



Past issues  
IUMI Policy Forum



## Cross-border trade

### *Brief description*

Multinational marine insurers are affected by a wide range of barriers of doing business abroad; limited movement of data across borders, unfair competition from state-owned enterprises, lack of transparency and need for due process of law, and forced local ownership and discrimination in obtaining business licenses and permits. Some countries also require that import or export shipments have to be insured by a locally registered insurer, while buyers are only allowed to buy insurance coverage for import shipments abroad or on basis CIF. Any agreement which leads to a reduction of the aforesaid restrictions would contribute to enable marine insurers to achieve their full potential.

Recent developments with a view to a “trade war” between large importing and exporting nations are affecting the movement of goods and trade flows. Consequently, this is also affecting marine insurance and the cargo market in particular.

### International Trade in Services Agreement (TiSA)

Since the World Trade Organization (WTO) established the General Agreement on Trade in Services (GATS) in 1995, trade in services has evolved dramatically due to technological advances, changing business practices, and deeper global integration. The dynamism and importance of trade in services contrast strongly with the slow pace of multilateral negotiations in this area. When the Doha Development Round of a multilateral trade negotiation reached an impasse, the idea of the Trade in Services Agreement (TiSA) was launched by the U.S. and proposed to a group of WTO members; the so-called Really Good Friends (RGF) group. The group met regularly from February 2012, but the proceedings came to a complete halt in January 2017 with the Presidency of Donald Trump in the U.S.

TiSA represents an opportunity to improve and expand trade in services. Major and fundamental barriers to trade in services are addressed, and a more liberal approach to cross-border regulation in areas such as marine and energy insurance has been suggested. IUMI supports the TiSA process, and encourages the proceedings to resume in the near future.

### Brexit (not updated)

Ever since the UK voted in June 2016 to leave the European Union there has been intense speculation about what any future post-Brexit trading relationship might look like. Both the UK Government and EU negotiators have expressed a desire to sign an ambitious free trade agreement that minimises tariffs and regulatory barriers to cross-border business.

Such a deal will not be easy, and if no settlement is reached the default position would be for the UK to fall back on its membership of the General Agreement on Tariffs and Trade and the World Trade Organization. On the face of it, marine insurance would be relatively well placed in such a scenario. The General Agreement on Trading Services, annexed to the WTO rules, identifies marine, aviation and transport risks as suitable for being written on a non-admitted basis where local law does not trigger the need for a local license.

However, the prospect of trading advantages for marine insurance, and financial services in general, under the GATS annex is far from certain. A “prudential carve-out” allows regulators to take any prudential measures they deem necessary to protect policyholders and ensure financial stability.

Following the triggering of Article 50 of the Lisbon Treaty in March 2017, the UK initiated the process of formally exiting the EU and the negotiations between the EU and the UK Government began.

Two kinds of negotiations are taking place simultaneously.

1. The Withdrawal Agreement – the terms on which the UK departs the EU. Key political issues include the financial settlement, citizens’ rights and the Irish border. 80% of these negotiations are complete, leaving a number of technical issues and two significant political issues namely governance and the backstop for Northern Ireland.
2. The Future Economic Partnership – the new relationship between the EU and the UK. Key issues include goods, agricultural, food, fishery products, customs, transport, energy and services including financial services. In May 2018, the UK Government published a list of issues it intended to discuss with the EU on the future framework.

When the Withdrawal Agreement is finalised, business will be able to make decisions in the knowledge that:

- There will be a 21-month status quo transition period until January 2021, where UK business will continue to have preferential access to the single market and customs union.
- From March 2019 EU citizens currently in the UK will be able to apply for settled status if they have lived in the UK for five years.
- Goods placed on the market during transition will be able to circulate freely across the UK and the EU and will follow the same single market rules until they reach the end-user.

With regard to the future economic partnership, the EU has presented the UK with two already established models for its future relationship, i.e. a comprehensive free trade agreement modelled on the EU’s agreement with Canada or Norway’s model of membership of a European Economic Area. The UK Government and industry does not support either model, arguing that the UK economy warrants a new bespoke model offering mutual benefit to both markets.

The UK position on the future economic partnership is explained in the “Chequers white paper” issued after a full UK Government Cabinet meeting at the end of June 2018. This paper caused much controversy, as it seemingly pleased neither the hard-core “remainers” nor “brexiteers”. The paper was also disappointing for the insurance industry as it did not aspire to mutual market access but referred to some form of “equivalence plus” regime. Solvency II includes equivalence procedures, which are controlled by the European Commission and can be withdrawn at 30 days’ notice. The UK Government wishes to enhance these procedures for reinsurance. The UK insurance market is lobbying the UK Government for these procedures to include large

risks as currently defined within Solvency II. This would include most marine business written in the London market.

