NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
INTERNATIONAL INSURANCE ISSUES COMMITTEE
CHICAGO, ILLINOIS
JULY 15, 2004
DRAFT MINUTES

The National Conference of Insurance Legislators' (NCOIL) International Insurance Issues Committee met at the Hotel Inter-Continental, Chicago, Illinois, on Thursday, July 15, 2004, at 10:05 a.m.

Rep. Brian Kennedy of Rhode Island presided over the Committee in the absence of Rep. Mark Young of Vermont, Committee Chair.

Other members of the Committee present were:
Sen. Steve Geller, FL
Rep. Mike Ripley, IN
Rep. Tom Buford, KY
Assem. Nancy Calhoun, NY
Rep. Greg Davids, MN
Rep. Dan Tripp, SC
Rep. Craig Eiland, TX
Rep. Kathleen Keenan, VT

Other legislators present were:
Rep. Gini Milkey, VT
Rep. George Keiser, ND

Also in attendance were:
Bob Mackin, Mackin & Company, NCOIL Executive Director
Susan Nolan, Mackin & Company, NCOIL Deputy Executive Director

MINUTES

Upon a motion duly made and seconded, the Committee voted unanimously to approve, as submitted, draft minutes of its last meeting, held on February 26, 2004, in San Antonio, Texas.

EU/U.S. DIALOGUE

PRESENTATION ON *U.S./EU RELATIONS: WHICH WAY TO GO*?

Mr. Christian Pierotti, Manager of International Affairs for Comité Européen des Assurances (CEA), overviewed the European Union (EU) insurance regulatory framework and offered legislators ways to improve the structure of the U.S./EU dialogue.

Mr. Pierotti said that the CEA's mission statement is to resolve issues of strategic interest to all European insurers, focusing on the regulatory environment. He said that with the addition of one new member, Bulgaria, the association's membership presently comprised 32 national associations. He said that Russia had joined the CEA as its first observer member. In response to a question from Rep. Eiland, Mr. Pierotti said that the CEA was a European trade association of insurers, and that there was no parallel organization in the U.S.

Mr. Pierotti said CEA membership total insurance premium income in 2003 equaled 855 billion euros, roughly translating into one trillion dollars. Mr. Pierotti said investment volume had greatly increased to nearly 5,300 billion euros. He said the association represented a little over one million direct employees. He said that direct written premium numbers dropped in 2001 but that they had increased in 2002 and 2003.

Mr. Pierotti reported that in 2002, life insurance comprised 62.4 percent of direct written premium in Europe; accident and health comprised 8.9 percent; and other non-life comprised 28.7 percent. Mr. Pierotti compared direct written premium of Finland and Latvia to illustrate the difference in the breakdown between classes of insurance in EU members, especially between the old and new members. He said that Finland has 80 percent life insurance direct written premium, while Latvia, a new member, has 4.1 percent. He said that old members have a very saturated market and that non-life insurance was a driving force for new members. He said that in some of these countries, compulsory motor insurance had just been introduced within the last few years.

Mr. Pierotti said that the 14 biggest insurance groups comprise 35.6 percent of the European domestic business. He said that roughly 4,000 other companies comprise the rest.

Mr. Pierotti said that the insurance industry in Europe was facing an inflation of legislation. He said that up until 2000, the EU, Europe's federal regulator, had developed 26 initiatives. He said this number had practically doubled every year since, until in 2003, CEA members had to comply with over 100 insurance initiatives. Mr. Pierotti provided legislators with a list of EU initiatives concerning the insurance industry directly or indirectly.

Mr. Pierotti also provided legislators with a graph of the European insurers' multi-dimensional regulatory environment. He said that there are over 30 European and international bodies involved in European global insurance environment. He said, for example, that the EU is launching Solvency II, an exercise aiming to redesign the solvency model for the industry. He said that European insurers in this case have to deal with the EU Parliament and the Committee of European Insurance and Occupational Pension Supervisors (CEIOPS), the European equivalent of the NAIC, who will take into account input by the International Association of Insurance Supervisors (IAIS) and the International Actuary Association and the World Bank, etc. He said that for the U.S., as well as the EU, the global environment increasingly plays a key role in relation to domestic legislation. He said that is important for the industry and regulators to input in these international forums such as the IAIS, which will meet this fall in Amman, Jordan, because the input will come back to the industry one way or another. He said that everyone would like an international model to look like their domestic model, but that, in the end, hopefully, a reasonable in-between will be crafted to reflect the global character of the insurance market.

