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No. 6038

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**UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND  
and  
FEDERAL REPUBLIC OF GERMANY**

**Agreement (with annex) concerning contracts of insurance  
and contracts and treaties of reinsurance. Signed at  
Bonn, on 28 January 1960**

*Official text: English and German.*

*Registered by the United Kingdom of Great Britain and Northern Ireland on  
19 January 1962.*

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**ROYAUME-UNI DE GRANDE-BRETAGNE  
ET D'IRLANDE DU NORD  
et  
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord (avec annexe) relatif aux contrats d'assurance et  
aux contrats et traités de réassurance. Signé à Bonn,  
le 28 janvier 1960**

*Textes officiels anglais et allemand.*

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le  
19 janvier 1962.*

No. 6038. AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING CONTRACTS OF INSURANCE AND CONTRACTS AND TREATIES OF REINSURANCE. SIGNED AT BONN, ON 28 JANUARY 1960

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The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federal Republic of Germany;

Having regard to the fact that the representatives of the insurers of their respective countries have agreed that the provisions of the Annex<sup>2</sup> to this Agreement shall form the basis of such an Agreement :

Have agreed as follows :

*Article I*

Except as provided in Article II hereof the present Agreement applies to the following contracts of insurance and contracts and treaties of reinsurance the proper law of which is either German law or the law of any part of the United Kingdom and which were made between natural or juridical persons who subsequently became enemies as the result of the war between the United Kingdom and the German Reich which began on the 3rd of September, 1939 and ended on the 9th of July, 1951 :

- (1) Contracts of insurance concluded in the United Kingdom,
- (i) One of the parties to which was an insurer constituted or incorporated in, or under the laws of, Germany, or
  - (ii) One of the parties to which was an insurer constituted or incorporated in, or under the laws of, any part of the United Kingdom, Australia, Canada, (including Newfoundland), New Zealand, Union of South Africa or Hong Kong, and the other party to which was a person, other than an insurer, resident in or constituted or incorporated in, or under the laws of, Germany;

(2) Contracts or treaties of reinsurance concluded in the United Kingdom, one of the parties to which was an insurer constituted or incorporated in, or under

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<sup>1</sup> Came into force on 30 November 1961, three months after the exchange of the instruments of ratification which took place at London on 29 August 1961, in accordance with article VII.

<sup>2</sup> See p. 36 of this volume.

the laws of, any part of the United Kingdom, Australia, Canada (including Newfoundland), New Zealand, Union of South Africa or Hong Kong and the other party to which was an insurer constituted or incorporated in, or under the laws of, Germany;

(3) Contracts of insurance concluded in Germany one of the parties to which was,

- (i) an insurer constituted or incorporated in, or under the laws of, any part of the United Kingdom, or
- (ii) a person who was resident in or constituted or incorporated in, or under the laws of, any part of the United Kingdom;

(4) Contracts or treaties of reinsurance concluded in Germany, one of the parties to which was an insurer constituted or incorporated in, or under the laws of, any part of the United Kingdom;

(5) Contracts of insurance and contracts and treaties of reinsurance concluded elsewhere than in Germany or the United Kingdom (other than contracts or treaties concluded in Austria and of which the law of any part of the United Kingdom is the proper law) one of the parties to which was either an insurer constituted or incorporated in, or under the laws of, any part of the United Kingdom or a person who was resident in or constituted or incorporated in, or under the laws of, any part of the United Kingdom and the other party to which was a person, including an insurer, resident in or constituted or incorporated in, or under the laws of, Germany.

## *Article II*

This agreement shall not apply to any contracts of insurance or contracts or treaties of reinsurance one of the parties to which is a person, including an insurer, resident in or constituted or incorporated in, or under the laws of, Germany unless such person, being an individual, is resident in, or being a body of persons or juridical person, has its principal seat in the Federal Republic of Germany or Land Berlin.

## *Article III*

In this agreement the expression "Germany" shall be taken to mean the territory comprised in the German Reich on the 31st of December, 1937, the expression "Austria" shall be taken to mean the territory comprised in

the Republic of Austria on the 31st of December, 1937, the expression "insurer" includes reinsurer, and the expression "insurer constituted or incorporated in, or under the laws of, any part of the United Kingdom" includes a member of Lloyd's or any other body of underwriters approved by the Board of Trade.

#### *Article IV*

The contracts and treaties specified in Article I of the present Agreement shall be dealt with in accordance with the provisions of the Annex to this Agreement.

#### *Article V*

The provisions of this Agreement and of the Annex thereto shall be without prejudice to the payment of any monies already made to a Custodian of Enemy Property pursuant to the provisions of the Trading with the Enemy legislation in the United Kingdom.

