

20th August 1991



**TO ALL MEMBERS OF CLASS 6  
FREIGHT, DEMURRAGE AND DEFENCE**

The Britannia Steam Ship  
Insurance Association Limited

**Contracts (Applicable Law) Act 1990**

On 1st April 1991 the Contracts (Applicable Law) Act 1990 came into effect in the U.K. This Act brings into force the Rome Convention of 1980 on the law applicable to a contract having connection with more than one country and applies to all contracts made on or after 1st April 1991.

The Act sets out guidelines for deciding the applicable law of a contract where there is no express choice of law clause. The English common law position had been that, in the absence of an express choice of law clause, the jurisdiction clause (i.e. choice of forum) gave rise to a strong inference that the contract would be governed by the law of the chosen jurisdiction. The effect of the Act is that this presumption no longer exists, and that a new test will be applied to determine the governing law in the absence of an express choice of law clause. The English courts will now look to the law of the country with which the contract "is most closely connected".

While in many instances this new approach may not produce a different result from at present, we strongly recommend that, in order to avoid uncertainty and lengthy and expensive litigation in the U.K., Charter Parties and Bills of Lading should include an express choice of law clause in addition to a jurisdiction (choice of forum) clause.