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**Draft Minutes of the 4th meeting of the
European Insurance and Occupational Pensions Committee**

Brussels, 6 July 2006

Opening and welcome

The meeting was opened and chaired by Mr Elemér Terták, Director for Financial Institutions in the Internal Market Directorate-General.

The Chairman welcomed the new Committee members from three Member States.

The Chairman referred to the retirement of Director-General Alexander Schaub and the assumption by Mr Thierry Stoll of the functions of Acting Director-General. As such Mr Stoll was now formally the new Chairman of the EIOPC.

The Commission reported certain departures from the Insurance and Pensions Unit. Tribute was paid to the Solvency II work of Ms Pauline de Chatillon, who was returning to her duties at the French Supervisory Authority, and to the work of Ms Caroline Maion and Mr Manuel Altemir, on motor insurance and insurance mediation respectively.

1. Agenda

The Commission noted that it wished to raise some further points under other business. These were a reminder concerning the Commission paper "Supervisory arrangements: the next 5 years", a point concerning possible problems on the aviation insurance market and a further point on motor insurance. The agenda, as amended, was adopted.

2. Minutes of the 3rd meeting of the EIOPC

No requests for changes to, or comments on, the draft minutes were raised and the minutes of the 2nd meeting of the EIOPC were adopted.

3. Solvency II

3.1 Oral presentation by the Commission on the state of play

The Commission first reported on the continuing good progress of the project in general, in line with the framework for consultation and the roadmap. The Solvency Working Group had held a number of meetings. The following points were noteworthy. The Commission observed that discussions were sometimes made more difficult by the fact that it was not allowed to formally present draft legislative texts as such for discussion in the Working Group. It was clear that there was a need to discuss the use of VAR or Tail-VAR and CEIOPS had been asked to produce a note. The Commission was also continuing its thinking on the practical implementation of the project and questions of timing of entry into force.

The Commission also referred to the inclusion of Solvency II under the other business agenda item at the informal Financial Service Committee to be held on the following day in Barcelona. The Commission was firmly of the view that the technical discussions should be kept within the EIOPC. Although political discussions elsewhere were not excluded it was important to avoid any confusion.

The Commission reported on the successful public hearing which had brought together some 250 people and had heard unanimous support for the need for a new solvency regime. The four panel discussions and general debate had raised a number of issues. More attention might have to be paid to specialist or monoline insurers in the context of the standard formula since they could not invoke any diversification effects. The linkage with IAS was also noted and the need not to produce a disincentive for investment in equity capital. While the importance of Pillar 1 was clear it had to be remembered that failure was often the result of management failings, which pointed to the equal importance of Pillar 2. The importance of the consumer angle was noted, together with improved communication with policyholders. As the Commissioner had pointed out, Solvency II should set an example for regulatory convergence. Lastly, the issue was raised of whether the risk of herding behaviour would increase due to the higher level of harmonisation of Pillar 2 powers under Solvency II.

The Commission would publish the proceedings of the public hearing on its website.

The Commission updated the Committee on impact assessment work. The public hearing was part of this, pointing to areas where more work might be needed. A draft elements paper had been prepared for the Solvency Working Group and had prompted many comments from Member States. This would probably lead to a more extensive paper later in the year.

There were five key strands to the impact assessment work. CEIOPS was mainly responsible for the work in relation to insurance undertakings and the supervisory authorities. On insurance products and markets CEA and AISAM were helping and were working on an extensive draft typology of the EU insurance industry. Many insurers had shown interest in responding to their questionnaire. On the macro-economic and financial stability aspects, probably the most difficult parts of the impact assessment (with little academic literature), help was being provided by the Commission's Joint Research Centre and the European Central Bank. With regard to consumer issues the help of FIN-USE was being used.

The Commission also referred to its intention to carry out interviews of insurance undertakings and called on Member States to provide by end July the names of up to three companies as potential candidates for interview in Brussels. The Commission would try to interview at least a representative sample.