#### *Article VI*

If, after the entry into force of the present Agreement, it is considered advisable to extend its provisions to any of the territories for the international relations of which the Government of the United Kingdom of Great Britain and Northern Ireland are responsible, the provisions of this Agreement shall be deemed to apply to such territories from the date and in the manner described in the Notes to be exchanged for the purpose of effecting such extension.

#### *Article VII*

The present Agreement shall be ratified. The exchange of instruments of ratification shall take place at London as soon as possible. The Agreement shall enter into force three months after the exchange of the instruments of ratification.

#### *Article VIII*

The present Agreement shall also apply in the Land Berlin unless the Government of the Federal Republic of Germany make a declaration to the contrary to the Government of the United Kingdom of Great Britain and Northern Ireland within three months after the exchange of the instruments of ratification.

IN WITNESS THEREOF the undersigned, being duly authorised thereto, have signed the present Agreement.

DONE in duplicate at Bonn this twenty-eighth day of January, 1960, in English and German, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

James A. M. MARJORIBANKS

For the Government of the Federal Republic of Germany:

A. H. VAN SCHERPENBERG

## ANNEX

### PART I

#### CONTRACTS OF INSURANCE AND CONTRACTS AND TREATIES OF REINSURANCE WHICH HAD NOT TERMINATED BEFORE THE PARTIES BECAME ENEMIES

1. Contracts of Insurance and Reinsurance shall be dealt with in accordance with the following clauses.

##### *Insurance and Reinsurance (other than Life)*

2. Contracts of Insurance other than Marine and Aviation Insurance shall be deemed not to have been dissolved by the outbreak of war, or by the fact of the parties becoming enemies, provided that

- (a) the risk had attached before the parties became enemies, and
  - (b) the Insured had paid within six months from the date of the inception of the insurance or from the due date where such date is specially indicated, all moneys owed by way of premium or consideration for effecting or keeping effective the insurance in accordance with the contract.
3. Contracts of Marine and Aviation Insurance shall be deemed not to have been dissolved by the outbreak of war or by the fact of the parties becoming enemies, provided that
- (a) the risk had attached before the parties became enemies, and
  - (b) the Insured had paid before the date at which the parties became enemies all moneys due by way of premium or consideration for effecting or keeping effective the insurance in accordance with the contract.

4. In the event of the Insured having made the payment referred to in clauses 2 (b) or 3 (b) above in respect of part only of the period for which the contract was effected, then the contract shall be deemed to have been in force for that part only of its period for which such premium or consideration had been paid.

5. Contracts of Insurance other than those remaining in force under the preceding clauses shall be deemed not to have come into existence and any moneys paid thereunder shall be returnable.

6.—(a) Where an insurance has been transferred during the war from the original to another Insurer, or has been wholly reinsured, the transfer or reinsurance shall, whether effected voluntarily or by administrative or legislative action, be recognised and the liability of the original Insurer shall be deemed to have ceased as from the date of the transfer or reinsurance. Where an insurance has been partly reinsured during the war, the reinsurance shall, if the British Insurer so elects, also be recognised. The original Insurer shall be entitled to receive on demand full information as to the terms of the transfer or reinsurance, and if it should appear that these terms were not equitable, they shall be amended so far as may be necessary to render them equitable.

(b) The Insured shall, subject to the concurrence of the original Insurer, be entitled to retransfer the contract to the original Insurer as from the date of the Insured formulating a demand to that effect.

(c) Appropriate premium shall be payable in respect of any period unexpired as at the date of the transfer or reinsurance or retransfer of the original insurance by the party relieved of liability to the party which assumes the liability during such unexpired period.

7. Treaties and Contracts of Reinsurance (save as hereinafter expressly provided) shall be deemed to have been determined as at the date the parties became enemies; all cessions thereunder shall be cancelled with effect from that date and the Reinsurer relieved of all liability for losses occurring on or after that date, except as provided hereunder.

Provided always that cessions in respect of voyage risks which had attached under a Treaty or Contract of Marine Reinsurance shall be deemed to have remained in full effect until their natural expiry in accordance with the terms and conditions on which the risk had been ceded.

8. Subject to any specific provisions in the Treaty or Contract of Reinsurance, or in default of agreement between the parties as to the manner of accounting, the Reinsurer shall take credit for all earned premium and give credit for all unearned premium on a pro rata temporis basis.

9. Contracts of Excess of Loss Reinsurance (other than those on an "Excess of Loss Ratio" basis) shall be deemed to have been determined as at the date the parties became enemies. Premiums, including minimum premiums, shall be adjusted on a pro rata temporis basis; insofar as the contract provided for the Reinsured's original premium income to be the basis of adjustment, the original premium income in respect of the period preceding the date when the parties became enemies shall be taken.

