EHG(L2)(80)11   COPY NO   1

20 November 1980

EUROPEAN COUNCIL, LUXEMBOURG

1/2 DECEMBER 1980

INSURANCE

Brief by Department of Trade

OBJECTIVE

1. If the opportunity arises, to mention our interest in securing early agreement on the Insurance Services Directive.

POINTS TO MAKE

2. While a common market in goods has existed for years, we still do not have one for services, despite provision for it in the Treaty.

3. The Draft Directive on provision of insurance services across frontiers has been before the Council of Ministers since 1975 and is still not agreed. That is far too long.

4. Some Member States are determined to spin out discussion indefinitely and to litter the directive with exemptions and restrictions of the freedom to provide services which the Treaty gives. Need early agreement on this directive.

/BACKGROUND

References: None

5.   The Prime Minister does not think that there would be any profit in raising this matter directly in Luxembourg.

6.   The EEC Treaty gives freedom to providers of service, including insurers, to operate throughout the Community, and the direct effect of the relevant Articles (59 and 60) has been confirmed by judgments of the European Court. But this freedom is not yet effective for insurers; contrary national laws and discriminatory national control of insurance prevent it.

7.   Since 1962, the Community has had a programme for establishing a common market in services, including insurance. It has gone very slowly. Work on right of establishment (eg. the right of a UK company to set up a branch or agency in France) is now well towards completion, but that work on freedom of services (eg. the right of a UK insurer to cover a French risk from the UK) is a long way from completion. There is freedom of services so far for some comparatively small areas. For general freedom for insurance we need the services directive. The UK industry estimate that they would gain some £50m net in the first year after the adoption of the directive.

8.   The non-life insurance services directive was proposed by the Commission in 1975 and was with a Council Working Party for over three years from 1977. The Commission, who share our impatience, asked COREPER to call for a report. This is an important step forward, which we are exploiting, but there is still a general lack of will to make progress.

9 . The main generators of obstacles to progress have been, in descending order, the French, the Italians, the Belgians and the Germans. The French claim to be mainly concerned about possible loss of the revenue from their insurance premium taxes if business is done across frontiers. This is big money for them (1.6% of central budget revenue) and a legitimate concern; we, on the other hand, do not tax insurance. We are quite prepared to help ensure that the French get their taxes;

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but we are not prepared, as they want, to set up a Community-wide VAT regime for insurance premiums for the purpose. The other Member States do not have as large or specific a problem. They have more restrictive supervisory traditions than we have, which they are reluctant to abandon, and are motivated by protectionist and exchange control considerations.

10. There is one other major area of disagreement: whether, in order to do services business into a Member State, an EC insurer should need the authorisation or consent of that State. We say categorically not. The Dutch and the Commission agree, not only because such a provision would enable Member States to deprive us of the benefit which we expect to get from the Directive, but also because any provision which purported to allow Member States to deny the exercise of a Treaty right would be invalid.

11. There is no question of a detailed discussion of the Draft Directive. But a political steer for early progress to have completed work on the Directive could make a big difference to our partners' readiness to discuss constructively.

DEPARTMENT OF TRADE
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