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INVISIBLES: INSURANCE

Insurance in developing countries: developments in 1984-1985

Study by the UNCTAD secretariat

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INTRODUCTION

(i) At its second session (April 1967), the Committee on Invisibles and Financing related to Trade requested the Secretary-General of UNCTAD "to carry out at least once every two years reviews of developments in insurance, with special reference to developing countries". 1/ The present study, covering the period 1984-1985, has been prepared pursuant to this request. 2/

(ii) As in the past, part of the information and particulars needed for the preparation of this study was supplied to the UNCTAD secretariat by the Governments of developing countries in response to a request made by the Secretary-General of UNCTAD. This information has been supplemented by data collected from very diverse private sources, especially trade journals and periodicals. It has not, of course, been possible to verify the accuracy and coverage of the information obtained in this way.

(iii) This study does not claim to provide comprehensive information. The information included has been selected mainly on the basis of its relative importance to the development of the insurance sector in developing countries. More particularly, it tries to identify the factors which have hindered the expansion of this sector and those which have enhanced its potential growth at the individual and collective levels.

(iv) Chapter I of this study deals with domestic insurance markets and their structural development. Chapter II includes information on measures adopted with a view to strengthening these markets. Chapter III includes the new regulatory measures adopted on questions of solvency and contractual relationship between insurers and insureds and the developments in Government supervision over insurance enterprises and insurance operations. New developments in the field of reinsurance are covered in chapter IV, while chapter V deals with co-operation among developing countries in the field of insurance and reinsurance.

Chapter I

MODIFICATIONS OF MARKET PATTERNS IN DEVELOPING COUNTRIES

1. A tendency towards less strict conditions for the admission of new companies or the involvement of the private sector in insurance business has manifested itself in several developing countries during the period under review. In certain instances, new regulations concerning the establishment of local insurance companies (and foreign insurance companies in a few cases) have effectively resulted or are expected to result in providing the opportunity for new companies to start operating in markets where only one or two insurance companies had been allowed hitherto. The trend towards liberalization of services, referred to in paragraph 19, has probably had a bearing on this new policy. The creation of new State-owned companies (e.g. National Insurance Company of Liberia) has been an exception, the majority of new entrants in the insurance market being privately-owned. As a result of this new policy, several countries have already experienced a sizeable increase of new insurance companies of the private sector.

2. An example of this development could be Sri Lanka, where the Government has taken a decision to allow the private sector to participate in the industry alongside the two State insurance corporations which had enjoyed a State monopoly since 1961. The Parliament has apparently not yet ratified the decision at the time of writing but it is expected to do it shortly. Parallel to this development, the private sector will be allowed to manage its own reinsurance operations directly with local and foreign reinsurance companies. This measure is reported to contrast sharply with the present situation, where outward reinsurance is only done by one State corporation on behalf of the two existing insurance companies. A "Committee on liberalization of insurance", appointed by the Ministry of Trade and Shipping in the first half of 1985, recommended however that not less than 15 per cent of the gross premiums on fire and marine insurance be compulsorily ceded by all insurance companies to a Reinsurance Corporation to be established by the Government to that effect.

3. The national supervisory authorities have also pointed out that there will be consequential changes on the supervision of the industry. The present "Control Insurance Act" will be amended in due course to provide the necessary means for the Controller to exert more effective supervision. It has also been indicated that these developments are not meant to open the market to foreign competition. In fact, the Government has decided that there should be no foreign investment in the formation of private insurance companies. Companies, however, will probably be permitted to obtain foreign technical or management assistance to enable them to be more competitive.

4. Most of the new insurance legislation continues to restrict the access of foreign companies to the markets. In Zimbabwe, for instance, new legislation has been promulgated which requires all direct underwriters to be locally incorporated. The share capital of the companies will have to be owned to the tune of 20 per cent by Zimbabwean citizens or by locally incorporated companies. These percentages will rise later to 51 per cent. Direct writing companies will only be allowed to enter into treaty arrangements or facultative cessions with unregistered reinsurers outside Zimbabwe once the capacities of the locally registered reinsurers have been saturated. To that effect, no business - either facultative or treaty - will be placed on external market unless the Zimbabwe Reinsurance Corporation has certified that

the market does not have the capacity for it. All reinsurance treaties will be examined by the Zimbabwe Reinsurance Corporation before they come into operation.

5. The above measures are expected to maximize the contribution of insurance companies to gross domestic savings and to the economic development of the country as a whole by ensuring that outflows by way of insurance and reinsurance premiums are minimized. It has also been pointed out that the new legislation may lead to a further reduction in the number of direct short-term insurers operating in Zimbabwe, already down from 24 at independence in 1980 to 13.

6. New regulations in China, to take effect in 1985, are aimed at opening the market to new companies, subject to the approval of the State administrative organ in charge of insurance (i.e. the People's Bank of China). However, while the People's Insurance Company of China is deprived henceforth from the exclusive right to operate insurance in the national territory, it remains the exclusive insurer for the following operations: (a) compulsory insurance; (b) insurance contracts expressed in foreign currencies; (c) insurance taken by State-owned and foreign enterprises as well as joint ventures with Chinese and foreign investment; (d) international reinsurance business. Moreover, insurance enterprises being set up in accordance with the new regulations shall reinsure at least 30 per cent of the total business transacted in China with the People's Insurance Company of China. A similar reinsurance cession will apply to risks amounting to more than 10 per cent of the net worth of the companies concerned. Inward foreign reinsurance operations are not allowed for these companies (see also para. 70).

7. A different source of information 3/ quotes Mr. Pan Lufu, General Manager, People's Insurance Company, Beijing, as saying that the "open door" policy would not mean unrestricted admission of foreign-owned insurers to write large scale domestic general insurance business. "Should a foreigner wish to operate an insurance company in China, it would be necessary to co-operate with the People's Insurance Company of China and the People's Bank to gain approval."

8. The necessity to change the structure of the market has also been felt in Malaysia, where the Government has continued to monitor the implementation of the New Economic Policy in the insurance industry through restructuring of foreign insurance branches into domestic companies. The number of registered insurers is still considered to be excessive for the industry to operate on optimal economies of scale. Most of the existing insurers are low capitalized and their assets are extremely small. About one third of the insurers held assets of less than $US 4 million at the end of 1985.

9. The Government would like to see a greater consolidation of the market to allow for economies of scale and healthy competition. Towards this end, the Government encouraged corporatization of existing insurance companies which are able to provide a bigger capital base. The Government would consider allowing joint ventures between existing insurers and public quoted companies. Another market development concerns the setting up of a new insurance company in August 1985 to transact insurance business in accordance with Shariah (Islamic Law).

10. The structure of the insurance market has also undergone some changes in Mexico as called for in the National Programme for Development Financing, adopted by the Government in 1984. Included in the strategy for the development financing for the period 1984-1988 are some basic orientations aimed at the strengthening of the non-banking financial institutions, among which the insurance enterprises. Efforts in this direction include a new definition of the role of the insurance sector, namely (a) meeting efficiently the demand for insurance services; (b) contributing to generate internal savings; (c) strengthening the capital market and the long-term financial investments.

11. The various measures adopted with a view to enhancing the structure of the insurance system include the following: (a) the insurance sector is to be considered as a concessional public service; (b) the insurance sector should be segregated - share-capital and operations wise - from the banking sector to avoid any subordinated relationship between the two sectors; (c) the Government participates directly in the insurance and reinsurance market through its own institutions, the role of which is to strengthen and regulate the market; (d) small companies are encouraged to specialize according to the markets, regions and activities in which they operate.

12. The new Mexican guidelines also contain specific provisions aimed at (a) improving the quality and diversity of insurance services, as well as making insurance better available to the population - efforts in this direction call for lower insurance costs and a better adaptation of insurance covers to effective needs of potential clients; (b) promoting new insurance schemes for the cover of exports of goods and services and for foreign tourism; (c) inducing the insurance sector to achieve economies of scale through the enlargement of the market and a better classification of risks, tariffs and commissions; (d) working out an efficient reinsurance system to permit an adequate spread of risks and, at the same time, to ensure a sufficient level of solvency, liquidity and profitability to insurance institutions; (e) regulating operations and investments of insurance companies so as to achieve adequate financial and profit ratios.

13. In Rwanda, a second insurer, the "Société Rwandaise d'Assurances", started operations in November 1984. Fifty-two per cent of the shares are in the hands of private nationals, the rest being held by "Union des Assurances de Paris".

14. In the field of co-operatives, in Nigeria, World Wide Insurance Company began full operations in 1984. It is a composite company founded and capitalized by several co-operatives in Lagos and surrounding States. In its first full year it wrote over 1 million Naira in premiums. In Jamaica, the National Union of Co-operative Societies formed the Co-operative Insurance Services Ltd. as a general insurance agency. Mutual companies have been set up in Morocco and other countries.

15. Under a new insurance law passed in the United Arab Emirates, underwriting agencies will have to be fully owned by UAE nationals and locally incorporated. For local and foreign insurance companies, minimum share capitals and other financial conditions have also been adapted to new requirements.

16. In the Cameroon, the new 1985 "Ordonnance" provides for the local incorporation of insurance carriers (see para. 66).

Chapter II

MEASURES AIMED AT THE STRENGTHENING OF DOMESTIC MARKETS

A. Expansion and diversification of insurance business in developing countries

17. Efforts to increase premium incomes, diversify and spread insurance operations and, generally, to provide the basis for more solid risk-bearing capacity in developing countries, have often been thwarted by a number of negative factors. First and foremost among these factors have been balance of payments and external debt problems, depressed export prices and the drought situation affecting many developing countries, which have resulted in less investments, curtailing of imports, lower living standards of the population. All these factors have a depressing effect on insurance demand and volume of premiums transacted in the markets concerned.

