LLOYD'S

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Dear Sirs

Lloyd's Comments: Call for Evidence on the Review of the Balance of Competences between the United Kingdom and the European Union: Trade and Investment

Introduction

We welcome the opportunity to respond to the Government's Call for Evidence on the balance of competencies between the UK and the European Union (EU) on trade and investment.

Lloyd's is an insurance market, comprising members who carry on insurance business through syndicates writing insurance and reinsurance contracts. Lloyd's aggregate gross written premium income in 2012 was £25.5bn. Over 80% of Lloyd's business comes from outside the UK, with 67% from outside the UK and other European countries [1]. Open markets are therefore very important to us, particularly access to cross-border insurance and reinsurance. We support an approach which achieves the highest level of liberalisation. This has become all the more important since the financial crisis, in which we have seen some countries introduce protectionist measures in the area of insurance and reinsurance.

In 2012, Lloyd's launched Vision 2025, core to this vision is the need for Lloyd's to be larger than today, targeting profitable growth both from developed and developing economies. The aim of Lloyd's Vision 2025 is to ensure the position of the Lloyd's market remains as the global centre for specialist insurance and reinsurance. We will achieve this by:

- Growing our premium income from developed markets in line with their economic growth, with greater growth in developing markets.
- Encouraging a more diversified capital base, with greater contribution from high growth economies.
- Supporting a truly internationalised underwriting community.
- Remaining a broker market, utilising brokers' international networks.

[1] Lloyd's Annual Report 2012

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- Having a small number of powerful overseas hubs in certain major overseas markets.

Lloyd’s is at the heart of the London insurance market, the world’s leading international insurance and reinsurance centre, estimated to employ at least 50,000 people. The UK insurance industry is the largest in Europe and the third largest in the world, after the US and Japan. UK insurance and pension funds, excluding intermediaries and other auxiliary services, contribute around 1.6% of GDP and in the 2010/11 financial year paid £10.4bn in taxes, equivalent to 1.9% of Government tax receipts[2].

Key points

- Competence over international trade and investment negotiations should remain with the EU.

- The EU’s economic size and political influence give it substantial weight in the negotiation of bilateral and multilateral agreements with third countries.

- The European Commission has concluded agreements that benefit the UK insurance industry, including Lloyd’s. For example, the EU-Chile Free Trade Agreement (FTA) concluded in 2003.

- The EU is in the process of negotiating agreements with many other priority countries for Lloyd’s, which could remove barriers to trade.

- The current workload for the European Commission in negotiating international trade and investment agreements is ambitious and demanding on their resources. The UK Government would experience similar resourcing issues if competence was moved to the UK.

- The UK Government consults effectively with industry on their priorities for trade and investment negotiations.

- Trade promotion competence should remain at national level.

- Trade controls/arms embargoes and international sanctions legislation should remain a competence of the EU. However, they need to be interpreted and implemented in member states in a consistent way.

- Industry can assist Governments in judging whether the detailed schedules of commitments reflect the intended opening of market access by being given access to view texts of proposals.

[2] *Insurance Briefing*, January 2013, TheCityUK

- Trade and investment negotiations should be ambitious and address regulatory barriers to trade.

Our detailed responses to the questions asked of relevance to Lloyd’s are attached.

Please get in touch if you have any questions.

Yours sincerely

Director, Risk Management & General Counsel
Lloyd’s

CALL FOR EVIDENCE ON THE REVIEW OF THE BALANCE OF COMPETENCES BETWEEN THE UK AND THE EU: TRADE AND INVESTMENT - DETAILED RESPONSES TO QUESTIONS

1. **What are the advantages and disadvantages of the EU's competence over trade and investment, particularly in relation to international trade and investment negotiations?**

   When answering this question you may wish to consider:

