



EUROPEAN UNION
DELEGATION OF THE EUROPEAN COMMISSION

Head of Delegation

Washington, 27th February, 2009
ECFIN/2009/D/241

Mr. Russ Sullivan
Democratic Staff Director
Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr. Sullivan,

I am writing to let you know of the European Commission services' great concerns about the Senate Finance Committee staff draft on related party international reinsurance. This proposal would deny US tax deductions on reinsurance cessions to affiliated reinsurance companies outside the US.

The proposal violates the principle of a level playing field for all US insurers and reinsurers, by introducing a punitive tax regime on US insurance companies that reinsure their risks with affiliated foreign companies. As a consequence, the proposals would increase costs to domestic carriers, reduce competition and increase the price of insurance for US consumers.

We understand from reading the proposal that the target of this legislation is "affiliated non-taxed reinsurance premium". As currently drafted the proposal would clearly capture affiliated reinsurance premium ceded to a reinsurance company incorporated in the European Union, where the average tax burden is approximately 25%, and in the largest EU reinsurance markets the rate is even higher. It also violates the provisions of the double Tax Treaties signed by the US with several Member States of the European Union such as Germany, France, Italy, Ireland and the UK based on Article 24, paragraph 5 of the OECD Model Convention.

Against the backdrop of the current economic crisis, these proposals would not save or create a single extra US job and are clearly at odds with the declaration made by leaders of the Group of Twenty, when they met in Washington in November 2008 to discuss the global financial crisis, in which they made clear the "critical importance of rejecting protectionism and not turning inwards in times of financial uncertainty".

In addition, it should be recalled that the US has taken specific commitments in the WTO, more specifically, in the context of the General Agreement on Trade in Services (GATS). The US GATS schedule regarding the cross-border supply of reinsurance services includes a reservation regarding the imposition of the Federal Excise Tax of 1%. However, there are no specific national treatment limitations as to the deductibility of reinsurance premiums paid to offshore affiliates. Therefore, any differential treatment of the tax deductibility of reinsurance premiums paid to offshore as opposed to onshore affiliates is a breach of the US GATS commitments that reinsurance services of any other WTO member must be treated no less favourably than US like services.

I would therefore strongly urge you to reconsider this ill conceived proposal and ensure equal treatment for all US insurers operating in the US market.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'AP', written over a horizontal line.

Angelos Pangratis
Chargé d'Affaires, a.i.

Cc: Rep. Charles Rangel
Rep. David Camp
Rep. Richard Neal
Sen. Max Baucus
Sen. Charles Grassley
Secretary Timothy Geithner
Acting USTR Peter Allgeier