18. Other factors have also played a negative role. For instance, there has been an increasing tendency for many risks domiciled in developing countries to get insurance cover in other markets, thus occasionally depriving the local markets of a substantial amount of premiums. This has been particularly important in relation to business emanating from transnational corporations and other related international financing institutions. Strict policies that had before been applied to the effect that this business be transacted in the market of the country where the risk is situated have apparently been somewhat relaxed in some developing countries.

19. The promotion by international insurance and reinsurance markets of the concept of freedom of international transactions of services, including insurance, and their insistence that governments include this issue in the next round of multilateral trade negotiations has probably played a determinant role in this new policy: "Even before the framework for multilateral negotiations is final, the preparatory process will cause governments to hesitate before further restricting trade in service sectors such as insurance which will be part of the new trade round. The expectation of negotiations can only strengthen bilateral discussions to reduce insurance trade discrimination", said the Director's 1983-1985 report to the International Insurance Advisory Council, United States Chamber of Commerce.

20. The move towards removing what is termed "restrictive insurance measures", particularly those adopted in developing countries, is being actively supported in many quarters. The President of the American Institute of Marine Underwriters reported in this respect that "The AIMU had met with government officials from the Commerce Department, the Office of the United States Trade Representative and congressional committee members to canvas support for reforms such as those which had resulted in the Ex-Im Bank encouraging the United States marine insurance market to compete in placing insurance on exports financed or guaranteed by the Bank.". 4/ "Any attempt to reduce [insurance] barriers required the active support of United States Government agencies and the international trade community", said Mr. Ward L. Mauck, a leading international insurance executive. This active support seems to be amply given: "The Federal Government is trying to link denial of insurance market access to negotiations on Generalized System of Preferences (GSP) renewals". 5/

21. A further element which has also been detrimental - at least marginally - to the expansion and diversification of insurance business in developing countries refers to the insurance of their merchandise exports to some important developed countries. This insurance used to include transportation and also product liability cover. This last cover has been hit by heavy liability claims derived from unexpected generosity of court awards and tort law. The importance of this issue has prompted many insurers of developing countries to abstain from providing cover for domestic products exported to the United States, the country where the problem has been most severe. The situation not only affects domestic insurers but also has a general bearing on the export capabilities of the developing countries as the production costs tend in this way to rise and this partly offsets their original comparative advantage. The Times of London has commented in this respect that the net effect on companies that want to do business in the United States is a "subtle sort of American non-tariff barrier", an opinion to which the director of Thailand's government insurance office subscribes when he says that "outrageous United States liability is a 'form of United States trade protectionism'". 6/

22. This issue seems to affect exporters from developing countries and their insurers in many ways. For instance, "component suppliers not directly exporting to the United States may yet find themselves under the jurisdiction of state courts if their wares find their way to the States as part of another manufacturers product - a new and possibly far-reaching twist to the product liability problems already affecting exporters". 7/

23. Specific national developments on expansion and diversification of insurance business are reported in the following paragraphs.

24. In Nicaragua a law passed in February 1984 provides for the obligation of insurance in respect of investments, prime materials and finished products, owned by State institutions and enterprises, against the risks of fire and natural catastrophes. For this business, the intervention of an insurance agent, which would otherwise be mandatory, is waived. A further regulation establishes the obligation to insure the liability of civil servants involved in public funds against the risk of embezzlement.

25. Reports from China underline an 88 per cent increase of premiums from rural households as a result of new agricultural policies. 8/ The same source of information points out that the "Beijing City Insurance Co." has introduced 12 new types of insurance specifically aimed at businesses involving foreign investment.

26. In Iraq, the Arab War Risk Syndicate has launched a programme for land transit war covers. As reported by press sources, "AWRIS was formed early in 1981 by Gulf area direct insurers in an attempt to contain what the companies and local mercantile interests saw as the excessive cost of marine war cover for Arab-owned cargoes and the ships carrying them written in traditional markets, notably Lloyd's". The syndicate, which now has 28 member-companies and is managed by the state-owned National Insurance Co. of Iraq, was enabled to continue in part by special reinsurance arrangements agreed with those same markets. Inland transport war insurance, of the type AWRIS now offers, has hardly been available in the established international markets since the late 1930s. 9/

27. In Niger, a new law passed in 1985 makes it mandatory to resort to the local insurance market for the transportation of imported goods. A similar development is reported in Mali and in Benin; as a result of this measure, premium income in the latter country in respect of marine business has increased from 12.4 per cent to 48 per cent of the total domestic premium income.

B. Promotion of new categories of cover for domestic risks

28. Efforts in several developing countries have concentrated in the setting up of new agricultural insurance programmes or in the continuation of projects initiated in previous periods. The main emphasis is generally given to the encouragement of investments in the agricultural sector that crop insurance programmes help provide. As an example, discussions and studies going on in Guyana on the matter are specifically oriented towards providing financial institutions with an insurance guarantee that would permit the recovery of loans when an agricultural calamity occurs. Other countries are already in the implementation stage of these programmes. One of them is Bangladesh. Another is Colombia, where a crop insurance programme has been set up for the protection of losses deriving from drought, freeze or flood. For the time being, the insurance covers only potatoes, rice and maize and is expected to extend to all other agricultural products as more experience is gained.

29. In Zambia a sort of group life cover for maize producers has been launched. These operations cover mainly seasonal loans and are said to help increase lending by financial institutions to the farming sector. In addition, the Insurance Corporation is now underwriting "Multi Peril Crop Insurance", the sum insured being based on the crop yield. The insured perils are loss or damage resulting from fire, lightning, storm, tempest, flood, drought, riot, strike and malicious damage. A new system was introduced in 1985, with the sum insured per hectare being set by the Corporation and covering the main production costs plus an element for capital. Cover modalities differ according to individual situations. This is said to be a more attractive form of cover, easily understood and simpler to administer both by client and insurer.

30. In Paraguay a crop insurance programme is now available for soya production against the risk of excessive rain and hail. Reports say that soya has been selected as a first experiment with crop insurance because this is the most important and extensive crop in the country and also because it is farmed by medium and large farmers. The new programme is expected to extend to more products and to a large range of risks as experience is gained with the present scheme.

31. In other countries existing projects have had to be shelved or partially abandoned "owing to the lack of expertise to underwrite these risks", as pointed out by a developing country in its report, an opinion which underscores the importance of insurance education and training (see chapter III).

32. In China the new regulations to which reference is made in paragraph 6 include an important encouragement "to provide insurance services to peasants by developing the rural business. Insurance enterprises shall support peasants to set up rural mutual insurance co-operatives by pooling funds on a

voluntary basis". In Pakistan, the scheme of agricultural insurance is under active consideration by the Government. Brazil has started a national rural insurance system. Credit insurance has been restructured.

33. New categories of insurance, other than agricultural, have been introduced in some developing countries. Bangladesh reports that export credit insurance and various classes of life insurance (group endowment, group pension, mortgage protection) are now offered in the country by the two domestic corporations. Export credit insurance is now also available in Indonesia where, with the objective of increasing non-oil commodities exports, the Government has set up a State enterprise, P.T. Asuransi Ekspor. In Argentina, a nation-wide layered system of personal insurance, including life, retirement, accident benefits and other investment and savings related covers, is being promoted by the market after encouragements given by the Government. The objective is to develop a private, voluntary insured pension scheme to complement the long-standing social security system. 10/ Also in Thailand new types of covers have been introduced, including group life insurance.

34. The Special Risk Insurance Consortium in Zimbabwe has agreed to take over local hauliers' insurance on the dangerous "maize run" through Mozambique to Malawi. This will save the country about $Zim 500,000 ($US 325,000) of foreign currency previously paid to developed markets. The newly established consortium, comprising 16 Zimbabwean insurance companies, will accept a single risk up to $Zim 250,000. Previously, local companies refused to insure hauliers' vehicles, which can cost as much as $Zim 200,000 each, excluding the value of the load. 11/

35. A number of Arab countries (Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates and Oman) agreed on a compensation scheme to replace any oil shipped from their ports which may be damaged or lost as a result of the Gulf war (see also para. 171).

36. In Colombia, the creation of a Fondo de Garantia de Instituciones Financieras is being planned. The Fund would provide guarantees to small and medium size investors and savers on an insurance-like system against loss of their deposits in banks and savings banks.

37. In Ecuador, the promotion of new covers has mainly concentrated in the so-called technical covers, particularly those of interest to banks, electronic equipment, drilling rigs. Group life insurance plans and insurance for the protection of government property have also been started. In Tunisia, risks under "Export credit insurance" have been identified (commercial, political, catastrophic risks). Projects are under way to create an institution to cover these risks and to set up a reinsurance fund for the political and catastrophic losses.

38. Health insurance is taking hold in several developing countries or expanding rapidly. In Brazil, premium income in this category has doubled in a few years.

39. Various developing countries have pursued their efforts to build more efficient insurance covers against catastrophes. The interest in the matter in a number of these countries has surely been spurred by some big catastrophes which have hit these countries during the period under review,

chief among them being the earthquake in Mexico of 19 September 1985. The earthquake, with a magnitude of 8.1, killed about 6,000 and left thousands injured. Total damages have been estimated at around $US 2,000 to 3,000 million.

40. This total loss was uninsured for a substantial part. In fact, information available indicates that insurers have faced claims for a total of about $550 million of insured values. Most government buildings were uninsured. "They included the Centro Médico hospital, which collapsed not only on patients and doctors but also on millions of dollars worth of medical equipment", says World Insurance Report (London, 18 October 1985). According to data supplied by the "Asociación Mexicana de Instituciones de Seguros", the local direct insurance market will pay $19 million, the domestic reinsurance market $8 million and the international reinsurance market some $500 million. It is also accepted that, as a result of the cover limitations (only 75 per cent of the insured values at risk are actually covered, the rest being borne by the policy-holder, in addition to 2 per cent of deductible franchise), the total sum which will eventually be paid by the insurers will be only a fraction of those sums.

