Position Paper

Insurance Europe priorities for the CETA negotiations with Canada

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Summary of issues

- **Collateral requirements for reinsurance placements** – Full capital credit is only allowed for reinsurance ceded to unregistered reinsurers holding collateral equalling 115% of the outstanding losses recoverable including incurred but not reported losses plus ceded unearned premiums. If the funds held are below 115%, the ceding company attracts an additional margin on ceded unregistered reinsurance.

  The collateral must meet OSFI (Office of the Superintendent of Financial Institutions) requirements and be held in either RSA (Reinsurance Security Agreement) or approved Letters of Credit. The funds held in the RSA attract capital margins for the ceding company based on the individual credit ratings of these investments. In practise this results in investments mostly being held in government issued instruments, which have a 0% capital margin factor. Moreover, the use of Letters of Credit as accepted collateral is limited to 15% of the risks ceded to unregistered reinsurers.

  OSFI's approach does not distinguish between reinsurance placements with financially strong non-registered reinsurers from well regulated jurisdictions and placements with weaker non-registered reinsurers from less well regulated regimes. These collateral requirements limit the risk bearing capacity of international reinsurers and impede the insurability of significant risks such as severe natural disasters. In addition, the pledging of assets increases the capital costs of reinsurers and makes the premiums for reinsurance cover more expensive.

- **The re-interpretation of the phrase "insure in Canada a risk" strongly encourages foreign insurers to establish a physical presence in Canada** – The clarification of "insure in Canada a risk" under Part XIII of the *Insurance Companies Act (Canada)* means that all Canadian (re)insurance business written outside of Canada (cross border) will be classified as unlicensed/unregistered unless sufficient operational activity has been undertaken in Canada in order to retain registered risk status. This introduces a clear disincentive to conduct cross-border business or business via branches as if business is classified as unregistered in terms of reinsurance it means collateral that will need to be held in order for cedants to take credit. Additionally, this process is often delayed as Canadian insurers need pre-approval from OSFI for placing reinsurance with unregistered reinsurers. There is a requirement from OSFI prohibiting companies to front more that 75% of their gross business.

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In addition, Central Premium Payment in Canada for risks insured abroad and accepted as assumed business are still to be treated as business in Canada and as such will attract excise tax as per the Excise Tax Act (CRA) (differs between provinces, up to 50% of premium in Alberta). In parallel, provincial insurance regulations would also impose a number of restrictions to permitted insurance activities (e.g. solicitation, claims adjusting) in respect of the Canadian insured.

- **Mutual Recognition of (re)insurance supervision** – The European insurance industry would like to see increased mutual recognition of (re)insurance regulation between Canada and the EU. This would be in line with the G20s call for greater regulatory convergence and the efforts of the International Association of Supervisors (IAIS) to foster global convergence of supervisory measures and approaches. The lack of recognition of home regulatory supervisory regimes creates a duplication of reporting requiring European insurers to carve out their Canadian business for certain specific testing and reporting criteria. In this regard, Insurance Europe would like to encourage OSFI to re-evaluate its decision not to take part in Solvency II equivalence discussions with the EU. Insurance Europe believes that the equivalence assessments in Solvency II are a valuable tool to facilitate mutual recognition between Canada and the EU. A positive equivalence finding would allow reinsurance contracts concluded with Canadian (re)insurers to be treated in the same manner as contracts concluded with EEA (re)insurers. It would also prohibit Member States of the EEA from requiring the pledging of assets to cover unearned premiums and outstanding claims provisions (collateral).

- **Difficulties arising from dealing with multiple regulatory jurisdictions** – In Canada insurance companies are subject to supervisory requirements at both the provincial and the federal level. This creates an additional reporting burden and higher costs for doing business. This is further complicated by differences in the reporting requirements amongst the various provincial authorities. The divergences in approaches appear to be increasing with recent changes to legislation in the provinces of Quebec and British Columbia. Work needs to be undertaken to harmonise and achieve greater uniformity in Canadian regulatory reporting requirements both between the provinces and with OSFI at the federal level. In this regard, we think that OSFI could potentially have a role as central information repository.

- **Onerous approval requirements on foreign insurers** – In order for a foreign insurer to be approved by OSFI by way of an order under Part XIII of the *Insurance Companies Act* (Canada), it must vest assets in Canada to the prescribed value, appoint an actuary and an auditor, and appoint a natural person ordinarily resident in Canada to be its Chief Agent. In addition, it then needs to obtain a licence in each province and territory in which it wishes to carry on business. These all create barriers to foreign insurers wishing to establish a commercial presence in Canada.

- **Preferential treatment granted to Export Development Canada** – Export Development Canada (EDC) controls almost 80% of the export credit insurance market in Canada. Aside from its significant market share, this state owned enterprise is also afforded a number of benefits which enable it to compete with the private sector on advantageous terms. For example, EDC benefits from: a AAA sovereign rating, a large capital base supported by the taxpayer, an ability to safely accept any risk in the knowledge of a government backing, an ability to buy market share at any time, an ability to offer financial guarantee insurance and a large marketing budget thus enabling EDC to promote itself to the exclusion of the private sector market. These factors are another barrier to entry and make it difficult for the private sector to compete. We would therefore, like to see EDC's monopolistic share in the export credit insurance market reduced, and its role adapted to one that complements rather than competes with the private sector.