The Commission further reported on work on the Framework for Consultation. There had been a discussion on the Framework at the April meeting of the Committee. A number of Member States had submitted comments and most of these had been taken on board. The new amended Framework was to be found in document Markt/2515/06, which had been published on DG Markt's website and sent to CEIOPS and members of the EIOPC. The changes related predominantly to Paragraph 16 on technical provisions. The main changes could be summarised as follows: there should be a market consistent valuation of technical provisions, which implied no surrender value floors; technical provisions were the sum of a Best Estimate (BE) and a Risk Margin (RM); the BE was the expected present value of future cash flows using a risk free yield curve to discount; the RM could be based either on a 75% percentile approach or using the Cost of Capital approach; however the preferable outcome would be a single calculation method for the RM.

Progress on the recast of the insurance directives was also reported. This work was being conducted with the revisers of the Commission's Legal Service. Many changes had been made to the structure of the text (shorter articles, more modern language) but there were no changes of substance. The document now had to be put into the Legiswrite format (marking up changes) and it remained the Commission's intention to present to the Committee a new consolidated document in the autumn.

The Chairman then gave the floor to CEIOPS for an update of its work. The CEIOPS representative referred to the annual report that had been distributed and to its sixth progress report to the Commission.

At its 29 June meeting CEIOPS had issued its first set of post 3rd wave consultation papers, thus coming back as planned and as requested by the Commission to some issues already covered in the three waves. These papers were mainly concerned with Pillar 2 aspects, namely internal risk assessment requirements, supervisory evaluation procedures and supervisory tools and powers. Another paper focussed on group issues. These papers concentrated on principles for inclusion and were much shorter. CEIOPS had had to shorten the consultation period (12 September deadline) but was organising a public hearing in Frankfurt on 7 September. The final advice was expected in October. In October it was also planned to issue a second set of post 3rd wave consultation papers, mainly relating to key Pillar 1 issues in the light of the results of QIS 2. There would thus be further advice on technical provisions, capital requirements, including risk mitigation tools, on internal models and on eligible capital elements.

The October advice would include advice on the SCR standard formula but, consistent with the scope of QIS 2, would most likely deal with the structure of the standard formula rather than calibration.

The June CEIOPS meeting had also discussed the organisation of future work. It was planned to hold a 2-day members meeting on 12 and 13 March 2007 to approve the advice on the consultation papers issued in October 2006 but also to finalise the specifications for a further round of QIS studies. There would at least be a 3rd QIS running from April to June 2007, which would focus more on calibration. CEIOPS should then issue further advice on Pillar 1, including the standard formula. After a further consultation paper the final advice should emerge in spring 2008.

The CEIOPS work assisting the Commission with the impact assessment should be finalised after the summer break on the basis of the questionnaire circulated to members.

The Chairman of the CEIOPS COMPASS Task Force on convergence and impact assessment reported on this important work to gauge the impact of Solvency II on supervisors, from the angles of cost, staffing and competence requirements. The aims were twofold, namely in the short term to provide the Commission with input on the major changes affecting the supervisory authorities. A questionnaire had been sent to 30 countries and 27 had answered. There were a number of common concerns relating, for example, to the organisation of supervision of internal models and to the competences to be required of supervisors. The medium term work of the Task Force would identify educational needs to ensure a smooth and convergent implementation. Work on training needs would begin in September and should lead to a report end 2006 or early 2007.

Several delegations praised the Commission for the quality of its work and the very successful public hearing.

Two delegations expressed some reticence concerning the FSC discussing Solvency II, while the Member State that had drafted the FSC document reminded the Committee that the FSC had itself asked for a discussion and stressed that there was no intention to have a parallel debate.

Other points made by delegations on Solvency II concerned the need to cover the important question of equity investment in the impact assessment, the need for the EIOPC to tackle matters on which agreement proved impossible in CEIOPS and the possible need for additional meetings. One delegation requested the Commission to state its reasons when it departed from CEIOPS advice. Another underlined the importance for CEIOPS to study how to supervise internal models in a co-ordinated way. One delegation called for a review of the organisation of CEIOPS groups now that the inventory of problems was becoming clear.

In response to points raised the CEIOPS representative recalled that CEIOPS could, if necessary, give advice on a qualified majority basis.