41. A catastrophe of that magnitude could shed an interesting light on the role that the insurance sector can play in indemnifying losses and mitigating in this way the economic consequences of the disaster. There are many developing countries interested in the conclusions which can be drawn from the Mexican experience in terms of the macro-economic and micro-economic determinants for an optimum domestic insurance and reinsurance strategy. For instance, what would be the acceptable degree of compulsion to take out catastrophe insurance for people living in catastrophe prone areas, the methods determining premiums rates, the optimum amount of self-insurance and deductibles, the levels of risk concentration and spread, the reserving and investment policies, the optimum proportional and non-proportional external reinsurance cover and its cost.

42. It does not seem that the Mexican earthquake of September 1985 provides an answer to many pending questions on those and other issues. The need for more theoretical and empirical studies on the matter is felt in many countries where the catastrophes are a permanent risk of major economic consequences.

43. On the particular case of the Mexican earthquake, there are unmistakable signs that the insurance demand has increased greatly after September 1985, while the international reinsurance market has hardened its conditions and rates. "It is expected that cost of reinsurance on catastrophe excess of loss will increase two to four times and that insurance companies will be subject to an outflow of foreign exchange, involving hard currencies." 12/ In fact, some reports indicate that the position of the international reinsurance markets was sometimes a cause of concern because some domestic insurers were said to be facing cash flow problems, "as their reinsurers are falling behind with payments", as the professional press has reported. 13/

44. Other catastrophes of devastating consequences have taken place in other developing countries and have given rise to an increased interest in catastrophe cover. One of the examples is that of the earthquake in Chile of 3 March 1985, where losses amounted to some $US 600 million. The bill for the insurance market was expected to be in the range of $50-100 million, the local retention being of about 10 per cent of these sums.

45. Some developments with reference to catastrophe covers are described in the following paragraphs. Scarcity of information stems in part from the fact that not many developing countries are catastrophe prone, so that no particular regulations and measures on special insurances are needed; and in part from the fact that few markets in developing countries are strong enough to provide cover against the economic consequences of major catastrophes. The absence of specific measures in these countries does not mean that these measures are not called for but rather that there is no market to which they would apply.

46. In Colombia (where there is an obligation to insure against earthquake all investments of financial companies and property mortgaged to these companies) the supervisory authority has laid down new conditions for the earthquake risks. The property will now be covered for 75 per cent of its value (25 per cent to be borne by the policy-holder). A deductible franchise of 3 per cent will be also applicable. New seismic zones have been defined according to the exposure, with a view to quantifying on a statistical basis the gross and net liabilities assumed by the insurers. Further, it has been established that the maximum net liability that the companies can assume on each of the newly defined seismic zones shall not go beyond 10 per cent of the company's preceding year's net worth. That maximum liability shall be based on the amount of a "probable maximum loss" of at least 20 per cent of the insured values. These conditions apply not only to the earthquake risk proper but also to volcano disasters - a particularly important risk in the country - which are included in the earthquake tariff insurance. The above measures combine with the setting up of a "National Calamity Fund" with the objective of providing indemnities in case of (1) natural or man-made catastrophe or emergency situations, including epidemics and armed conflicts; (2) large losses for which insurance coverage already exists, such as earthquake, crop, credit to small industries.

47. In Nicaragua, co-insurance by policy-holders on catastrophic risks will be of 20 per cent.

48. In the Philippines earthquake insurance rates have been set by the Philippine Insurance Rating Association (see para. 103).

49. In the field of life insurance, new plans and programmes have been put on the market during the period. Some of these developments have already been reported above. Other developments refer to Sri Lanka, where a decision taken by the Government gives life insurance cover to the private sector employees numbering about 1.6 million. The life insurance cover is provided to these employees by the Insurance Corporation of Sri Lanka and the premium is provided by the Employees' Trust Fund, which is an Organization where every employer contributes 3 per cent from each employee's wage.

50. Particular efforts have been carried out in the Philippines in the area of life insurance to attract the interest of a new insuring public. Several new contracts are being marketed, including a "Return of premiums contract", "Variable life plans", "Personal accident policies", and other non-traditional features.

C. Other measures aimed at strengthening local insurance markets in developing countries

51. The particular efforts made in Brazil to enhance the local retention capacity, through Government cover of part of the so-called "target risks", are dealt with in paragraph 148.

52. In the loss prevention area, the International Maritime Bureau is reported to have started a programme for fighting containerized cargo losses, improving port security and reducing maritime fraud. Maritime fraud is spreading and is said to affect particularly the interests of developing countries and their insurers. 14/ The IMB now issues a monthly maritime fraud information bulletin in addition to its fortnightly confidential bulletin to members. Special reports have also been produced on charter party failures, documentary fraud, terrorism, piracy and port security. The UNCTAD Committee on Shipping considers regularly problems associated with maritime fraud (see document TD/B/C.4/296).

53. Some developing countries (e.g. Mexico) have taken strong action in the loss prevention and risk management fields. This course of action is common in many countries in the aftermath of a catastrophe of the magnitude of that having hit Mexico (see para. 39) when the question of improved security is most lively in the public opinion and governmental policy. Safety improvements and efforts in risk administration are then energetically considered. Unfortunately, these efforts are often wiped out after a time. Systematic activities in loss prevention and risk management are felt to be overdue in many developing countries. (See also TD/B/C.3/218 on risk management.)

54. In the field of insurance education, a general feeling prevails that management systems are less than adequate in some developing countries, so that intensive efforts of training would be necessary. In the Republic of Korea, for instance, the Chairman of the Korea Non-life Insurance Association has identified shortcomings in this area, together with lack of protection of the insured people, inadequate risk management systems and insurance statistics not being efficiently utilized. 15/ Other developing countries have expressed similar views in respect of the need to improve insurance training. In paragraph 31, it has already been pointed out that major difficulties in launching crop insurance programmes stem from the lack of adequately trained personnel.

55. The necessity to provide more and better training has also been particularly felt on account of "the increasing competitiveness of the insurance business", as pointed out in the annual report of the Insurance Commissioner of Singapore (year 1984). The same source goes on to underline the following points:

> "The rapid changes in the Singapore economy brought about by economic restructuring and a move towards a high-technology society mean that the insurance industry must move with the times. It must be adaptable, innovative and professional in meeting the insurance needs of the public. Its human resource will become ever more important. The quality of the people serving in it will be crucial to its success in coping with the new challenges. The industry has reached a stage in its

development where a new initiative in the field of training and development need to be undertaken to ensure that it will have the required manpower for its future development.".

56. In line with the above philosophy, a study mission in Singapore has been looking at the approaches and systems of a good cross-section of international insurance institutions. A forum was organized by the mission thereafter to present its findings and recommendations to senior management in the industry. Insurers and trade associations were subsequently invited to give their views and comments on the subject. They were also encouraged to take the opportunity to review their approach to human resource development. A general conclusion was that there is a need for the Singapore Insurance Training Centre to play a central role, together with other training institutions in Singapore and elsewhere.

57. Efforts in other developing countries to improve insurance educational systems and facilities have also been carried out in many other countries, e.g. Malta. Reports from this country say that "the local training centre, set up in 1982 to provide accelerated in-depth technical training to a high standard for staff in the Maltese insurance industry continued with its activities in the course of the period under review. The centre regards the professional examinations of the Chartered Institute, which are accepted worldwide, as a point of reference for the centre's results. The students at the centre come from Malta and from several countries and obtain a large number of distinctions. The results obtained over the last few examination sessions have demonstrated a more than average pass-rate.".

58. In Mozambique, educational activities have started with the co-operation of the Indian Federation of Insurance Institutes, in Bombay. Continuation of these activities as well as the launching of specialized courses is being contemplated for the next periods. Some difficulties are being faced on account of shortage of foreign exchange, which is needed to pay for books and fees.

59. In Zambia, new premises of the Zambia Insurance Business College are being built in Lusaka which also include suitable accommodation not only for local students but also for those from neighbouring countries. In Zimbabwe, it has been proposed to establish an insurance college to cater for training and carry out research in certain fields of insurance.

60. In co-operation with the Asian Reinsurance Corporation (ASIANRE) and with the financial support of UNDP, UNCTAD organized a series of mobile seminars. Teams of highly qualified experts visited selected countries of the region (Bangladesh, Indonesia, Malaysia, Sri Lanka and Thailand) where they held lectures on reinsurance for the benefit of local participants and their companies. The positive outcome of these activities, which make low-cost, highly qualified expertise available to developing markets, suggests that they should be increased.

Chapter III

NEW REGULATIONS RELATING TO THE SOLVENCY AND ADMINISTRATION OF INSURANCE ENTERPRISES AND INTERMEDIARIES AND TO INSURANCE CONTRACTS

A. New legislative and supervisory systems

61. Recent failures of some companies in both developed and developing countries have shed a new light on the need for stronger and more efficient systems of insurance supervision. Once again, the evidence is given that legislative action allowing for the effective supervision of the industry and making certain minimum locally invested reserve requirements a statutory obligation is an essential condition for a healthy insurance market.

62. It is also accepted that legislative action can only be effective if it can rely on an efficient supervisory office. This condition is mainly valid for the assessment of the solvability level of the companies under supervision, a task calling particularly for the evaluation of provisions for premium reserve and for outstanding claims which should be a fair and reasonable estimate of amounts required to settle claims in full. It also involves the evaluation of amounts receivable from reinsurers. It has recently been said in this respect that "the problem of those insurance companies that failed could be largely traced to inability to collect on reinsurance contracts", 16/ for which reason proposals have been made to better determine the likelihood of recovering amounts receivable from reinsurers. 17/ Although this comment did not refer to a specific developing country, the problem it raises is generally not unknown to developing countries which, consequently, may be advised to consider the proposed solution as well.