Contracts of Excess of Loss Reinsurance on an "Excess of Loss Ratio" basis shall be deemed not to have come into existence and any moneys paid thereunder shall be returnable. Provided always that such contracts issued to cover crops against hailstorm shall, if the initial premium was paid at the due time and before the parties became enemies, be deemed to have remained in full effect throughout the entire duration of the 1939 hail season, except that any losses which occurred on or after September 3rd 1939, shall not be brought into account for the purpose of any calculation thereunder.

Pro rata Treaties issued to cover crops against hailstorm shall be deemed not to have come into existence, unless satisfactory evidence is produced of a definite offer and a definite acceptance by the respective parties in which case the provisions of clause 7 above shall apply thereto except that all premiums thereunder for the 1939 hail season shall be deemed to have been fully earned by the Reinsurer.

10. Contracts of Facultative Reinsurance in respect of which
- (a) the risk had attached before the parties became enemies, and
  - (b) all moneys owed by way of premium or consideration for effecting or keeping effective the reinsurance had been paid or set off in the customary manner,

shall be deemed to have remained in full effect until the date at which the parties became enemies and to have been determined on that date. The Reinsurer shall respond for losses recoverable under the contract which occurred before that date and shall be relieved of all liability for losses which occurred on or after that date. The Reinsurer shall take credit for earned premium and give credit for unearned premium on a pro rata temporis basis.

Provided that such Facultative Reinsurance in respect of voyage policies shall be deemed to have remained in full effect until their natural expiry in accordance with the terms and conditions on which the risk had been ceded.

Provided further that a Facultative Reinsurance in respect of any Contract of Insurance dealt with in clauses 2, 3 or 4 above shall be deemed to have remained in force as provided for in those clauses in relation to that contract.

11. Contracts of Facultative Reinsurance, other than those dealt with in the preceding clause, shall be deemed not to have come into existence and any moneys paid thereunder shall be returnable.

12. Contracts of Reinsurance voluntarily effected before the parties became enemies, with the object of relieving the original Insurer of liabilities in the territory concerned in the event of the parties becoming enemies shall not be deemed to have been determined but shall be regarded as reinsurance within the meaning of clause (6) (a) above.

13. There shall be an adjustment of accounts between the parties, and in order to establish a resulting balance there shall be brought into the accounts all balances (which shall include an agreed reserve for losses still outstanding) and all moneys which may be

due from one party to the other under all Treaties and Contracts of Reinsurance or which may be returnable by virtue of any of the foregoing provisions.

Supplementary accounts shall be rendered in respect of outstanding losses in connection with Treaties and Contracts of Reinsurance.

14. Contracts of Insurance, and Treaties and Contracts of Reinsurance, shall be deemed not to cover losses or claims due to belligerent action by either Power of which any of the parties was a national or by the Allies or Associates of such Power nor, in respect of voyage risks, losses or claims directly or indirectly due to compliance on or after the 15th August, 1939 by the Master of the vessel with orders given in furtherance of war policy by the Government of the Power of which the insured party was a national to delay, interrupt, or change the course of the voyage.

15. No interest shall be payable by any of the parties for any delay which, owing to the parties having become enemies, has occurred or may occur in the settlement of premiums, claims or balances of account.

16. The parties shall not be liable for claims insofar as liability for such claims shall since the parties became enemies have been adversely affected by any modification or application of the terms of the contract contrary to its original intention whether by enactment, administrative action or Court decision.

17. Except as provided in clauses 14 and 16, nothing in this Agreement shall nullify anything done in Germany after the outbreak of war by any of the parties in performance of Contracts of Insurance or of Facultative Reinsurance.

#### *Insurance and Reinsurance (Life Clauses)*

18. Contracts of Life Insurance (and of Facultative Reinsurance of Life risks) shall be deemed not to have been dissolved by the outbreak of war or by the fact of the parties becoming enemies, and in determining the obligations of the parties all the terms of the contracts shall, except where the parties mutually agree, be regarded as being in full force.

19. Insurers shall not be liable for claims insofar as liability for such claims shall since the parties became enemies have been adversely affected by any modification or application of the terms of the contract contrary to its original intention, whether by enactment, administrative action or Court decision.

20. Treaties of Reinsurance between parties who subsequently became enemies shall be deemed to have been determined as at the date the parties became enemies.



## PART II

CONTRACTS OF INSURANCE AND CONTRACTS AND TREATIES OF REINSURANCE WHICH HAD  
TERMINATED BEFORE THE PARTIES BECAME ENEMIES

*Insurance and Reinsurance (other than Life)*

No interest shall be payable by any of the parties for any delay which, owing to the parties having become enemies, has occurred or may occur in the settlement of premiums, claims or balances of account.

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