Mr. Pierotti said that ten new members have joined the EU and that the second wave of members for 2007 was on its way. He said that this means that ten new commissioners have joined the Commission, one for each new member. He said that the Commission had a complete new structure, including 3,500 new officials. He said that a new EU Parliament had been elected. He said that nearly ten new languages and cultures also came with the ten new members. Mr. Pierotti said that the new cultures would need to be accommodated and every piece of legislation would need to be translated into the ten new languages.

Mr. Pierotti said that EU insurers' top priorities included an EU reinsurance directive, solvency directive, gender directive and fifth motor directive, guaranty funds and interaction with the WTO, and the IAIS.

Mr. Pierotti said that the EU had published a draft reinsurance directive. He said that a final version was expected for mid 2005. He said that a first draft of the solvency directive, a long-term project, was expected to be released in early 2005. He said that the CEA was very busy interfacing with the EU Commission and Parliament on a very controversial directive on equal treatment of gender. He said that certain EU member states were very close to using some of the international accounting standards and that a status report was forthcoming. He said that he thought there would be a recall on the endorsement of IAIS No. 39. Mr. Pierotti said that WTO negotiations were progressing, despite the fact that U.S. elections were on the horizon.

Mr. Pierotti said that there is a clear interdependence between the U.S. and the EU. He said that the U.S. and the EU together account for 60 percent of the world trade in commercial services and 70 percent of the world insurance market. He said that the two markets should explore the most effective ways to work together to achieve a framework to best serve them and to serve as a base for other countries.

Regarding regulatory cooperation, Mr. Pierotti reported that the NAIC and CEIOPS, the NAIC EU counterpart, meet twice a year to dialogue. He said that the creation of CEIOPS might change the structure of the international dialogue and hoped the dialogue would intensify.

Regarding legislative cooperation, Mr. Pierotti reported that the dialogue between U.S. and EU legislators had historically taken place on an ad hoc basis. He noted that a mechanism currently existed that allows the European Parliament and Congress to dialogue twice a year.

Mr. Pierotti said that, though this dialogue between Congress and the EU Parliament existed, no legislative insurance dialogue existed because the U.S. insurance industry is state-regulated. He said that a regulatory dialogue already existed but no legislative dialogue exists. He recommended that the Committee explore ways to stimulate the legislative dialogue, in conjunction with legislators from the EU representatives.

Mr. Pierotti stressed the importance of U.S.-EU input in international standard-setting bodies such as the IAIS. He said that the IAIS provided a good platform to exchange views between supervisors and their counterparts, between members of the private sector, and between representatives of both groups. In response to a question from Sen. Geller, Mr. Pierotti said that the members of the EU Parliament do not attend IAIS meetings. Sen. Geller suggested that the Committee needed to dialogue further regarding ways to facilitate meetings between U.S. and EU legislators, be it at NCOIL meetings or otherwise.

Mr. Pierotti recommended that for a more structured dialogue, it was necessary to have:

- a more proactive approach
- more attention to the global implications of insurance initiatives
- more preconsultation on future legislation, e.g., the Sarbanes-Oxley Act
- wider participation/involvement of the industry on all sides and on all different levels
- wider insurance dialogue on insurance, reinsurance and retrocession

Mr. Pierotti concluded by saying that this dialogue would function effectively with good will and energy from both sides.

IAIS/NAIC INTERNATIONAL ACTIVITY

Commissioner Walter Bell of Alabama updated legislators on recent IAIS activity. He said that since the NCOIL Spring Meeting in late February, the IAIS had held two quarterly meetings.

Commissioner Bell said that the IAIS Reinsurance Committee, chaired by the U.S. and directed by Ernst Csiszar, NAIC President, has created a subgroup on mutual recognition. He said the group would review existing IAIS standards, principles and guidance papers, which could act as a basis for a supervisory system of mutual recognition for reinsurers. He said that such a system's objective would be to achieve a level of trustworthiness and coordination in the supervision of insurers. He said the subgroup would also develop principles for the mutual recognition supervisory system to be used by supervisors on a bi-lateral or multilateral basis. He said the group would identify areas to be addressed in order to establish trust and to enhance coordination between supervisors in order to achieve mutual recognition of insurers.

Commissioner Bell said that the Subcommittee had noted that global standards are needed in the areas of insurance accounting, actuarial valuation, and solvency in order to move toward global recognition of reinsurance. He said that Commissioner John Oxendine represented the Subcommittee at Hague Convention activities regarding the enforceability of foreign judgments. He said Commissioner Oxendine had reported that the Convention might exclude asbestos and punitive damages from its scope, but that this would cause certain problems in U.S. reinsurance contracts. He said that it was hoped that the Convention would remove those exclusions.