63. Another cause of concern for the insurance supervisory offices are the activities of unauthorized companies in their territories and the sale of policies with the policy-holder appearing as a foreign person. Reports abound of, for instance, Panama residents signing proposal forms dated from a location in the United States. Many other countries would be facing a similar problem: "Most countries rule that residents may not buy covers from unlicensed insurers. But some have had to take additional action against the 'Miami invaders'. Colombia's exchange and insurance authorities imposed stiff fines for local violation and most Colombian intermediaries stopped supporting the unauthorized underwriters". 18/

64. Other preoccupations stem from the operations in particular categories of insurance which traditionally are unprofitable and could become the main areas responsible for many failures and bankruptcies: this is the case of motor insurance business in many countries. One African country reports that this business "is threatened by huge third party injury claims which, if not regulated, will lead to the collapse of the business. Besides, the current claims procedures often require accident victims to channel their claims through intermediaries (lawyers and claim agents) who in turn demand large portions of the said claims as fees.". In this connection, UNCTAD secretariat studies on automobile insurance (TD/B/C.3/176 and Supp.1) and on the compensation of victims of motor accidents (TD/B/C.3/190 and TD/B/C.3/191) suggest a number of measures which were commended to the attention of developing countries by the Committee on Invisibles and Financing related to Trade at its tenth and eleventh sessions.

65. For many developing countries, inadequacies or shortcomings of the insurance laws and regulations are not responsible for the above problems, but rather the shortage of qualified supervisory personnel and the lack of suitable supervisory systems to discharge the supervisory responsibilities and to provide a proper administration of the insurance laws. In some countries, there is an increasing awareness of the shortcomings in the area of both legislation and supervision systems and a renewed interest to overcome them. The following paragraphs bear out this interest and illustrate some of the efforts carried out in that direction.

66. In the Cameroon, the "Ordonnance" 85/003 of 31 August 1985 laid down new rules for insurance activities. The main points are the following: (1) The rules apply in principle to all insurance institutions, except those engaged into reinsurance operations exclusively and in social security. Intermediaries are included. (2) Insurance institutions should in principle be legally incorporated in the country. At least one third of the share capital should be national. Share capital of insurance brokerage firms should also be national for at least one third of its amount. (3) Insurance contracts concerning residents, risks or property situated or registered in Cameroon may only be covered with licensed companies. The same rule applies to the insurance of merchandise imported in the country (a new condition which was not included in the former regulations). Exceptions can be authorized by the supervisory authority when circumstances warrant it. (4) Cessions to foreign reinsurers involving 50 per cent or more of the risk value can only be effected with previous authorization and after providing an evidence that the local market cannot provide cover. All reinsurance treaties with foreign companies cannot involve more than 50 per cent of the risk values. (5) Licensing applies not only to companies but to their executives as well. Executives should be Cameroon nationals and possess the necessary honourability, training and experience. (6) Technical reserves and other guarantee funds should be earmarked by the companies under supervision according to usual standards. (7) Insurance supervision extends to the activities of insurance companies and intermediaries and it particularly concentrates on the use of the collected funds, the settlement of claims and the investment of technical and life reserves.

67. The United Arab Emirates promulgated in 1984 the "Federal Law No. 9 governing insurance companies and agencies". Ministerial resolution No. 32 for 1984 provides the pertinent regulations. The main points are the following: (1) Property and liability risks cannot be insured abroad. Brokerage activities are only permitted for business to be underwritten by domestically registered companies. (2) Companies are permitted to engage into insurance business only after being authorized to do so by the ministry in charge of insurance supervision; licences may be refused if the interest of the national economy so demands; only public share holding companies, with nominal shares held by UAE nationals will be considered for registration. (3) Foreign insurance companies may be licensed if they operate in the State through a national agent. (4) Paid-up capitals of insurance companies shall not be less than 10 million dirhams; companies are required to deposit specified amounts of their capitals (in cash or its equivalent in shares or bonds of companies established in the State or mortgage of real estate in the State) with banks domiciled in the State. (5) Insurance agents are required to register; the agent has to be a UAE national, among other conditions; if the insurance agent is a company, it must be established in the State and its

share-capital must be held by UAE nationals; surveyors and loss adjusters are also required to register. (6) The Government may require insurance companies to reinsure part of their direct insurance business with national reinsurance companies operating in the State; no reinsurance companies shall be established unless a federal decree is obtained. (7) Companies carrying on long-term business (life) shall maintain funds equivalent at least to the accounting reserves in respect of business underwritten locally. Funds deposited in respect of marine business will be of 25 per cent of the aggregate last year premium. Other categories of business are subject to the local investment of reserves for an amount of 40 per cent of the previous year premium.

68. In the Solomon Islands, the "Insurance Act 1985" has been passed by the Parliament. It provides for the appointment of a Controller of Insurance and requires that insurers, brokers and agents be registered under the Act. Corresponding regulations have been drafted in 1985 and were due to come into operation in April 1986.

69. In Panama important amendments to the insurance law were approved in 1985. (1) Companies under supervision will now include brokers and intermediaries. A company will be considered as "national" only if a minimum of 51 per cent of its paid up capital is in Panamanian hands. (2) The supervisory agency ("Superintendencia de Seguros y Reaseguros") is a dependency of the Ministry of Commerce, with greater autonomy and resources than before. The Superintendencia has the authority to license brokers and to enforce solvency requirements and investigate commercial activities and professional practices. It can amend or cancel any insurance policy which violates the law. (3) A "Technical Insurance Council" is established to interpret and apply the technical aspects of the insurance law. Four of its nine members will be from the private sector. (4) The application for licence must be rejected, or a licence revoked, if the applicant's activities are held to conflict with the financial stability of the insurance industry. (5) New capital requirements and guarantee deposits are laid down. The whole amount of life insurance funds for contracts underwritten in Panama must now be invested in the country. On the other hand, there will no longer be an obligation to retain premium reserves in respect of reinsurance. There is a new reserve to be established against statistical deviations, which is calculated on the basis of net retained premiums for the last year. The types of permitted investments are listed. (6) Companies must submit their reinsurance contracts, cover notes and reinsurers' financial statements to the supervisory authorities (see also para. 145).

70. In China new regulations apply to insurance operations as from 1 April 1985. They include conditions for the establishment of insurance enterprises, the setting up of an insurance supervisory body, which will effectively be carried out by the People's Insurance Company of China. They also deal with insurance enterprises' solvency margin, retention of premium reserve and ruling for reinsurance business, etc. The Regulation provides that insurance for properties within the territory of the People's Republic of China, if required, should be covered by the insurance enterprises in China. Regarding the capital fund of an insurance enterprise, it stipulates that it is not less than RMB 20 million, while for a company writing property insurance, a capital fund of not less than RMB 30 million is required. For a company writing both life and property insurance, the capital fund should not

be less than RMB 50 million. The Regulation also stipulates that the People's Bank of China is the State administrative organ which is responsible for drawing up the guidelines and the policy on insurance industry, approving establishment of insurance enterprises, guiding and supervising business activities, examining and determining basic insurance clauses premium rates, inspecting and auditing insurance enterprises' accounts, statements and certificates and imposing sanction against unlawful practices pursued by insurance enterprises (see also para. 6).

71. Press reports refer to the new insurance law which has been passed recently in Kenya, to replace the former Insurance Company Act and the Kenya Reinsurance Corporation Act. The new law includes the appointment of an insurance commissioner, who has powers to inspect the companies' books and to call for any other relevant information. The Commissioner has also the authority to scrutinize all reinsurance treaties and to order any changes in them. Only insurers who are incorporated as limited liability companies under the Kenya Companies Act can be registered, and only when at least one third of their controlling interests is held by Kenyan citizens. Deposits with the Central Bank of Kenya before registration are also required.

72. In some countries, important alterations to the existing supervisory laws are reported. In Colombia, the co-operative insurance companies will be subject to the joint supervision of the Banking Superintendency, which is responsible for the control of all insurance enterprises and which will continue to supervise the financial activities of the co-operatives, and the National Administrative Department for Co-operatives. (Departamento Administrativo Nacional de Cooperativas.) This joint govermental supervision exists already in a number of countries for co-operative insurers. There are, however, some problems on account of overlapping functions of the two State supervisory bodies.

73. In Singapore too, some major changes to the existing legislation have been introduced. The changes are meant to improve the supervision of insurers, strengthen their financial position and introduce measures to protect policy-holders' interests in cases of insolvency. The new major provisions include: (1) the introduction of minimum paid-up capital requirements for insurers; (2) insurers will be required to maintain fund margins of solvency in addition to present company solvency margins of $1 million and $1.5 million; (3) statutory deposits to be lodged by insurers will be increased from $300,000 to $500,000; (4) offshore insurance business will be subject to regulation; (5) approval of the Authority will be required for all directors of locally-incorporated insurers and principal officers of all registered insurers; (6) controls will be imposed on the ownership of locally-incorporated insurers; (7) the role and duties of auditors of insurers will be expanded; (8) priority claims of policy-holders will be given priority of claim in the event of insolvency of an insurer; (9) the Authority may set up a fund to indemnify policy-holders and others prejudiced by the failure of a registered insurer. The Amendment Act will be brought into force later in 1986.

74. In Cyprus, the "Insurance Companies Law, 1984" 19/ was finally passed on 17 July 1984. This new text is meant to consolidate and amend the Insurance Companies Law 1967 to 1980 and will come into effect as soon as the Insurance Companies Regulations 1969 are also amended so as to meet the requirements of the new Law.

75. In Ghana, new legislation governs as from 1984 the operations of the Ghana Reinsurance Organization.

76. Kuwait is considering a revision of its basic Insurance Companies and Agents Law No. 24 of 1961. While existing legislation covers only the limited liability companies or branches operating in Kuwait (the majority of which are foreign-owned) the new law would extend to mutuals and private provident societies.

77. In Mauritius, a committee set up to revise the existing insurance legislation undertook the drafting of a new bill which was expected to be laid shortly before Parliament.

78. In Morocco, administrative penalties and fines against violators of the insurance law will now be more severe. New regulations to this effect may even bring about the dismissal of the executives of the companies found guilty.

