



Modernisation of the EC Competition Law regime - impact on the International Group Agreement.

There has been some recent speculation in the press about the status of the International Group Agreement (“IGA”) after 2009 and the summary below is intended to clarify the current position and the position going forward. The IGA benefits from a decision of the European Commission granting it exemption under Article 81(3) of the EC Treaty (relating to competition rules). The Commission first granted an exemption for the IGA in 1985, following a notification by the International Group. The current exemption was granted by the Commission in 1999, again following a request by the International Group, and continues until 20 February 2009. With effect from 1 May 2004, a new EC Competition Law regime has been in force.

The new regime changes the procedures by which Article 81 of the EC Treaty is applied and enforced, but does not change the substance of Article 81. The main features of the new regime are that the procedures for notifying agreements to the Commission in order to obtain an exemption have been abolished and that exemption now applies “automatically” to any agreement that meets the criteria of Article 81 (3) without the need for notification to, or decision by, the Commission. Under the new regime, businesses make their own assessment as to whether their arrangements are compatible with Article 81.

From the perspective of the International Group, the effect of the new regime means that, in practice, as from the expiry of the existing exemption in February 2009, the IGA may be expected to benefit “automatically” from exemption under Article 81 as long as there are no major changes in the basic structure of the P&I market. At present the International Group submits a report annually to the Commission on relevant developments and expects to continue to do that after 2009.