   - **the impact of acting as part of a bloc on the UK's global influence;**
   - **the EU's capacity to deliver trade and investment policy effectively (e.g. its effectiveness in trade negotiations, including whether this varies across different regions);**
   - **the resource implications of having competence at the EU level;**
   - **the extent to which EU trade and investment policy offers benefits to the UK that go beyond those offered by WTO membership;**
   - **the EU's priorities for trade and investment negotiations, for example in terms of negotiating partners and offensive and defensive interests (e.g. in market access), and the extent to which these align with UK priorities;**
   - **the extent to which the UK's approach to trade policy is amplified or reduced by working through the EU (e.g. whether the UK, as a free trade advocate, succeeds in making EU trade and investment policy less protectionist);**
   - **the extent to which EU trade policy has a trade facilitating or trade diverting effect for the UK.**

   We believe that the UK benefits from the EU's competence over international trade and investment negotiations, because the UK has greater impact as part of an important bloc in these negotiations than it would have acting alone.

   The EU is the largest economy in the world, with GDP per head of €25 000 for its 500 million consumers, and the world's largest trading block. The EU is the top trading partner for 80 countries. By comparison the US is the top trading partner for a little over 20 countries. The EU is the most open to developing countries. Fuels excluded, the EU imports more from developing countries than the US, Canada, Japan and China put together.

   The EU is therefore a strong voice in the global community and plays a major role on the international stage in shaping trade and investment debates. Its economic size and political influence give it substantial weight in the negotiation of bilateral and multilateral agreements with third countries. Many major third countries would probably have limited appetite to engage in bilateral negotiations on such issues with the UK on its own, a significantly smaller economy.

There are many barriers to trade in insurance and reinsurance worldwide. Lloyd's, because of its unique legal structure and method of business operation (it conducts most of its business by way of cross-border operations), faces particular challenges in securing full access to overseas' markets. It is therefore important to Lloyd's commercial success that markets remain open and barriers to trade are effectively addressed. Our preference for the EU to lead in this area reflects our strong belief that the interests of the Lloyd's market are best promoted by EU competence in this area. Access to markets is often predicated on the host countries' acceptance of the prudential system of the insurer's home country. There are common rules under Solvency II governing insurance and reinsurance prudential supervision and it makes sense therefore for negotiations on trade and prudential issues to be undertaken via the EU by a group of countries subject to such common rules.

The European Commission represents all Member States in insurance trade and regulatory negotiations and has concluded agreements that benefit the UK insurance industry, including Lloyd's. For example, the EU-Chile FTA concluded in 2003 allows UK insurers access to Chile marine, aviation and transport insurance business. The EU is in the process of negotiating agreements with other countries, which may bring further opportunities to Lloyd's and other UK insurers.

The EU-US Dialogue is being pursued with renewed vigour and its agenda includes co-operation in the context of insurance. Foreign (or "alien") insurers and reinsurers operating in the US are subject to collateral obligations that push up operational costs. We hope that this Dialogue will accelerate reforms of these expensive and discriminatory requirements.

The current workload for the European Commission is ambitious and demanding. DG Trade is negotiating many FTAs and the Trade in Services Agreement (TISA), with an increasing number of Member States requests to consider and this puts pressure on the Commission's negotiating resources. However, one would expect there to be an overall saving in resources, in comparison with a situation in which competence rested at member state level. If competence for negotiating international trade and investment agreements were to pass back to the UK, the Government would need to find and finance comparable resources, which could take time.

The UK Government (BIS in particular) consults effectively with industry on their priorities for trade negotiations, for example, through industry consultation events and attending TheCityUK LOTIS Committee meetings. We find these interactions very helpful.

2. What are the advantages and disadvantages of having trade and investment promotion largely at the national level? How well has this delivered on UK objectives?

Trade promotion competence should remain at national level because EU Member States are effectively in competition with each other and national governments are best placed to represent the interests of their businesses in trade promotion. The UK has a particular interest in financial services and is therefore well-placed to promote trade in the sector.

3. **What are the advantages and disadvantages of the current division of competence over export and import controls and export credits?**

These comments relate specifically to trade controls/arms embargoes and international sanctions legislation.