79. In the Philippines, new directives and some amendments to the existing Insurance Code have been laid down. New conditions apply now to foreign insurers and reinsurers doing business in the Philippines, which are required to have at any given time paid-up unimpaired capital or assets and free reserves of not less than the equivalent minimum paid-up capital required of a domestic insurance company or professional reinsurer. They are likewise required to maintain corresponding increases in their statutory deposits.

80. In Turkey, a Legislative Commission was established at the initiative of the Ministry of Industry and Commerce to elaborate a draft law amending some sections of the present Insurance Act. Another draft law has been tabled to the Parliament by two deputies. A draft insurance law is also being considered in Bahrain.

B. New specific regulations on solvency and accounts

81. The financial situation of some companies in developing countries has given rise to serious concern by the public, the governments and the supervisory authorities. Complaints about the absence of market value information and real solvency levels are no exception. The need for stricter regulations on solvency standards is being felt - and not only in developing countries.

82. Measures to strengthen local markets have included in a few countries the setting up of a security fund. One example is Malta, where it is envisaged that this fund will be operational in the course of 1986. The fund will actually comprise two separate accounts - a security fund which will make payments to individual policy-holders in respect of claims against an authorized insurer which remain unpaid by reason of insolvency; and a motor-insurers' fund which will grant compensation to victims of road traffic accidents in the case of untraced and uninsured vehicles. One of the objectives of those funds is surely to improve the public confidence in the capacity of the insurer market to perform its role and meet claim payments in all circumstances.

83. In Morocco, a "solidarity fund" has been established with a view to helping insurance companies face "structural imbalances" stemming from insufficient tariffs in the compulsory automobile scheme. The fund will be financed by a special tax on insurance premiums and by the companies themselves. The fund's contributions will be limited to the financial resources available to it. Requests for contributions will be considered after the company concerned has filed a duly audited and Government approved recovery programme ("plan de redressement"). The Government will withdraw licences to operate from companies which will not submit this programme, or from those whose programme is not approved. In addition to financial help from the fund, the company will be requested to take all other measures necessary to re-establishing its financial soundness, including increase of share capital, making structural adjustments of the agency systems, and others.

84. In Colombia, a national Fund has also been set up in relation to national catastrophes (see para. 46). The Fund will operate both for direct indemnity purposes in case of national calamities and as a help to companies providing indemnities for natural catastrophes (e.g. earthquakes) and for crop insurance and credit to small enterprises. This Fund will certainly have a bearing on the financial position of many companies being affected by claims in these areas.

85. Also in Colombia, new regulations apply to premium collection, shortcomings in the matter being alleged to bear heavily on the solvency level of many companies as well as on their liquid positions and yield. The main characteristics are the following:

(i) Unpaid and outstanding claims will only be admitted as an asset to the company and as a corresponding item against share capital and free reserves when these premiums derive from policies underwritten in the preceding 12 months and for amounts of 1 million Col. pesos (or about $US 6,000) or more. These outstanding premiums, not to exceed 75 per cent of the original premiums, will be covered by promisory notes ("pagarés") with maturing periods extending to up to nine months. Other payment modalities, if more stringent than those described here, will also be considered. Interest will be dropped; the companies may sue for non-payment if necessary.

(ii) The insurers extending credit for unpaid premiums will only be permitted to show 25 per cent of the amounts of underwritten premiums in the preceding year as outstanding payments in the assets side of their balance sheets.

(iii) Insurance policies will be cancelled after 90 days of the period at risk if the payment conditions set out in (i) have not been met. The cancellation will also take place if the promisory notes or other credit instruments are not paid when they fall due.

(iv) Particular conditions apply to performance and other construction bonds.

86. Another measure adopted in Colombia is directed at keeping better solvency levels and it applies to underwriting levels, which will be limited to 10 per cent of the paid-up capital and free reserves of any one risk.

87. Minimum share-capitals have been increased in several countries (e.g. Paraguay).

88. In Indonesia, among other countries, a "solvency margin" is now required from insurance companies under supervision. The office of the insurance commissioner has developed an early warning system to detect in good time a situation calling for his intervention. A similar system is also being developed in Singapore. The information available indicates the following in this respect:

> "In view of the limited manpower available for inspection, the Department has been selective in carrying out its inspection work. Insurers are inspected according to priority. To assist in this task of selecting insurers for inspection or special review, the Department is working on an Early Warning System (EWS). Based on a set of special financial ratios, the EWS represents a more systematic and objective means to detect early those insurers which are likely to face financial difficulties. The EWS will be computerized. A study is also being made to establish a grading system which will grade insurers taking into account their financial strength, performance and management quality.
>
> One of the common weaknesses found by the inspectors in inspecting companies is the system of claims reserving. Most insurers know or should know the importance of maintaining adequate reserves to ensure that they have the assets to meet their liabilities in the future. However, the inspection findings have given cause for concern. Insurers are urged to review their reserving systems and exercise stringent control to ensure their claims reserves (including reserves for incurred but not reported claims) are always adequate. The Department is considering introducing a suitable system to monitor the accuracy of claims reserving by insurers.". 20/

89. In Pakistan a provision has been introduced that all insurance companies transacting general insurance business should have assets in Pakistan exceeding their liabilities to policy holders and creditors other than share holders by a sum of Rs. 5 lacs or 10 per cent of their net premium income, whichever is greater. Pakistani authorities point out that this provision serves two purposes. In respect of indigenous insurers it ensures that their assets are sufficient to provide reasonable security to their policy holders. In respect of foreign insurance companies, which generally possess considerable financial resources outside the country, it ensures that their investment in Pakistan is commensurate with their business.

C. New regulations on technical reserves and investments

90. The particular concern in Singapore for shortcomings in the claims reserving systems is described in the preceding section. Many indications point to the fact that this concern is widely shared in many countries. More rigour in the calculation of loss and premium reserves has become necessary as investment incomes have stagnated or decreased and cannot be relied upon to offset or make good for deficiencies in reserving.

91. In a number of developing countries, no global statistics are available so that the claim of insufficient reserving cannot be substantiated. Quantification of shortcomings in this respect is therefore not possible. Conclusions can mainly be drawn from what has been observed in developed areas. In this respect, figures from the Insurance Services Office 21/ indicated that, in the United States, inadequacy of loss reserves amounted to more than 10 per cent and were deficient by more than 20 per cent on general liability business. "IBNR reserves accounted for more than 25 per cent of the industry's loss reserves in 1982, against 17 per cent in 1974, and the proportion is still rising", an opinion that suggests either that IBNR reserves are generously calculated or that loss reserves are inadequate.

92. A measure to elucidate the adequacy of the reserve calculation systems used by the companies has been developed by analysts. This measure, called "Reserving Error Ratio", is defined as (1) the discounted amount of reserves that should have been set up at the end of the year of origin of the claim to cover the final cost of the claim, divided by (2) the initial reserves that were actually set up at the end of the year of origin of the claim. Thus, it is possible to investigate the degree of accuracy of reserving. A ratio less than 100 indicates a prudent policy of over-reserving; more than 100 indicates under-reserving, and hence a situation calling for some supervisory intervention. 22/

93. A few national developments on reserves and investments are described in the following paragraphs.

94. Mexico has strengthened the rules applying to the calculation of premium reserves as from December 1985. These rules include direct insurance, reinsurance and insurance operations affected by a catastrophe potential. Some particular operations (e.g. banking insurance) are subject to special rules. Life and non-life operations are considered. In all cases, insurance authorities have taken into consideration that the need to maintain a balance between investments and liabilities calls first for strict rules applying to the calculation of both factors. It is also stipulated that unexpired risk reserves for a proportion of 45 per cent of reinsurance premiums will be deposited with the ceding company. Reserves are also to be earmarked in relation to possible fluctuation of asset values; these reserves will consider possible losses arising from fluctuations of securities with variable yield, as well as statistical loss deviations of retained risks. Calculation of these reserves will take into account various factors, such as the local economic situation, the situation of the securities market, the structure and average yield of the investment portfolio, the statistical analysis of the claims incurred in preceding years.

95. Regulations on investments have also been amended in some countries. For instance, in Thailand, investments in bonds issued by public enterprises no

longer have to be guaranteed by the Ministry of Finance but the names of the enterprises must be listed by the Minister of Commerce. The total amount permitted for such investments have been raised from 25 per cent to 40 per cent of the companies' assets. Loans to Government Housing Banks and loans guaranteed by the Industrial and Finance Corporation of Thailand are now permitted. Listed securities can now be purchased outside the Stock Exchange at prices higher than par value without prior approval provided that prices of securities so purchased shall not be higher than the highest prices sold in the Stock Exchange during the preceding 30 days. The Insurance Commissioner is now empowered to fix the interests to be earned for investments in notes and bills. Amount of loans for home buying has been raised from 400,000 baht to 1,000,000 baht and loans to employee raised from 50,000 baht to 100,000 baht. In the case of life insurers, apart from the above, they will now be permitted to manage providence funds.

96. In Paraguay the following rules have been laid down: share capitals, free reserves and reserves to meet liabilities towards policy-holders will be invested in the country. Ten per cent or more of the invested amounts will be sight deposits with local banks, saving banks or mortgage banks. Loans on life policies for the rest of life funds are allowed. The rest of the authorized investments, according to given proportions, will be distributed among buildings, mortgages, financial enterprises, securities and loans.

97. An Investment Advisory Committee has been set up in the Philippines to review the laws, rules and regulations on investments of insurance companies and to formulate possible revisions thereto. Likewise, it was entrusted with the duty of recommending to the Insurance Commission some possible areas of investments within existing legal framework to enable the insurance industry to contribute more meaningfully to national economic development. The Committee is composed of representatives from the Insurance Commission and the private insurance industry.

98. In Colombia, life insurance companies have been authorized to invest directly in housing construction programmes, for amounts not exceeding 30 per cent of net worth.

