

## Insurance Europe position paper for the TTIP

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### Insurance Europe position paper for the Transatlantic Trade and Investment Partnership (TTIP)

Insurance Europe, the European (re)insurance association, welcomes the EU-US Transatlantic Trade and Investment Partnership (TTIP). We hope that through deeper integration of the EU and U.S. economies through trade, investment and regulatory cooperation economic growth should be stimulated on both sides of the Atlantic.

Insurance Europe believes that (re)insurance is a fundamental ingredient for creating a robust economy that can sustain growth and job creation. It also is an inherently international industry with European and US companies together representing 61% of global premium<sup>1</sup> in insurance and more than 90% in reinsurance<sup>2</sup>. Therefore, we urge EU and US negotiations to consider financial services, including (re)insurance, as a key component in the TTIP, with an aim to achieve ambitious market access commitments and better regulatory cooperation.

This, we believe, would not only help facilitate growth in the EU and US but also strengthen the ability of our markets to influence the shape of global (re)insurance supervision and regulation. It would also set a high level of ambition for other trade agreements, including the plurilateral negotiations in services (TISA), currently taking place in Geneva. We fear that the exclusion of financial services from the TTIP would set a negative precedent for future negotiations.

Insurance Europe would like to see the EU and U.S. work towards full market access and national treatment for the insurance sector, going beyond the commitments made under the World Trade Organization's (WTO) General Agreement in Trade on Services (GATS) (the limitations are described state by state)<sup>3</sup>.

We also believe that the TTIP should include ambitious transparency standards, including a compulsory consultation process for the establishment of any prudential carve-out and following a potential carve-out being agreed a process for the discussion of the application of it.

<sup>1</sup> Swiss re sigma report 2013 "World insurance in 2012"

<sup>2</sup> IAIS (2012) GIMAR Global Insurance Market Report

<sup>3</sup> <http://i-tip.wto.org/services>

### **Substantive content rules on market access**

Insurance Europe encourages EU and US negotiations to discuss the following market access concerns:

**US Reinsurance Collateral** – Insurance Europe has long opposed the collateral requirements in the US. These requirements constitute a discriminatory market access barrier judging reinsurers exclusively on origin, ignoring a reinsurer's financial strength, rating and claims-payment record, history of participation in the market and quality of domestic regulatory regime.

We believe that the TTIP negotiations provide an opportunity to address this issue in a straightforward and expedited way, through the inclusion of a truly ambitious covered agreement requiring the total elimination of the discriminatory collateral requirements for foreign reinsurers in the US. This would be in line with the objectives of the EU/US insurance dialogue "Way Forward" document<sup>4</sup> with respect to reinsurance and collateral requirements, which recommended to "examine the further reduction and possible removal of collateral requirements".

**US affiliated tax proposals** – U.S. tax deductions on reinsurance cessions to affiliated reinsurance companies located outside the U.S have appeared a number of times over the last few years. They have been included in Obama's budget proposal, introduced to Congress in the form of the Neil bill in 2010 and 2012 and were most recently included in the Senate Finance Committees US corporate tax reform proposals.

Although there are some differences in the detail between the various proposals, they all distinguish between suppliers based on their origin. Among affiliated reinsurance companies, the disallowance of deductions applies only to premiums paid to those that are foreign-owned and foreign-based and does not apply to those that are U.S.-based.

In order to avoid this discriminatory treatment, the proposals have allowed a foreign reinsurer to "elect" to treat the disallowed premiums and the associated investment income as income effectively connected with the conduct of a trade or business in the U.S. However, this election merely creates risk of double taxation and different kinds of compliance burden.

### **Enhanced cooperation procedure for regulatory issues**

Insurance Europe welcomes the EU and US intentions to go beyond conventional market access barriers and to be more ambitious by covering also regulatory cooperation. We believe that regulatory cooperation plays an essential role in economic growth and job creation, as recognized by the High Level Working Group (HLWG). In fact, according to the study from the Centre for Economic Policy Research instructed by the European Commission<sup>5</sup>, around 80% of the economic benefits of a transatlantic trade agreement would derive from eliminating non-tariff barriers.

Many large European insurers have a significant amount of their premium originating from the US transacted either on a cross border basis, or through establishing branches or subsidiaries. The same counts for many US insurers which are active within the EU. This competition benefits consumers and industry as it leads to more competitive prices and greater product variety. Insurance is a highly regulated sector and insurers frequently find themselves subject to costly duplicative regulatory requirements.

Therefore, Insurance Europe welcomes the EU proposal to "establish, within the TTIP framework, a transparent, accountable and rule-based process which would commit the two parties to work together"<sup>6</sup>. This is because we believe that the greatest benefits for our industry, the policyholder and financial stability will

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<sup>4</sup> EU - U.S. Dialogue Project (2013) "The Way Forward: Objectives and Initiatives for the Future"

<sup>5</sup> Centre for Economic Policy Research (2013) "Reducing Transatlantic Barriers to Trade and Investment"

<sup>6</sup> European Commission (2013) "Cooperation on financial services regulation"

come from addressing regulatory cooperation, reducing unnecessarily divergent or duplicative requirements, through good regulatory practice, information exchange, early consultations and sufficient time to comment.

In this respect, Insurance Europe recognises and welcomes the improved understanding of respective regulatory systems and supervisory procedures that has already been achieved through the EU-US insurance dialogues. These dialogues have been going for many years, however, the increased momentum and stakeholder transparency over the last couple of years culminating in the publication of a technical report and “Way Forward” document in December 2012, is something that we believe needs to be maintained going forward.

In this respect, we believe that the TTIP agreement should:

- Ensure the inclusion of financial services, and particularly insurance in the agreement. This, we believe, would be a positive benchmark for ongoing and future trade negotiations.
- Not seek to duplicate the insurance dialogues but provide a political framework to support and enhance them. For example, the TTIP should provide high level political support to the goals and milestones included in the “Way Forward” document, ensuring that these steps are met in a timely manner.
- Maintain the current level of ambition in the future. In this respect, we do not see the TTIP agreement as a standalone achievement in a specific moment of time but as the foundation of a continuous improvement process.
- Develop new tools that include a trigger, methodology, and transparent process for review of both ex-ante and ex-post regulations deemed to be important to the transatlantic economy.
- Avoid the imposition of trade restrictive measures and limit the extraterritorial impact of regulation.
- Mandate all regulators to strive to determine and reach mutual recognition based on equivalence of outcome not on methodologies.

## Conclusion

Insurance Europe believes that the inclusion of financial services and specifically insurance in the negotiations has the potential to sustain and stimulate economic growth and job creation on both sides of the Atlantic.

We encourage the EU and US to work towards full market access and national treatment for the insurance sector. In particular, we urge the European Commission to push for the total elimination of the discriminatory collateral requirements.

However, we believe the greatest benefits for our industry will come from addressing regulatory issues. Insurance Europe welcomes the recent Commission’s proposal to establish a framework for regulatory cooperation in financial services. This we believe should complement the current EU and US dialogues through providing political support and a framework that will ensure milestones are met in a timely manner and the current level of momentum is maintained.

Insurance Europe is the European insurance and reinsurance federation. Through its 34 member bodies — the national insurance associations — Insurance Europe represents all types of insurance and reinsurance undertakings, eg pan-European companies, monoliners, mutuals and SMEs. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe’s economic growth and development. European insurers generate premium income of more than €1 110bn, employ almost one million people and invest over €8 500bn in the economy.