The Commission representative agreed that additional meetings could be held if necessary and if they could be properly prepared, but noted that excessive staff turnover was a complicating factor.

3.2 Relationship between the Insurance Accounts Directive and Solvency II

The Commission introduced the important but complex question of the relationship between the Insurance Accounts Directive (IAD) and the Solvency II project. A number of the Directives that were to be incorporated in the new Solvency II text made reference to the Accounts Directive. The question the Commission was raising related to whether the Accounts Directive should undergo an in-depth revision or whether the necessary prudential rules on the calculation of technical provisions and valuation of admissible assets should be introduced in the Solvency II text. In the latter case the IAD would remain untouched at least until the completion of the IASB's ongoing work. This debate also raised the question of the calculation of different sets of figures for solvency and for accounting purposes.

The Commission was advocating that the IAD should not be amended now and that the necessary rules should be included in Solvency II. The consequence was that two different sets of rules would continue to apply for solvency and accounting purposes. The eventual aim was the convergence of solvency and financial reporting but this depended on the second phase of the IASB work and was a long-term objective. If Member States were reluctant about the maintenance of two reporting structures, the Commission requested their views on a possible option, to be introduced into the IAD, for insurance undertakings to make use in the preparation of their financial statements of the rules on the calculation of technical provisions and valuation of admissible assets to be contained in the Solvency II prudential directive.

All the Member States that took the floor supported the Commission recommendation not to amend the IAD at this stage but to include the necessary rules as part of Solvency II.

The Commission representative noted that the message from the Committee was very clear. At the same time he saw a slight contradiction between the view expressed by several delegations of the need not to overburden the industry and the apparent acceptance of the burden involved in having two different reporting frameworks. The Commission's suggested possible option would involve a short-term fix. The problem was on the liabilities side, given that the assets side already allowed for considerable flexibility. The Commission would continue to think about this option, though not as a matter of urgency, and also asked CEIOPS to think further on this issue.

4. Deeply subordinated debt

The Commission reminded the Committee that one Member State had presented a paper on deeply subordinated debt (DSD) at the first meeting of the EIOPC on 29 June 2005. It had been argued that this type of instrument could be as safe as own funds and it was suggested that the Life and Non-Life Directives could be amended via comitology to formally admit this type of instrument as an element, up to a certain percentage, of the solvency margin.

Most of the Member States that spoke at that meeting had taken an open position and it had been decided to seek advice from CEIOPS. That advice had been provided in May. CEIOPS considered that the proposal was technically feasible but did not offer any opinion as to whether the use of comitology would be the right way to make such a change.

The Commission noted that major insurance companies and the mutuals seemed to be in favour of an extension of the list of eligible elements to include deeply subordinated debt more fully than is the case in the current Directives. The question centered on whether we should do it now through the comitology procedure or later through the forthcoming Solvency II Directive.

The Commission requested a clear view from Member States orally at the meeting and to be confirmed in writing on the technical aspects of the proposal and on whether they favoured the use of the comitology procedure to make such an adjustment. The Commission services would then be in a position to make a recommendation to the Commissioner on the best way forward.

The CEIOPS representative noted that CEIOPS preferred to give technical advice rather than to express a real preference in this matter. He underlined, however, the need to avoid inconsistencies with the banking sector rules on own funds.

A tour de table revealed a number of Member States in favour of using the comitology route now, while a larger number preferred to address this issue as part of Solvency II.

However, the overall picture remained unclear as many Member States continued to suggest that their position remained open. Several delegations stressed the need for a holistic approach covering all kinds of hybrid capital instruments and understood that CEBS and CEIOPS were working on this. There was also considerable concern about retaining consistency with the banking sector in order to avoid regulatory arbitrage.

Summing up, the Commission stated that it believed, subject to the view of the Legal Service, that comitology could be used to make this adaptation and was prepared to undertake the work if there was a clear qualified majority among the Member States. This was still not clear even after the tour de table and the Commission called on Member States to give a clear yes or no answer to the use of comitology for the inclusion of DSD by the end of July.