D. Legislative and administrative measures on insurance contracts, tariffs, intermediaries, taxation

99. Necessary adaptations of the insurance supply to meet better the requirements of the demand have led insurance authorities in Brazil to amend policies and tariffs. Measures taken in this respect have included the introduction of an "actualization" clause, by which insurance nominal values are automatically adjusted to real, inflation-free values. Insurance indemnities will also be calculated according to real values prevailing at the date when the claim was filed. (However, some of the adopted measures in respect of re-evaluation of insurance values have been repealed in March 1986 with the adoption of a monetary plan to fight inflation.) In addition, the policy-holders will now be able to pay fire premiums in seven instalments without any additional cost.

100. In Pakistan, a projected Road Safety Act will provide for compensation for victims of road accidents irrespective of fault, up to an amount of Rs. 20,000 for injury and Rs. 60,000 in the event of death. All vehicles will be required to have "no fault" cover in place of the present system of third party insurance.

101. Some other countries have also adapted the motor insurance policy conditions to new developments in the field of traffic laws. The process has been confronted with more problems than expected in certain countries. Thus, in Barbados, the Road Traffic Act was amended in respect of compensation for death or bodily injuries, not to be limited by a given sum. This would call therefore for a cover with unlimited liability. Problems have arisen, however, because insurers have become very selective as to whom they would or would not provide cover. High risk groups have been systematically excluded from coverage or premium rates have been increased to the point of being out of the reach of many drivers, especially motor-cycle drivers. Insurance authorities are therefore considering the adoption of a set of other measures as soon as sufficient information is gathered and negotiations take place with the participation of all interests involved. Apparently, similar problems have arisen in other countries as well.

102. In the Philippines a Committee was formed in 1985 to review existing policy forms and to look into the possibility of achieving simplicity and uniformity, in so far as is practicable, in the policy wordings, so that standard and accepted clauses of individual applications and policy forms need not be subject to time-consuming scrutiny by the Insurance Commission as long as they can exist congruently with the other clauses of the policy. With uniformity achieved, it is felt that the Commission will be able to pass on policy forms as expeditiously as possible. The Committee is composed of representatives from the Insurance Commission and the private insurance industry.

103. On another subject, the Philippine Insurance Commission has approved the revision of rates for earthquake insurance coverage. These rates are now considerably lower than the previous rates, but an increase of the deductible franchise has been likewise approved. The new deductible is 2 per cent of the actual value of the property at the time of loss, with some exceptions. The Philippine fire tariffs have also undergone basic changes (see para. 48).

104. In Morocco, new regulations on "indemnification of victims of road accidents" (Dahir of 2 October 1984) establish a new basis for the evaluation of indemnities and take into consideration a "reference capital" which is related to the solvency or earnings and the age of the victim. A new system of "transaction amiable obligatoire" between the insurer and the insured is also established with the view to expediting the payment of indemnities, lowering settlement costs and facilitating the transactions.

105. The new conditions for payment of premiums by instalments in Colombia are described in paragraph 85 above.

106. New regulations on intermediaries have been adopted in some countries. In Tunisia, a project is being considered for the setting of upper limits to acquisition and to management commissions that the companies are allowed to enter into their accounts for compulsory categories of business (automobile, workmen's compensation, transportation of imports, fire).

107. In Mexico too the question of acquisition costs have been considered. Limits are now set in respect of the part of premiums that can be accounted for acquisition purposes.

108. Chile has laid down new norms on insurance intermediaries, including the conditions to be fulfilled in order to be qualified as insurance broker, a qualification essential to the performance of independent brokerage business. The new rules prescribe obligations and prohibitions, as well as the amount of guarantees (to be protected by a uniform and authorized insurance policy) and the sanctions that breaking of rules will entail.

109. In Indonesia, every person engaged as an agent for life insurance is to get a licence from the Minister of Finance. The same obligation applies to insurance and reinsurance companies, brokers, agents, adjusters and consultants.

110. In Colombia too, the Banking Superintendency has set new rules in 1984 for insurance and reinsurance brokers and agents, these rules including minimum share-capitals, admitted investments, accounting methods, sales offices, premium collection and other conditions to be met by directors.

111. Argentina has introduced new regulations which will result in closer control of insurance brokers. Brokers are now required to keep officially approved accounts of all the business they transact. The move is expected to result in redressing a situation where "brokers have been required to keep officially approved accounts of all business transacted. Brokers have traditionally exercised great influence over insurers in Argentina, and in the absence of any effective control, particularly over their financial affairs, underwriters have often been powerless to resist the terms, including commissions, brokers forced upon them. It is now hoped that, with the larger intermediaries apparently willing to co-operate, the situation will come under control.". 23/

112. In Panama, the supervision law of 20 December 1984 laid down the conditions under which licences will be granted to insurance brokers, including guarantee funds to be deposited. In addition to the legislative text, a code of conduct governing relations between brokers/producers and insurers has been agreed between the two intermediaries' associations Colegio Nacional de Productores de Seguros and Cámara de Empresas de Corretaje de Seguros and the Panamanian Association of Insurance Companies, APADEA. Producers undertake: not to break rates or mislead clients; to explain all policy conditions clearly; to assist insurers in premium collection; to co-operate on claims handling and to help avoid claims abuse and unjust claims; to avoid moving business from one insurer to another when cancellation is due to late payment or other incorrect behaviour. Insurers in turn undertake: to follow tariff and other agreements faithfully; to avoid prejudice to the original producer as a result of changes in policy terms and conditions; to pay brokerage/commissions on time; and, in the event of a change of broker by the insured, to respect the original producer's commission, with the new broker earning his brokerage only on renewal. 24/

113. In Nigeria, press reports indicate that the country is to institute "intensive investigations" into the activities of all insurance brokers in the country. Disciplinary action will be taken against those found involved in malpractices, said Dr. Onaolapo Soleye, Minister of Finance, opening the Fifth National Insurance Seminar on "Insurance Business and the Challenge of Inflation" in Lagos on 5 July. The Minister warned that the licences of those who had committed "acts of impropriety" would be withdrawn, and complained of

the activities of insurance brokers who had tarnished the image of the insurance trade. Such brokers had often colluded with "unscrupulous" insurance company staff to manipulate the system to the detriment of policy holders, said the Minister. 25/

114. In the Philippines an Insurance Agent's Examination Advisory Committee was created in 1985 to review the life and non-life insurance agents' examinations questions and answers as to their appropriateness and relevance, and recommend updated examination questions and answers for consideration of the Commission. The Committe is composed of representatives from the Insurance Commission and the private insurance industry as well.

115. The question of taxation of insurance premiums has found a new interest during the period under review. Taxation authorities in the United Kingdom - and probably in many other developed and developing countries - have been concerned about "the possible use of reinsurance as a tax evasion device for members of Lloyd's and professionals working in the market, which already enjoys considerable legitimate tax advantages. 'Rollover' reinsurance, now under investigation, consists of taking out extra reinsurance contracts after legitimate reinsurance for a syndicate has been arranged. The extra funds raised from refunded tax exempt rollover premiums can be lodged offshore with companies often controlled by Lloyd's professionals, and based in tax havens.". 26/

116. Meanwhile, a few countries reported that taxes on premiums have been increased. The increase mainly applies to premiums concerning local risks but not to offshore business and to other risks situated abroad.

E. New regulations on compulsory insurance

117. In China, on 27 February 1984, the State Council of China promulgated Regulations on Individual and Joint Purchases by Peasants of Motor Vehicles and Boats or Tractors for Transportation Enterprises, which stipulate, *inter alia*: "Peasants individually or jointly purchasing motor vehicles, boats or tractors must take out with the People's Insurance Company of China third party liability insurance and accident insurance (including insurance against collision); those involved in passenger transportation operations must also insure against passenger accidents". Moreover, by the end of 1985, 16 provinces and autonomous regions in China had enforced compulsory third party insurance for motor vehicles through local legislation.

118. In Chile, automobile insurance (third party liability) is also compulsory as from 1985. Car users are required to have an "obligatory insurance certificate" (certificado de seguro obligatorio); traffic licences (permiso de circulación) will only be delivered upon presentation of that certificate. A new policy model has been drafted. Very similar measures are being considered in Mozambique and in Argentina.

119. In Colombia, where a nominal compulsory motor liability cover has been existing since 1973 although it is not enforced in practice, a new text has now been drafted: the "extra-contractual third-party liability" (seguro de responsabilidad civil extra-contractual para terceros). The local industry is said to have levelled many reservations against the project and it is still not known which kind of legal status the project will be given.

120. In Tunisia and in the Congo, the 10 years' cover for third party liability risk for all trades engaged in the building industry (responsabilité civile décennale de tous les intervenants dans le domaine de la construction) is now obligatory. A similar obligation applies to marine insurance for all imports to Benin. The result of this measure is reported to be a seventeenfold increase of premiums between 1983 and 1985 in the marine and aviation lines of business for the local company (see para. 27).

121. The obligation to insure investments in Nicaragua is dealt with in paragraph 24. The obligation to insure marine imports in Benin, Mali and Niger is dealt with in paragraph 27.

F. Regulations on exchange control and foreign currencies applying to insurance transactions

122. Very few national reports have included information on this subject. Among the exceptions is Colombia, where it is now permitted to insure values in foreign currencies in the fields of aviation, fire and allied risks, marine and foreign liabilities. Premiums and claims will be denominated in the currency concerned; insurance funds and reserves for these operations will be earmarked accordingly. Official rates of exchange to the United States dollar will be applied for accounting and evaluation of liabilities. The new regulation is important mainly as regards the insurance of risks, whose loss would call for imported spare parts or replacement material to be paid in foreign exchange.

123. Peru has laid down very similar regulations. Insurance is permitted in foreign currencies in respect of fire and allied lines (including consequential loss), except for private dwellings; engineering risks, machinery breakdown (including consequential loss), contractors all risks (equipment, including erection risks), electronic equipment and others such as oil; aviation; marine hulls (large vessels only); international cargo; theft from financial institutions; third party liabilities protecting foreign interests. Premiums can be paid in soles at the selling rate of the "Mercado Unico de Cambios" (MUC) exchange market. A company paying a claim must deposit the amount payable to the insured in local currency with the Banco Central de Reserva. The bank will then issue a foreign currency certificate, which will have a life of 10 working days only. If not used within this period, the certificates can be redeemed only in soles at the prevailing buying rate at the close of the previous day's MUC rate less 2 per cent.