The Great Repeal Bill, whose function is to end the authority of EU law in the UK and convert existing direct EU law into UK law, was introduced to Parliament in July 2017. After intense scrutiny in both the House of Commons and the House of Lords, Royal Assent was given in June 2018 making the Bill law.

Other bills will soon be introduced covering matters such as trade, cross-border taxation, nuclear safeguards, immigration, sanctions and anti-money laundering, agriculture and fisheries. The Trade Bill is of particular interest to marine insurers in that the UK will seek easy and open access to global markets, deemed vital to the UK's future prosperity. UK business welcomes the ambitions set out in this Bill and will wish to embrace the opportunities of a global trade agenda. It is still too early to understand the clear strategy behind these ambitions.

For insurance business specifically, the UK insurance industry has raised a number of areas of importance. These include the grandfathering of obligations due under expired policies, obtaining contract continuity for in-force policies and upcoming renewals and gaining further clarity on the position of EU branches operating within the UK. EIOPA has issued guidance regarding the operation of new EU subsidiaries formed to write EU business previously written out of the London market. A number of EU jurisdictions have been selected by global insurers in which to base a new EU subsidiary or SE. Dublin and Luxembourg are the two most popular although Brussels, Paris, Munich, Malta and Lichtenstein are all chosen options depending on the business operation of the insurer. Most insurers wish to continue to use resources based in London and to retain minimal risk within the new EU subsidiary, at least in the early years of operation.

No Deal – One cannot dismiss the possibility of the UK exiting the EU without a deal. There is much political posturing on both sides and the UK is formulating plans in the event of a so-called hard Brexit. Most people agree that a no-deal scenario presents tremendous challenges, certainly in the short term. It would place the transitional arrangements in jeopardy and raise significant questions over contract continuity. A minority seem more relaxed about this scenario as WTO rules would then prevail.

#### Belt and Road Initiative

China's Belt and Road Initiative (BRI) focuses on connectivity and cooperation throughout Eurasia and the Pacific, involving some 68 countries. The initiative aims to bridge the "infrastructure gap" in Asia and beyond - by fostering existing trade routes and facilitating new ones - through a network of roads, ports, bridges, tunnels and pipelines. The BRI comprises "The Silk Road Economic Belt" and the "21<sup>st</sup> century Maritime Silk Road". The outcome of these endeavors and any related initiatives of neighboring countries such as India may impact marine insurers.

As per August 2018, China had signed 16 free trade agreements.

#### *Relevant authority / organisations and documents*

##### TISA:

- **WTO** – General Agreement on Trade in Services (GATS), 1995.
- **Industry position papers:**

- Insurance Europe, 10 June 2013.
- Global Federation of Insurance Associations (GFIA), 28 November 2013.
- **IUMI, 6 November 2014 (<https://iumi.com/opinions/position-papers>).**
- **Global Reinsurance Forum: Reinsurance trade barriers and market access issues worldwide, July 2018.**

Brexit:

- **European Commission**
  - European Commission notice on post-Brexit servicing of existing contracts.
  - DG MOVE notice to stakeholders: Withdrawal of the United Kingdom and EU rules in the field of aviation security and maritime security, 5 July 2018.
- **UK Parliament**
  - The European Union (Withdrawal) Act 2018.
  - Chequers White Paper “the future relationship between the United Kingdom and the European Union”.
- **UK Department for Exiting the EU**
  - Government Position Paper: Future customs arrangements, 15 August 2017.
- **London Market Group / UK Government Liaison Group**
  - LMG: A Brexit roadmap for the UK specialty commercial insurance sector.
- **Insurance Europe / Task Force 50 Liaison Group.**

BRI:

- **The People’s Republic of China:**
  - Vision for maritime cooperation under the Belt and Road Initiative, 20 June 2017.
  - China’s Arctic Policy, 26 January 2018.

*Timeline / important dates*

TiSA:

- Currently on hold.

Brexit:

- Start of Brexit negotiations: 19 June 2017.
- Withdrawal Agreement covering financial settlement, citizens’ rights and Northern Ireland: December 2017.
- Transitional Agreement lasting from March 2019 to December 2020: March 2018.
- Agreement on framework of future economic partnership: target October 2018.
- UK exit from EU: March 2019?

BRI:

- The People’s Republic of China, announcement of the Belt and Road Initiative by President Xi Jinping in September & October 2013.
- IUMI conference: Presentation by Wai Yue Loh, Ince & Co, Tokyo, 20 September 2017.



*IUMI will:*

TiSA:

- Support the RGF initiative.
- Argue in favour of allowing cross-border trade for marine and energy insurance, reflecting the international character of these services.
- Encourage proceedings to resume.

Brexit:

- Receive regular updates from its members.
- Monitor as required and respond as appropriate.

BRI:

- Monitor outcome that may impact marine insurers and respond if/as appropriate.

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