5. Home-host responsibilities, in particular as regards the handling of complaints

The Commission introduced this point, noting that supervisory structures and supervisory challenges were a key part of the Commission's White Paper on financial services policy for the period 2005-2010. Indeed this agenda item corresponded exactly to one of the sections of the White Paper, namely that entitled "greater clarity in roles and responsibilities of home/host supervisors".

This was a highly practical issue that had come to prominence in the context of the European Parliament's Committee of Enquiry into Equitable Life but was by no means limited to that case.

The European Parliament had heard from the petitioners about their problems when they complained to the regulators or supervisors concerning their insurance policies and about the difficulties many seemed to have experienced in getting information, answers to their questions or even basic advice about the steps to be taken.

Some voices had been raised in the Committee of Enquiry calling into question the principles on which the insurance single market was based, namely the single licence and home country prudential control. The Commission was rather disturbed at the impression that was being created, namely that the host Member State, in particular that where a branch was situated, was a mere bystander and had no real say or control over the insurance business being done in its territory. The Commission had therefore promised a note to the Parliament on the respective rights and obligations of the home and host state authorities. The paper that had been sent to the Chair of the Committee of Enquiry had been distributed to the Committee.

The Commission had stressed to the Parliament and the regulators and supervisors who had given evidence had confirmed that the core area of financial and prudential control was a pure home state competence. However outside this core prudential area the Commission had tried to show that the host state does have a considerable role, particularly as regards the rules governing the conduct of business on its territory.

The Commission therefore firstly asked Member States whether they agreed with the Commission's interpretation of the directives as set out in the document.

The directive stated quite clearly that, when a branch was set up, the host state authorities had to notify to the home state authority the conduct of business rules justified under the general good criteria which had to be followed. It was assumed that these rules were then passed on to the undertaking establishing the branch. However, the Commission wondered what would happen if no general good rules were notified. In particular, was there a danger that in certain cases neither the home nor the host supervisor would look at conduct of business rules because each thought that the other was enforcing its rules.

Much attention had been paid in the European Parliament to the handling of complaints. There had been talk of complainants being sent back and forth in a sort of ping-pong game between the host and the home authorities.

The Commission had concluded in its paper that the host state must have a role in assisting complainants and in helping them to direct their complaints to the appropriate destination. Annex III to the life directive required that information be given to policyholders about "the arrangements for handling complaints", which presumably must come from the insurance undertaking with all the other information on the policy. However Article 36 made the host Member State (the MS of the commitment) responsible for laying down the detailed rules for implementing the rules on policyholder information. The Commission asked Members of the Committee whether they agreed with its conclusions on the role of the host authority in helping complainants.

Lastly, the Commission asked Member States whether they had encountered problems in the handling of complaints, in particular as regards contacts and co-operation between the home and host State competent authorities and whether there were any other home-host issues that they would like to raise. The Commission stressed that these issues were of great importance for the Parliament and we had promised to raise them and discuss them in depth with the Member States. It was essential to show to the Parliament that the principles of the single market were valid and worked well in practice. This Committee was the ideal place for that discussion.

The Commission document was generally welcomed though one Member State thought that mention should be made of FIN-NET.

All delegations that took the floor agreed that co-ordination between supervisors was crucial and that ping-pong situations were unacceptable. One delegation did believe that there could in some cases be a grey area between prudential and conduct of business supervision, which made the need for exemplary co-operation all the more necessary. These were clearly Level 3 issues.

It was pointed out, however, that in some Member States complaints handling was separate from the insurance supervisory authority.

No delegation disputed that the country of the commitment always had a role in advising its own citizens, not least given the problem of language. Consumers naturally looked to their local authority to advise them.

One delegation with much experience of freedom of services business noted that many complaints related to the behaviour of intermediaries rather than insurance undertakings. CEIOPS had agreed a Protocol of co-operation between intermediary supervisory authorities which would improve the situation. One chapter dealt specifically with the treatment of cross-border complaints.

A distinction was drawn between individual and collective actions. In the latter case information could be provided on the relevant web-site.