124. In some countries, regulations on exchange control have been relaxed for premiums and claims remittances, particularly for operations with developed reinsurance markets. Thus, in Argentina, the Government is said to have granted local companies unrestricted access to foreign currency for their foreign liabilities "now that draconian exchange controls have been partially lifted by the Central Bank". 27/ In Yugoslavia, the law on Foreign Exchange Operations No. 66/85 is aimed at providing foreign exchange to insurance companies on a priority basis to meet their obligations abroad.

125. In Zambia, the President himself has expressed concern over delayed payment of premiums due to reinsurance companies overseas. The Central Bank has been requested to take appropriate measures 28/ (see also para. 134).

Chapter IV

DEVELOPMENTS IN THE FIELD OF REINSURANCE

A. General review

126. The period under review has been characterized by the emergence or the aggravation of four major difficulties for developing markets in the field of reinsurance: (i) reinsurance protection has become more difficult to obtain and more expensive for ceding (reinsured) companies in developing countries, as the international markets have hardened their conditions; (ii) scarcity of foreign exchange has made many governments increasingly conscious of the need to save on non-essential imports and, as a consequence, to urge local companies to make better use of their retention (risk-bearing) capacity; (iii) some developed countries have put obstacles to the free flow of reinsurance business with some developing countries. Meanwhile, the risk of catastrophes in some developing countries has increased, so that reliance on a strong reinsurance protection is now more necessary than ever; (iv) reinsurers in developing countries which had accepted inward low-quality business from developed areas are being faced with unexpected payment requirements and new claims. This situation has put some of these reinsurers in a difficult financial position and problems of solvency have arisen. The following paragraphs elaborate on these issues.

127. A period of easy and low reinsurance premiums, high commissions and liberal conditions has given way to a hardening of reinsurance conditions for reinsurance buyers in developing countries. A report of the Singapore authorities points out in this respect that "capacity of reinsurers shrank substantially for treaties that were unprofitable or very unbalanced. Terms for proportional treaties were tightened by measures such as removal of premium reserves and certain classes of risks; increasing the cash loss limits; higher retentions by cedents and reduction in the number of lines in some surplus treaties. Rates and deductibles of excess of loss contracts were also increased particularly on motor business. Facultative capacity shrank significantly for some liability and fire risks".

128. Conditions have particularly hardened for pro-rata contracts, while some reinsurers have ceased to accept certain categories of business (catastrophic risks) and others have eliminated proportional contracts from their portfolios. "A sizeable and increasing number of companies which previously accepted business from this area, have refused to continue underwriting Latin American contracts" writes the President, Latin American Reinsurance Company Inc., Panama (LARSA). "Some will still do it but only on a non-proportional basis. And the few who still write proportional business do it at terms and conditions quite different from those prevailing in the last few years."

129. Nevertheless, the situation is viewed with different eyes in developing countries depending on whether the opinion is expressed by ceding (reinsured) companies or by the reinsurers in these countries. For the former, stricter conditions in reinsurance underwriting often result in increased costs and, sometimes, in larger unprotected parts of their liabilities. Both factors are partially responsible for the tendency to switch from traditional proportional

reinsurance contracts to more rational non-proportional systems, notwithstanding the fact that "excess-of-loss" treaties are now quoting increased rates too.

130. For local reinsurers in developing countries, the new situation has increased the attraction of resorting to them by local direct companies and results in sounder operations and higher quality business. Reinsurers have gone through a number of years where international competition has rendered reinsurance business unprofitable or only marginally profitable. Now that the whole market is paying more attention to the quality of business it underwrites, that capacity has contracted and cedents are becoming more security conscious, underwriting results are better for all of them.

131. However, not all problems are solved for reinsurers in developing countries; they are not only reinsurance sellers but also reinsurance buyers from international markets for their own surplus capacity, so that they are both beneficiaries and victims of widespread narrower capacity and its outcome.

132. The Asian Reinsurance Corporation, Bangkok, is probably not indifferent to this issue. They have put forward the suggestion that "the insurance industry should meet national supervisory authorities to discuss objectives in reinsurance at the national level. Thereafter a detailed projection of the reinsurance requirements and the corresponding estimated foreign exchange requirements can be made. Such a projection will help to identify the areas of reinsurance where improvements are called for and will also quantify the foreign exchange needs for essential reinsurance cessions.".

133. Developing countries feel that they are paying today an excessive price for all the reinsurance market's troubles in recent years. A period of relaxed market practices and low reinsurance practices in the international reinsurance arena has given way to a period of hardened conditions, underwriting limitations and increased prices. But developing countries claim that since they had not been the main beneficiaries of the former conditions they should not be the victims and pay for the latter. A Latin American reinsurer says: "Let's not forget that, after all, our big past losses had little or no connection with Latin American business where results have been persistently reasonable. It cannot be accepted, therefore, that all the field of reinsurance should be punished because of the bad experience we received from brokers and cedents in the North."./29/

134. The second issue is delays in payment of reinsurance balances to foreign reinsurers and settlement difficulties of all kinds. These difficulties "may often not be the fault of insurance and brokers, but imposed from outside the industry or even outside the country concerned", as pointed out in the professional press. 30/ Exchange control authorities are generally sympathetic to the opinion that prompt settlement of reinsurance premiums is an essential condition for the smoothness of transactions and a primordial necessity in the protection of national property. President Kaunda of Zambia has himself taken a strong stand on the matter. He recognized the fact that, owing to the shortage of foreign exchange, priorities had to be rearranged, resulting, regrettably, in delayed payments of premium due to reinsurance companies abroad. This resulted in the near cancellation of some of the country's reinsurance arrangements. "Such developments must be avoided at all

costs, especially when national assets are concerned", said Dr. Kaunda. "I would therefore urge the Bank of Zambia to work closely with the (local insurance) corporation to ensure that priority rating is given to reinsurance premiums so that national assets are fully protected." 31/ (see also para. 125.)

135. Some abuses are reported here and there of foreign exchange remittances allegedly on account of reinsurance business which are, in fact, fake payments for tax and foreign exchange control avoidance. A representative of the accounting profession in London spoke of some reinsurance transactions being primarily a means for "intercompany profit transfers, movement into a more favourable tax régime, financing companies arranging the reinsurance through repayment of funds lodged with a reinsurer, or other minimization of economic effect on either party to a transaction". 32/

136. In spite of these abuses, efforts to upgrade payment priorities as regards reinsurance balances are widespread among developing countries. In some of them, however, these efforts are accompanied by an insistence that the local market takes upon itself to exercise a better control of the outflow of reinsurance premiums and makes better use of local reinsurance capacity. Thus, in Nigeria, national authorities instigated the market to place some reinsurance with local companies or with the African Reinsurance Corporation based in Lagos. In addition, the country's insurance law is to be amended to plug loopholes which enable brokers to hold premiums rather than pass them on to the reinsurers.

137. In El Salvador, reinsurers have stopped to cover local risks. The move, local sources indicate, cannot be ascribed to delays in payments of reinsurance balances: these payments were not more than two quarters overdue at the most difficult times. 33/

138. Aviation fleets of Africa and Asia have been subject to premium increases of 60 and 40 per cent respectively. The increases do not compare with increases for fleets of developed areas, although loss ratios have been lower in the former (108 per cent) than in the latter (118 per cent) during the period 1975-1984. 34/ "Worst hit on 1 January 1985 was Kuwait Airlines, whose hull rating was up 23 per cent and whose liability was up a staggering 93 per cent. Linheas Areas do Mozambique was hit with 16 per cent increases on hull and 67 per cent on liability. Air Nigeria paid 16 per cent more on hull and 34 per cent more on liability. A 10 per cent hull increase for Turkish Airlines left it paying 3 per cent of fleet value in premiums each year". 35/

139. With reference to the difference of quality and profitability between reinsurance sold and reinsurance bought by developing countries to international markets, a difference responsible for many hardships that companies in these countries have experienced over the biennium, the following figures provided by the Philippines illustrate a general trend: "From 1980 to 1984, the average annual loss ratio on assumed business from authorized (i.e. local) companies was 46.4 per cent, while that assumed from unauthorized companies was a high 70.8 per cent". It appears, in fact, that many reinsurers or composite companies in developing countries have had very adverse experience in accepting business in developed markets. The concession of "binding authorities" to unscrupulous brokers (by means of which brokers

were given discretionary powers to underwrite business on their behalf of very poor quality that nobody else would have accepted) has been fatal to some companies, particularly in Latin America.

B. New reinsurance companies of special interest

140. In Qatar, Doha Reinsurance Company has been set up at the initiative of the country's three existing State-controlled insurers. The country is said to have been depending on foreign reinsurance for at least 60 per cent of its domestic premiums and it is expected that the new company, which provides a substantial part of the reinsurance needs, will help curb this figure to a reasonable extent. Operational plans include compulsory cessions (i.e. direct writing companies' obligation to reinsure with Doha Reinsurance Company) for 25 per cent of their premiums.

141. In Zimbabwe, Zimbabwe Reinsurance Corporation ("Zimre") has started operations. 36/ The local market reinsures with Zimre 20 per cent of all business it writes on a compulsory basis. Business on a voluntary basis will also be transacted. State-owned Zimre has a capital of $Zim 5 million, half of which is issued and called up.

C. Regulatory measures on reinsurance

142. National insurance authorities in developing countries are increasingly concerned about the possibility of national markets' solvency standards being threatened in the eventuality of a major reinsurer failing to meet its contractual obligations. Only when claims payment by its reinsurers is adequately and promptly met, is the local ceding company in a position to remain solvent. The local direct market's solvency depending therefore so much on the international reinsurance market's solvency, it is increasingly felt that local supervision, which stops at the national borders, is not in a position to perform entirely its basic duties to ensure that local companies will meet reasonable solvency standards in all circumstances (see also para. 62).