Trade controls/arms embargoes

The Export Control Order 2008 ("ECO") governs the movement of arms between two overseas countries and can also impact (re)insurance activity carried out by UK individuals and companies, no matter where they are located. In particular, a licence is required to provide or broke (re)insurance related to the movement of Category A goods from one overseas country to another and for the movement of Category B & C goods from an overseas country to an embargoed destination.

The licensing requirements require a certain amount of data for a licence to be considered and granted. For some (re)insurance contracts, such as annual marine cargo covers, UK (re)insurers may not be aware of the schedule of destinations and cargoes until after the event. Despite the ECO containing a knowledge defence, some business has been lost from the Lloyd's market and it has been reported to Lloyd's (albeit anecdotally), that (re)insurers in other European jurisdictions are not subject to the same licensing restrictions and are therefore prepared to offer (re)insurance terms for these risks previously (re)insured at Lloyd's.

The ECO is part of a wider EU system relating to arms embargoes. Nevertheless, this system is not fully harmonised across member states and the UK appears to adopt a more rigorous approach in implementing related (re)insurance restrictions. Lloyd's agrees with the objectives of this legislation, but considers that the UK's approach may, on occasion, put UK insurers at a competitive disadvantage to their European counterparties. We would therefore welcome efforts to ensure a level playing field by ensuring the same controls are applied to insurers in all EU member states.

International Sanctions

EU member states should be consistent in their interpretations of UN/EU regulations relating to international sanctions. Lloyd's supports the EU's role in introducing, negotiating and setting new international sanctions as it facilitates a level playing field amongst companies operating throughout the EU. However, some EU member states have adopted different interpretations of certain key terms in current EU sanctions regulations, for example, the definition of the storage/transport of Iranian crude oil. This leads to differences in guidance issued to (re)insurers domiciled in different EU member states. The UK

Government should encourage the EU to place greater stress on ensuring consistency in application of sanctions regulations.

Aside from the role that the EU plays in framing new sanctions measures, Lloyd's considers that the UK Government, specifically HM Treasury and the UK Foreign Office, has taken a proactive approach to consulting the UK (re)insurance industry to assess the impact of international sanctions, and values the benefits of its working relationship with them. The UK's Government's direct consultation with industry is extremely valuable and ensures that prospective new sanctions measures are effective in achieving their objectives, whilst providing clarity. Lloyd's considers that it would be beneficial for the EU to engage more effectively with (re)insurers, and would welcome such an approach, which could also help ensure more consistent interpretation of EU regulations.

The EU has an important role to play in leading consultations with its major trading partners on international financial and trade sanctions. Communication by the EU, as well as alignment with trading partners in relation to international sanctions, would be beneficial in ensuring consistency on an international scale. The EU, given its status as a large trading bloc, is better placed to lead such discussions than the UK, as a single nation state. For example, engagement and alignment between the US and the EU with regard to Iranian sanctions would assist efforts by (re)insurers to comply with applicable sanctions.

6. **What future challenges/opportunities might we face on trade and investment policy and what impact might these have on the UK national interest?**

   When answering this question you may wish to consider the impact of:

   - **the institutional changes introduced by the Treaty of Lisbon (e.g. the increased role for the European Parliament and the creation of the European External Action Service) on EU trade and investment policy;**
   - **any further internal developments in the EU (e.g. potential further integration of the Eurozone) on trade and investment policy;**
   - **the increasing ambition of EU trade policies, and the implications that this might have for the UK's offensive and defensive interests;**
   - **any further developments in EU law, including for example any effect of the EU's exercise of internal competence on its external competence and vice-versa.**

   The Treaty of Lisbon gave the European Parliament an increased role in EU trade and investment policy. There are risks of FTAs being delayed or blocked altogether for political reasons, possibly having little to do with the merits of the case in question.

   It is important for industry to be consulted on their priorities for EU trade negotiations and industry can assist Governments in judging whether the detailed schedules of commitments reflect the intended opening of market access by being given access to view texts of proposals.

It is beneficial to the UK that trade and investment negotiations are becoming increasingly ambitious. For example, it is important for regulatory barriers to trade to be addressed in trade agreements, particularly with developed countries.