One delegation noted that more than more than 50% of "complaints" in fact were requests for information on the respective rights and obligations. It was important that information on requesting information and making complaints should be contained in the policy so that the policyholder knew where to go.

As regards other home-host issues, one delegation referred to problems arising out of outsourcing.

Given the importance of these issues, the Chairman called on delegations to provide any written submissions by the end of August. The issue would then be referred to CEIOPS and also to the other Level 3 Committees, before being taken up again in the EIOPC.

6. Revision of Article 15 of Directive 2002/82/EC and of the corresponding articles in the other Insurance Directives

The Commission reported on its ongoing work, undertaken at the request of the ECOFIN Council, to review the supervisory approval process for acquisitions and increases in shareholdings in the banking, securities and the insurance sectors.

A joint working group with Member States experts from the three sectors had met in February. Member States had also had the opportunity to comment on the draft new Directive texts in writing.

The Commission had also launched an online questionnaire, which was open until 19 April. The responses were divided into two groups. Large institutions and organisations with experience of acquisitions were unanimously positive and supportive of the need to introduce clearer procedures and criteria. On the other hand, a high number of responses came from German Sparkassen employees, who did not support the ongoing review.

More specifically, almost all respondents agreed that consistency was important in the supervisory assessment procedure. Respondents also found that the current thresholds were appropriate and that supervisory authorities should not be allowed to introduce further thresholds. Furthermore, there was strong support that in case of competing bids, each proposed acquirer should be treated impartially. Finally, the results clearly indicated that firms which had experience with shareholding transactions were aware of the problems regarding the supervisory approval process.

The Commission recalled that its aim with this revision was to clarify the procedure for the supervisory approval process and to state explicitly the list of prudential criteria that supervisors may take into account when assessing a proposed acquisition or increase of holding. As far as the procedure was concerned, the proposed new Articles harmonised the entire procedure to be applied by the supervisor when assessing acquisitions on prudential grounds. The procedure and the duration of the assessment had been tightened up considerably. A clear and transparent notification and decision-making procedure for supervisors and firms had been introduced. The deadlines had been reduced and any 'stopping of the clock' by supervisors has been limited to one occasion and subject to clear conditions. As to the criteria, the prudential criteria for the supervisory assessment had been clearly spelt out and would be known ex ante to all market participants.

The criteria were the following: reputation of the acquirer, reputation and experience of any person who will direct the target institution, the financial soundness of the proposed acquirer, the ability of the target institution to continue to meet the rules of the applicable Directives, prevention of money laundering and terrorist financing.

The issue had been discussed in the EBC earlier the same week. Member States were broadly in favour of the proposal, but repeated some of the arguments raised on earlier occasions, concerning notably the length of the determination period, the Commission's access to document and the question whether the list of prudential criteria should be open or closed.

Following the Commission's internal rules, the draft texts and the impact assessment report had been sent for inter-service consultation on 1 June 2006. Seven DGs were consulted. The Legal Service had no problems on substance but had made quite significant drafting changes.

The Commission was aiming for adoption of the proposals either on 19 July or in a so-called written procedure during the summer. This meant that Council negotiations could start this autumn under the Finnish presidency.

The Chairman noted that it was envisaged that this issue would be considered by the ECOFIN Council at end October/early November.

The CEIOPS representative noted that the three Level 3 Chairs would meet on 10 July and might wish to comment.

One delegation intervened to record its firm support for the process, while another noted its continuing concern regarding this sensitive dossier.

7. EU-US Dialogue, in particular the discussion on reinsurance collateral

The Commission reported on the ongoing discussion in and with the US on the reinsurance collateral requirement for alien reinsurers. The implicit assumption that non-US supervision was inferior was not acceptable. The NAIC had moved on this issue and was examining alternative regimes. Following an inconclusive debate on a whole range of possibilities, the NAIC Chairman had announced that a rating proposal would be the preferred option and called on the Reinsurance Task Force to develop this further. Supervisors from Germany, the UK and Switzerland and the rating agencies had been invited to a meeting in July. The NAIC Task Force would take a decision in September and the NAIC should vote in December.

