

FOREWORD

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IT would be an understatement to say that reinsurers and insurers face all kinds of problems both inside and outside Europe. Yet, whatever their other preoccupations, they have to act within the framework of intercontinental and regional legislation -- from GATT to EC and EFTA.

Therefore, the industry would do well to study the implications for business in western Europe and beyond of the European Economic Area (EEA). A comprehensive agreement for its creation has resulted from negotiations between the twelve-state European Community (EC) and the European Free Trade Area (EFTA) whose seven members are: Austria, Finland, Iceland, Liechtenstein, Norway, Sweden and Switzerland.

Insurance and other financial services are an important part of the accord which is to establish a fully integrated market among the 19 countries for services, capital, labour and goods. The agreement foresees that the community's directives, decisions and recommendations relative to insurance will be extended to apply to EFTA also. The seven states will incorporate into their national legislation the requirements relative to insurance companies contained in the EC legislation, and their insurers will be granted the same opportunities to compete within the territories of the 19 countries as the insurers of the EC member-states.

The EEA Agreement will enter into force on 1 January 1993. EC insurance acts which have entered into force before that date will apply to the EFTA countries from the date of the entering into force of the EEA Agreement. Provisions and legislation which in the EC will enter into force at later dates, will from these later dates also apply to the EFTA countries. Some small, mostly local, insurers in Finland, Iceland and Norway are granted a transition period of two years from 1 January 1993 in order to fulfil the requirements of the EC directives. These insurers are listed in the agreement.

The EC's insurance directives contain special

provisions relative to the establishment of branches of insurance companies from non-EC countries, and relative to the establishment of insurance companies owned in third states. A major issue in the negotiations relative to insurance was how to adapt these third-country-relation provisions to the EEA framework. The basic policy of EFTA states towards third countries has been to maintain autonomy. Actually, this was one of the main principles on which EFTA was based from the very start in 1960.

Free trade in goods between countries belonging to a customs union and countries belonging to a free trade area requires the establishment of certain rules of origin. For services as insurance this would not be a feasible alternative. Special limitations on the activities of insurance companies belonging to third countries established in EFTA states would conflict with the basic concept of an integrated EEA insurance market. A compromise had to be found between the common regime of the EC directives and the full autonomy which was the starting point for the members of EFTA.

These states will apply the same requirements relative to solvency margins and guarantee fund on branches of third-country insurance companies as the EC. However, an EFTA country may, as may the community, by way of agreements with third countries, deviate from these special requirements.

Concerning the establishment of third countries' insurance companies, the EC has adopted the same reciprocity regime as first was introduced in the second banking directive with respect to credit institutions. This regime states that all duly authorized third-country insurance companies will be treated as EEA insurance companies. However, applications for new establishments may be subject to the test of reciprocity outlined in the directives.

In the EFTA states also all established foreign-owned insurance companies will be 'grandfathered' and treated as ordinary EEA institutions. EFTA states will apply the same

reciprocity criteria as the EC with respect to the establishment of new insurance firms originating in third states. The contracting parties of the EEA agreement aim at co-ordinating the application of these criteria, but the EEA third-country regime also allows for divergencies. If, for instance, some EFTA countries do not want to adopt sanctions against a third country in a situation when the EC has decided to do so, the EFTA countries concerned may abstain from this. However, any licences granted by such an EFTA country to new insurance companies from the third country concerned will at the outset then be limited to that EFTA country only.

When the European Commission negotiates with a third country to obtain effective market access and national treatment, it shall endeavour to obtain the same market access and treatment for EFTA insurance companies. If such negotiations are successful, in other words, do not result in discrimination against the EFTA countries by the third country or in quantitative restrictions on establishment of EFTA-owned insurance companies, the EFTA countries will then have to recognize licences granted by EC countries to insurance companies coming from the said third country.

Generally, the third-country regime of the agreement implies that the EFTA states *de facto* may not be more restrictive than the EC in allowing establishment of externally owned institutions, but they may be more liberal. The established regime balances carefully obligations and rights, and autonomy and joint policy.

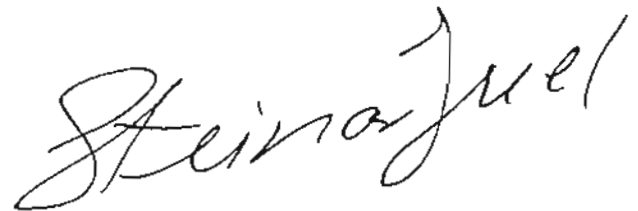
In the field of insurance, the European Commission has presented some important proposals for directives, which the EC Council of Ministers has not yet adopted. They include a proposal for a directive on annual accounts, and the third non-life and life insurance directives. Only instruments adopted by the EC are integrated into the EEA Agreement. However, this instrument will be evolutionary.

When the EC council adopts a new directive relative to insurance, it will be presented to the EFTA states for their adoption. Prior to such presentation, when a new legal act is being shaped in the EC, comprehensive consultations and exchange of information will take place between the EC side and the EFTA states with a view to reaching a convergence of views before the stage of adoption. The EFTA states may also take initiatives leading to amendments of existing acts or to the development of new acts. Such acts to be integrated into the EEA Agreement will generally enter into force at the same time in the European Community and in the EFTA states.

The EEA Agreement will ensure that insurers established in EFTA states will be subject to the same requirements and have the same competitive possibilities as insurers estab-

lished in EC member states. The consumers of the EFTA countries will, as will the consumers of the EC, benefit from more competition and lower prices. A study carried out by the Institute of European Finance in Bangor (Wales), which was commissioned by EFTA's secretariat, indicates that the EC consumers will benefit from the inclusion of the European Free Trade Area into the internal financial market.

The EEA Agreement will encompass all the four freedoms of the Treaty of Rome. It is therefore not only the insurance industry of the EFTA and EC states that will face an integrated market, but also its customers. They will be more internationalized. The number of large customers can be expected to increase. This is a challenge a traditionally nationally fragmented insurance industry will have to face up to. This will result in more mergers and international alliances between insurance companies, and probably also in a larger market for reinsurance. ■



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