Commissioner Bell said that regarding the Steering group on Transparency in the Reinsurance Sector, that voluntary reporting continues by many leading reinsurers, and it is expected that a presentation will be made to the Financial Stability Forum (FSF) in September regarding the status of this project. He said that a number of difficulties remain, especially as regards confidentiality, interpretation and analysis, but it is expected that a final report will be delivered to the FSF in Rome at the end of 2004.

Commissioner Bell said that the IAIS Solvency Subcommittee, headed up by Commissioner Vaughn of Iowa and Commissioner Al Gross of Virginia, had recently presented a new framework document on insurer solvency to the IAIS. He said it is based on a set of building blocks and cornerstones, which could be mapped to the IAIS "Insurance Core Principles." He said this framework was different from, for example, the Basel II Accord 'three pillar approach,' as insurance supervisors believe that the long-term nature of insurance liabilities calls for alternative approaches. He said the Subcommittee had also agreed to completely redraft its suitable forms of capital paper.

ACCOUNTING STANDARDS

Commissioner Bell said that by far the most significant development at the IAIS Accounting Subcommittee was a project to study the possibility of using an IAIS compatible model as a basis for prudential supervision. He said the Subcommittee would take into the consideration the possibility of the International Accounting Standards Board (IASB) adopting a fair value measurement model for insurance contract liabilities. He said the NAIC had been designated project leader for this development. He said that none of the jurisdictions participating in the project had committed to adopt a fair value standard even if the IASB were to suggest a fair value model that included any parameters recommended by the IAIS at the conclusion of the project. He said that the subcommittee recognizes that its influence would be greatest if it were able to provide early input to the IASB. He said the intention is to complete the project at or close to the end of 2004.

Commissioner Bell said that the Accounting Subcommittee was able to consensually agree on six themes to impact the creation of a fair value model. He said that though the Subcommittee would further discuss and elaborate on these themes and potentially identify additional common items, these six themes are as follows.

- Own credit worthiness is unacceptable as an element in the measurement criteria for insurance liabilities
- Determination of market value in respect of an observed market is not always possible
- Market value margin is problematic at best and probably needs to be expressed in terms of a confidence level
- Discount rate should be at a market rate of some form

- Deferred acquisition costs should be eliminated
- Liability measurement should not be less than the surrender value

Commissioner Bell said that the Accounting Subcommittee agreed to further discuss this project during a closed meeting in Atlanta, GA, on August 26 through 27, 2004. He said that in response to concerns from the industry regarding the closed process of the Accounting Subcommittee, the Subcommittee agreed to open the meeting held in conjunction with the IAIS Annual Meeting in Amman, Jordan, in October. Commissioner Bell said that six members of the IASB and two IASB staff attended a June 24, 2004, IAIS Accounting Subcommittee meeting to observe discussion on this future liability measurement project. He said Sir David Tweedie, IASB Chair, described the Subcommittee project as "helpful" and committed to have an IASB member or staff attend future meetings of the Accounting Subcommittee.

Commissioner Bell said that the Enhanced Disclosure Subcommittee was working on a standard on investment risks and performance disclosure. He said that, at present, it appeared that current US regulatory reporting would cover a substantial majority of suggested disclosures in the IAIS standard.

In response to Rep. Eiland's question, Mr. Pierotti said that the NAIC had 15 voting rights out of approximately 130 members. He said that each European country, as well as Canada, had one vote.

Mr. Brad Kading of the Reinsurance Association of America noted that, regarding Hague Convention consideration of the enforceability of judgment issue, the U.S. tort system continued to be a matter of controversy. He said that questions relating to the U.S. system of punitive damages or other multiple damages keep coming up. He said that representatives of some countries have said that they do not want U.S. punitive damages recognizable or enforceable under a treaty. He said that certain country representatives particularly don't want U.S. asbestos judgments enforced under the treaty. He said that the U.S. has argued that if such issues are covered in a contract, they have to be enforced under the Convention. He said that Commissioner John Oxendine, who represents the NAIC as well as the IAIS at the Hague negotiations, has said to the Convention if they want to make progress on this issue, they must recognize these key issues of the U.S. in the treaty, and that these judgments must be enforced as a precondition to any NAIC commitment to action in other areas.

Upon a motion duly made and seconded, the Committee adjourned at 11:00 a.m.

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