There was thus a possibility of a move away from collateral towards ratings. It was essential, however, that the Europeans should act as a block and maintain a united front. The 50 plus Commissioners had to decide and then all the States would have to amend their legislation. There was progress but much still remained to be done.

The Commission also noted continuing US interest in moving towards a Solvency II type system of insurance prudential supervision.

8. Insurance guarantee schemes

The Commission updated the Committee on the status of this dossier following the last meeting of the Commission Experts Group on Insurance Guarantee Schemes in December 2005. At that meeting some outstanding issues had been discussed (for details see the Newsletter).

Following the meeting the Commission Services evaluated the work carried out up to now in order to decide whether or not to recommend the presentation of a formal Commission proposal. To have a better basis for our decision the Commission had sent an additional questionnaire to those Member States where there are Insurance Guarantee Schemes in place. The questionnaire should help by providing additional and fully up-to-date information concerning insurance guarantee schemes systems already existing in Member States.

On 1 June the Commission Services had had a meeting with Commissioner McGreevy to discuss the way forward on that file. After having assessed the pros and cons of preparing a proposal for a directive on this issue, the Commissioner had considered it necessary to launch a feasibility study to be carried out by a neutral external consultant.

The purpose of this study is to examine the currently existing insurance guarantee systems in Europe for life and non-life insurance, excluding motor insurance, and to analyse the problems arising from the lack of harmonisation in this area. The study should then analyse the different options available to remedy identified problems and their feasibility. Such a study should examine in particular the internal market aspects looking into the protection provided to policyholders, competition issues and cross border aspects.

The Commission Services were currently drafting the terms of references for such a study. It was planned that a call for tenders should be launched in the near future and a consultant should be able to start working beginning of next year. It is hoped that the contractor would be able to finalize its work within 9 months since much background information would already be provided by the Commissions Services. The Commission would count on Member States to support the consultant and to provide him with all necessary information.

Based on the outcome of this study the Commissioner would decide on the best way to proceed and the EIOPC would be kept informed of developments.

One delegation welcomed this study, while another expressed its doubts and regrets at this new development, which it saw as simply introducing further delay. One Member State stressed the need for a European guarantee scheme rather than a series of national schemes.

The Commission underlined that, given the limited volume of freedom of services business, it was important to have more information on the economic impact and on the internal market relevance of any future proposal. The study would also help with the impact assessment.

9. Motor insurance

At the last EIOPC meeting the Commission had stressed to the Committee its firm view that it was essential to use one single method for calculating the number of uninsured vehicles in order to tackle the problem of uninsured driving adequately. At present, it was impossible to have a clear view of the situation at EU level. Rates of uninsured vehicles were hardly comparable since many of them were calculated on a different basis.

As the Council of Bureaux had pointed out at the last meeting of the Committee, uninsured driving had an impact on premium levels for law-abiding motorists and big claims could even risk destabilising smaller insurance markets.

The Commission had investigated with the Council of Bureaux how to address this matter and it was clear that the best and most reliable calculation method was to compare the number of insured vehicles and the number of registered vehicles. Each Member State had an Information Centre with a central database of insured vehicles (this was a requirement of the 4th Motor Insurance Directive) and a Motor Vehicle Registration Centre (requirement of national legislation). According to the Commission survey of September 2005, it seemed that this calculation methodology was already widely used in many Member States.

A calculation based on this methodology would allow an objective comparison between Member States of their uninsured driving situation. On the basis of comparable statistics, the Commission would be able to assess the situation at European level and to see what could be done to address this issue more effectively.

Member States were therefore invited on a yearly basis to provide to the Commission Services their rate of uninsured vehicles based on this methodology (ratio insured vehicles to registered vehicles). This exercise should start as of July 2006 and EIOPC Members were requested to provide their figures by 1 December 2006 at the latest.

No Member State declined to carry out this exercise. However, several delegations raised serious problems and doubted whether the resulting figures would be reliable.

Several Member States reported that they had large numbers of vehicles that were still on the registration data base but were not in use or might not even exist any longer. The Commission calculation method would result in abnormally high uninsured driving figures. Another referred to official vehicles which were not required to be insured and noted that its whole registration system was being fundamentally revised, which would make it impossible to provide reliable figures for several years.

