

## Detariffication Continued: Minimum Standard Wordings

December 11 2007

### Background

### Minimum Standard Wordings

### Comment

### Background

On January 1 2007 the Insurance Regulatory and Development Authority (IRDA) liberalized tariff rates within certain parameters (for further details please see "Removal of Tariffs: One Month On"), but insurers must continue to use the forms approved by the Tariff Advisory Committee until March 31 2008.

The IRDA roadmap to a detariffed market envisaged insurers filing the policies which they proposed to sell in the detariffed regime, but in recent months there has been a reconsideration of whether complete detariffication will occur. The General Insurance Council (GIC), a statutory body established under Section 64C of the Insurance Act 1938 which represents the collective interests of non-life insurance companies, was given the responsibility of developing standard market wordings for fire, engineering and motor risks for insurers to follow after detariffication.

The GIC states that its objectives are:

- the smooth transition of the market from tariff to tariff-free regime;
- assurance of minimum standards to insurance buyers;
- clarity of policy terms and conditions and uniformity of interpretations; and
- introduction of best global practices.

### Minimum Standard Wordings

The GIC has published its proposed minimum standard wordings for fire, engineering and motor risks and says that these wordings "have been developed as base level, with scope for customization through endorsements for addition or deletion of covers". Endorsements have also been drafted by the GIC.

Although the wordings are lengthy and currently under review by sections of the market, and although the GIC has said that the minimum standard wordings are not intended to restrict insurers from creating their own wordings, fundamental questions have been raised about the GIC's stated objectives.

In terms of achieving a smooth transition of the market from tariff to tariff-free regime, the more liberal elements of the market have asked why the minimum standard wordings are needed. Those who want the market to determine wordings, subject to oversight by the IRDA, ask whether the publication of minimum

standard wordings is not simply 'tariff lite'.

The laudable intention of an assurance of minimum standards for the insurance-buying public has also attracted comment. Despite the absence of any public demand for minimum standard wordings, insurers wishing to sell a policy in the detariffed regime will first have to file it with the IRDA for approval before marketing it to the public. The public appears to have endorsed new insurers and the products which they have been offering since liberalization in 2000, without expressing concerns over the absence of minimum standards in the form of minimum standard wordings. Minimum standards have hitherto been satisfied by the 'file and use' procedure for all policies continuing post-detariffication.

It has been asked whether a smooth transition of the market from tariff to tariff-free regime would not be better achieved by obliging insurers to offer existing tariff covers alongside new detariffed wording for a period of time so that the market could take its time gaining confidence in the new covers. Alternatively, the minimum standard wordings could comprise broad guidelines rather than actual wordings.

### Comment

Whether the GIC objective of policy term clarity can be achieved is debatable because the policy that is unsusceptible to challenge is yet to be created. Decades of case law and familiarity with tariffed products is to be replaced by new minimum standard wordings. Why not require insurers to offer tariff wordings alongside new covers for a transition period that may extend to a number of years? The existing tariff covers may not be perfect, but they are familiar to the insurance-buying public, the courts and the insurance industry.

The emerging differences of opinion concern not the GIC's stated objectives, but rather whether minimum standard wordings are the best way to achieve those objectives. Even if they were, issues arise as to implementation. For example, the time for considering the minimum standard wordings is short and it is unclear whether this is necessary. The insurance industry and those who work in it and for it, as well as the insurance-buying public, need a proper period of consultation and debate so that the end product is capable of standing the test of time, as well as meeting the other GIC objectives.

*For further information on this topic please contact Neeraj Tuli at Tuli & Co by telephone +91 11 2464 0906, fax +91 2464 0904 or email [n.tuli@tuli.biz](mailto:n.tuli@tuli.biz)*

[www.tuli.biz](http://www.tuli.biz)

*Originally edited by, and first published on, [www.internationallawoffice.com](http://www.internationallawoffice.com)*