.

#### **Relationship with LLP**

It was agreed that Colin Croly and Rob Merkin should talk to LLP about the updating of earlier reports. One suggestion was that when there are enough reports they could be collated into a looseleaf text, which could then be updated once or twice per year. Rob Merkin pointed out that the reports are likely to be published electronically.

There was general agreement that the price of the first report was too high.

#### **IJIL/AIDA**

It was reported that the AIDA section of IJIL would in future also be published as a separate newsletter, and would be used to keep members of AIDA informed of the activities of AIDA chapters, working parties, etc. It is hoped that the Reinsurance Working Party will include a report on its activities.

#### **Svenska Kredit v. Various Reinsurers**

A presentation on this recently published award was made by Pal Ljostad. The Working Party then engaged in a full discussion of the various issues raised by it. It is understood that the award is under appeal to the Swedish courts.

#### **Event**

A presentation was made by Michael Mendelowitz on the most recent developments on the law relating to "event".

#### **Y2K**

Colin Croly gave a presentation on the impact of concerns regarding the year 2000 on reinsurance underwriting and claims.

## **Next meeting**

**This is likely to be in New York, attached to the ARIAS US meeting. This to be held on 4-6 November 1999. The Reinsurance Working Party meeting is, subject to confirmation, to be held on 3 November 1999. One possible topic for discussion at that meeting will be the varying standards of good faith recognised in different jurisdictions. Volunteer speakers, particularly from the US, will be sought. The allocation of claims will also be discussed at that meeting, and again speakers will be sought.**