Another Member State reported that many vehicles (mopeds, soft-top cars or vintage cars) were registered for the whole year but were insured for only part of it.

Despite the problems raised several Member States stated that it was necessary to begin somewhere and a consistent calculation method would show up the trend. Correct policymaking was more important than totally accurate figures. It was agreed that many Member State would need to annotate their figures.

In response to a question as to the need for these figures the Commission reported on the great importance of this issue, for the European Parliament, for citizens and for the internal market.

10. Any other business

Update on the Rome I and Rome II Regulations

Rome I

The Commission again updated the Committee on the on-going work on the Rome I Regulation, i.e. the Proposal for a Regulation on the law applicable to contractual obligations. A Commission proposal was adopted in December 2005 (COM(2005)650) and was currently being discussed in a Council Working Group and in the European Parliament.

The idea was to turn the 1980 Rome Convention into a binding Community instrument. As was the case with the Rome Convention, it followed from Article 22 of the new Regulation that it would not apply to conflict-of-law-provisions in secondary Community legislation. Relevant Directives were listed in an annex to the proposed Regulation. This meant that the rules on applicable law as stated in the Insurance Directives remained unaffected. However, the proposed Regulation would apply to reinsurance contracts as well as to insurance contracts covering risks located outside the territory of the Union.

The Commission was raising this issue because there had been a strong call and lobbying for insurance to be included. As stated, this was not the case in the current proposal, but the Parliament might see things differently. EIOPC Members might wish to ensure that they co-ordinated closely with their colleagues in the Ministries of Justice in this regard.

Rome II

Work was also on-going at EU-level on a Proposal for a Regulation on the law applicable to non-contractual obligations, the so-called "Rome II".

A political agreement on the text of the proposal was reached at first reading in the Council in June. The Council should adopt its Common position in early autumn. The Common position, together with the Commission communication on it, would then be submitted to the European Parliament for the second reading.

The most important insurance issue was that of the applicable law in the case of traffic accidents. According to the proposal in its current wording, the applicable law should be the law of the country where the damage or injury occurred, which would in the case of traffic accidents normally be the place where the accident occurred. The proposal foresaw some possible exceptions, e.g. if both the person liable and the person sustaining damage had their habitual residence in the same country (then the law of the country of their common residence would apply).

Some stakeholders were calling strongly for a change of the applicable law to the victim's country of residence. The Commission, supported by the Council, was firmly opposed, believing that such a change would have unpredictable and undesired consequences.

As a possible compromise, the current proposal contained a review clause stating that no later than 4 years after the Regulation came into force, the Commission should prepare a report on its application, looking in particular at the non-contractual obligations arising out of traffic accidents.

The CEA had also produced a paper on this issue, supporting the Commission position.

Progress report on the implementation of the IORP and Insurance Mediation Directives

The Commission again noted with regret that several States had not yet fulfilled their implementation obligations as far as two important FSAP-Directives are concerned.

As regards the IORP-Directive (2003/41/EC), the implementation deadline was 23 September 2005. Since the last EIOPC meeting, infringement proceedings had been closed as far as three Member States were concerned, following communication of legislation. The other cases remained open and the Commission had decided on 28 June to refer two Member States to the Court of Justice for non implementation or only partial implementation. The Commission again urged Member States to respect the time limits to reply and to communicate openly with the Services with regard to issues related to national transposition. The Insurance and Pensions Unit requested Member States to send it directly a copy of the official communications sent to the Commission's Secretariat-General

For its part, the Insurance Mediation Directive (2002/92/EC) should have been transposed by all Member States by 15 January 2005. Six Member States had not yet communicated all the necessary legislation and infringement proceedings against those States continued. However, the Commission was aware that some of these States are in the very final stage of finalising the necessary implementing legislation.

The Commission also gave an update on its checking of the transposition of the Insurance Mediation Directive. It had sent letters to the 19 Member States which had communicated their national implementing measures asking for additional information or/and clarification. These letters were sent in March and May 2006 and nearly all Member States had already replied.

