

EFTA-Seminar on Reinsurance  
Gerzensee, Switzerland, 12.10.2006

# **Contractual Relations between Switzerland and the EC in the Insurance Sector**

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# The Insurance Agreement

## General Provisions

- Freedom of establishment
- Principle of non-discrimination
- Abolition of collateral

## Coverage

- Direct Insurance other than Life Insurance
- Exceptions: Statutory systems of social security as well as some undertakings enjoying a public monopoly

# Shortcomings of the Insurance Agreement

## The Insurance Agreement...

- does not apply for cross-border supply of insurance services;
- focuses solely on specific classes of insurance services (excluding e.g. life insurance, reinsurance);
- does not take into account insurance conglomerates



# General Agreement on Trade in Services (GATS)

- Binding commitments with respect to trade in services
- Obligations: Most-Favoured-Nation Treatment (MFN), National Treatment and Market Access
- Four Modes of Supply:
  - Mode 1: cross-border supply
  - Mode 2: consumption abroad
  - Mode 3: commercial presence
  - Mode 4: movement of natural persons



# GATS and Insurance Services

- Coverage
  - (i) Direct Insurance (including co-insurance), life and non-life
  - (ii) Reinsurance and retrocession
  - (iii) Insurance and intermediation, such as brokerage and agency
  - (iv) Services auxiliary to insurance, such as consultancy, actuarial, etc.
- Exceptions: statutory system of social security or public retirement
- Prudential carve-out (e.g. supervision)



# EC/CH Market Access Commitments in Mode 3

Commitment/Limitation	Countries
None, i.e. full commitment	Denmark, Germany, Hungary, Luxembourg, Netherlands, United Kingdom, Latvia, Lithuania, Estonia
Legal form requirement	Austria, Slovak Republic, Poland, Cyprus, Switzerland, <i>Czech Republic, Portugal</i>
Limitations regarding representatives offices	Greece, Sweden, Switzerland, <i>Spain, Ireland</i>
Economic needs test	Malta
Requirement for licence or authorisation	Czech Republic, Italy <i>Belgium, France, Cyprus</i>
Deposit / financial security requirement	<i>Slovak Republic</i>
Requirement for prior operation experience	Portugal, Spain, (Switzerland under NT)
Foreign ownership or capital participation limitations	<i>Cyprus, Slovenia</i>



# Comparison between Insurance Agreement and GATS

Insurance Agreement	GATS
Freedom of establishment, on a reciprocal basis	Binding commitments in all four Modes of Supply
Direct Insurance other than life Insurance	All Insurance Services
Abolition of collateral	Prudential carve-out
	No MFN Exemption