The Commission had already analysed the answers and had in most cases informally sought further clarification. The Commission welcomed and called for the continuation of this informal cooperation as it was faster and helped both sides to solve unclear issues. In this context, the Commission asked delegations to send it a list of persons responsible for the Insurance Mediation in their respective authorities.

Training possibilities under the TAIEX budget

The Commission wished to draw attention to the possibility of assistance for training for the 10 New Member States under the TAIEX budget, TAIEX being the Technical Assistance and Information Exchange Instrument of the Institution Building Unit of DG Enlargement. TAIEX provided centrally managed short-term technical assistance in the field of approximation, application and enforcement of legislation. Its services were complementary to the several alternative assistance programmes which the European Commission offers not only to new Member States, but also to acceding states and candidate countries. The ten new Member States would continue to be eligible for TAIEX assistance until the end of 2007. Assistance was provided on a "first come first served" basis.

The budget of TAIEX was available for different activities, such as seminars and workshops to present and explain issues relating to the acquis to a wider audience. Such assistance can focus on one individual country or on a group of countries facing similar challenges. Another example of TAIEX assistance was study visits or sending experts to a beneficiary country to advise on legislative acts and interpretation of the acquis. The beneficiaries of the assistance were public and private sectors which had a role to play in the transposition, implementation and enforcement of EU law.

More information could be found on the TAIEX web-site, together with an application form for assistance which after being filled in should be sent directly to TAIEX.

The Commission also made a link with the training work of the CEIOPS COMPASS Task Force. The aim of COMPASS was to support the creation of a European culture of supervision by facilitating the exchange of staff between supervisory authorities and by analysing how to organize EU wide training schemes. One possibility under discussion was the organisation of a seminar in autumn 2006 in Hungary on Solvency II. The attendees would be staff member of the supervisory authorities. This seminar would be a good candidate for TAIEX assistance but only for New Member States.

Supervisory arrangements paper

At the last EIOPC meeting on 5 April the document "Supervisory arrangements: the next five years" produced by the Banking Unit of DG Markt was due to be discussed. Unfortunately time constraints made this impossible and the Commission had asked for written comments. None had so far been received but the Commission would still warmly welcome any contributions.

The topic of supervisory arrangements and their future shape and organisation was highly topical and was on the agenda of a number of fora. Although the paper was drawn up from the banking viewpoint the debate was by no means limited to that sector.

It had been agreed in the last meeting that EIOPC members would send to the Commission their views on the implications of the work proposed for the insurance sector and on whether the challenges arising in the insurance sector were the same as in the banking sector, whether they needed to be prioritized differently or whether there were different challenges.

The Insurance and Pensions Unit was very keen to hear Member States' views, with particular reference to the Solvency II project, and asked for these to be sent in by the end of July. Views were also sought on whether this discussion should be pursued possibly on the basis of a more structured work programme.

Aviation insurance

The issue had recently been raised of the availability of compulsory aviation liability insurance, as required by Regulation 785/2004. Airlines using EU airspace were required to have third party and passenger liability insurance, including in the event of incidents involving terrorism and weapons of mass destruction. Without such cover airlines would not be compliant with European law and could theoretically be grounded for this reason.

The old Insurance Committee had discussed this issue in the past. The Commission was asking members of the Committee whether they were aware of difficulties faced by their airlines in finding such insurance cover.

Member States were asked to communicate the current situation and any problems faced by the end of August. The Commission would then report back to the Committee.

Motor insurance announcement

Regarding the transposition of the 5th Motor Insurance Directive a letter had been sent to Member States in April asking for any questions, difficulties or problems encountered in the transposition of the Directive. The implementation deadline was June 2007. Twelve replies had been received so far and others were invited by the end of July. A meeting had been scheduled on 28 September to discuss the issues raised.

Newsletter

The Chairman drew the attention of delegates to the traditional Insurance Committee newsletter which had been circulated.

No further business being raised, the Chairman closed the meeting, the next meeting of the EIOPC being scheduled for 29 November 2006.