143. The problem therefore is generally of an international character and affects not only developing countries. Mr. Christopher Daykin, Government Actuary in the United Kingdom, pointed out that while supervision is directed towards protection of individual members of the public, "the logic of this leads inexorably to the financial supervision of reinsurers themselves ... because it is essential to round off a system of protection". 37/ That supervision is out of the reach of national authorities when the reinsurers and their funds and investments are based abroad. The necessity of international co-operation to strengthen the financial solvency of the local market through better, internationally accepted, solvency standards and supervision is therefore recognized. The UNCTAD secretariat study on the matter 38/ addresses this issue and proposes a number of measures.

144. A number of national developments during the period under review are described in the following paragraphs.

145. In Panama, in order to protect the country's image as a credible reinsurance centre (which was tarnished "after some unpleasant experiences with overseas-owned companies which implied they were Panama reinsurers on the

basis of local incorporation alone"), 39/ to increase employment and to facilitate supervision, local authorities now demand that licensed reinsurers have an actual "working base" in the country, so that "brass plate" operations will no longer be possible. Applications for licence will include a feasibility study or business plan and full particulars of all persons involved in the proposed reinsurance operation. They should also be explicit about proposed net retentions and include a financial projection for the first five years of operations, details of shareholders' identity, and information on all company executives, accompanied by personal and bank references for each of them. Relationships with other organizations, and audited financial statements for the last five years for any related company, must also be submitted with the application. The capacity of a reinsurer licensed to operate in Panama will now be limited to a premium income of four times net worth. Non-compliance with this requirement will result in the loss of licence (see also para. 69).

146. In Mexico, new rules apply now to the registration of foreign reinsurers and to the operations of reinsurance intermediaries; these rules are bound to introduce new patterns in international reinsurance transactions as they call for more strict technical requirements in reinsurance underwriting.

147. Reports from Thailand include the following information:

> "Reinsurance supervision: This is an area to which increasing attention has been given by the Insurance Department during the past two years, owing to the effects reinsurance transaction have on the balance of payments and on the developments of the local insurance markets. The establishment of the Thai Reinsurance Company Ltd. and the creation of the Asian Reinsurance Corporation have also contributed to the awareness on the part of government on local retention. Reinsurance supervision has taken several forms. At the operational level, all non-life insurers are under obligation to cede 5 per cent of all fire and marine business to the Thai Reinsurance Company Ltd. on a quota share basis. This obligation was effected on a voluntary basis but with the blessing of the Insurance Department. Starting in 1984, the Insurance Department began to examine reinsurance treaties, both proportional and non-proportional, with a view to ensuring that reinsurance has been effected on sound insurance principle and that reinsurance has not been used as a vehicle to remit valuable foreign exchange. Therefore in examining the treaties, particular attention would be paid to treaty terms, especially those concerning premium rates, commission rates, treaty limits and cash-loss provisions. If treaty terms were found to be heavily biased in favour of the reinsurers, the Insurance Department has the authority to order amendments as has been done when it was found to be necessary. Further in relation to the examination of the proportional and non-proportional treaties, if any fire first-surplus treaty were found to be continuously profitable, directives would be issued to the ceding company to insure that at least 10 per cent of the first surplus business be ceded to local insurers. Additionally, in the case of fire facultative cession, insurers have been asked to limit foreign cession to not more than 85 per cent of the value of the sum insured. Moreover, in cases where special rates are used, insurers are required to retain at least 30 per cent of the sum insured locally. In this connection, the Insurance Department has also begun to analyse the retention capacity of our insurers who are encouraged to maximize their retention capacity.".

D. Other measures on reinsurance and retentions

148. The Federal Government of Brazil, through the National Treasury, is actively taking part in the reinsurance of so-called "target risks" (risques de pointe). In addition to cover given to property situated in the country, the Treasury guarantees the surpluses over Instituto de Resseguros do Brazil's retention limits, arising from foreign business. The guarantee is given within the framework of an official general agreement protecting foreign services provided by Brazilian corporations. Efforts undertaken so far have permitted the proportion of premiums paid abroad to decrease to a low average of 4 per cent of total domestic premiums. Some sources, however, suggest that this percentage may pick up as soon as more relaxed foreign exchange controls are introduced and less strict retention policies are necessary. 40/ It is pointed out in this respect that the magnitude of some target risks situated in Brazil makes the participation of international reinsurance markets with vast risk-bearing capacities a strict necessity.

149. In the Philippines, the Insurance Commission set up a Committee on Facultative Reinsurance Placements with Foreign Unauthorised Reinsurers with powers to review applications for overseas reinsurance placements. Government representatives, domestic direct underwriters, domestic reinsurers and authorized foreign underwriters sit on the Committee, which will meet weekly. Its task is to ensure utilization of domestic facultative capacity, in the light of foreign exchange shortages, where "prudent and practicable". Moreover, a circular letter issued in October 1984 required that marine hull and aviation risks should be offered to at least 12 local direct-writing companies, two foreign authorized companies and one local professional reinsurer before an application for facultative placement of the same risk abroad shall be acted upon by the Committee on Facultative Reinsurance Overseas.

150. In Malaysia, the national reinsurer, MNRB, has been entrusted with greater responsibilities to improve the country's retention capacity. Towards this end, voluntary cessions to MNRB have been increased as follows with effect from 1 January 1984: (i) fire and personal accident from 20 per cent to 25 per cent; (ii) motor remains at 10 per cent; (iii) other classes - from 10 per cent to 20 per cent. On the other hand, the level of retrocessions from MNRB to the ceding companies has been increased to 43 per cent for its member companies and 7 per cent to non-members for all classes of general insurance business.

151. In Colombia, minimum commissions on facultative reinsurances placed abroad are now regulated. Minimum commission for fire business is 35 per cent, marine 30 per cent, automobile 25 per cent, earthquake 22.5 per cent, etc. An authorization for the cession will be necessary; the supervisory offices will grant it if the ceding company provides evidence that its retention capacity has been utilized to a reasonable extent and that no more capacity from the whole market is available for that particular risk. To that effect, the ceding company will be required to show that at least 10 local companies have declined participation in the risk.

152. Minimum retentions of local companies are also regulated. The ratio between retained and gross premiums go from a low 20 per cent for export credit risks to 90 per cent or more in automobile, legal costs and other categories of business. Aviation and marine hulls, oil and petrochemical risks and other risks to be determined by the supervisory authorities are exempted from this rule.

153. In Argentina, tax on retrocession premiums paid abroad by the local reinsurance institute have been increased.

Chapter V

CO-OPERATION AMONG DEVELOPING COUNTRIES IN THE FIELD OF INSURANCE

A. Co-operation among governments, supervisory authorities, trade organizations

154. A Third World Insurance Congress was held in Casablanca, Morocco, from 14 to 17 May 1984. The general theme was the role of insurance in the development process. Discussions turned on the insufficient spread of insurance protection among population and businesses in developing countries and the efforts to be carried out to better integrate insurance transactions in the development process. Particular emphasis was given to necessary improvements to the present systems of indemnification of the victims of traffic accidents, to the problems of market capacity, to the management and staffing of companies, to crop insurance, and other problems. One of the resolutions adopted called for special foreign exchange facilities to be granted to reinsurers in developing countries with a view to improving their competitive conditions and making their international business more attractive for potential clients. (See also para. 124 and a preceding issue of this review (TD/B/C.3/178, para. 160) on the matter.)

155. In a round-table meeting organized by the Latinamerican Association for Integration (ALADI) a sub-committee on services was set up. Among the projects of the sub-committee, there is a request to a group of experts which will include representatives from ARELA ("Asociación de Reaseguradores Latinoamericanos") to prepare a number of recommendations on co-operation in the field of reinsurance. The Group was expected to meet in 1986. The round-table meeting also recommended that ALADI's secretariat analyse methodological aspects of the suggested co-operation; the harmonization of taxation and financial conditions applying to regional reinsurance; the compilation of statistics and information; the elements necessary for the setting up of a regional reinsurance pool.

156. ALADI also set up a Special Programme on Financing of Interregional Trade which will take up co-operation activities in the field of export credit insurance.

157. The Association of ASEAN Insurance Commissioners 41/ held its 11th meeting in the Philippines in 1985 and made important decisions in respect of insurance statistics and of regional mortality tables. On statistics, the objective was to disseminate information on market conditions and practices prevailing in member countries. On mortality studies, the objective was to prepare tables on mortality experience of lives insured with life insurance companies under supervision. In this respect, many developing areas feel that the lack of a proper system of data collection on mortality rates results in life insurers relying on old tables which do not reflect the current experience and which generally allow for the charging of exaggerated premium rates and a corresponding reduction in sales. The ASEAN project was said to be important as it will allow supervisory authorities to ascertain the fairness of present tariffs or, alternatively, inadequacies which could lead to impairing the insurers' financial soundness. The meeting also discussed the problem of insurance education and training of supervisory staff.

158. The same meeting also provided an opportunity to hold a session with representatives from the ASEAN Insurance Council (AIC), the private-sector grouping of ASEAN insurance industry. Those representatives briefed the meeting on the performance and results of the ASEAN Reinsurance Pool (see para. 179) and on the ASEAN Insurance College. On this last point, it was recalled that the AIC had agreed on the establishment of the ASEAN Insurance College by 1986. The College would be set up at the Insurance Institute for Asia and the Pacific in co-operation with the De La Salle University in the Philippines. It would offer a four-year bachelor degree course in insurance. The insurance industry felt the need to have people who had received a broad training of the mind at the tertiary level while being exposed to insurance principles and practices. The ASEAN insurance markets have indicated their support for the College and their willingness to employ graduates from the College. However, they are not committed to support the College financially.

159. In November 1985, the same ASEAN countries' commissioners met in Manila under the auspices of UNCTAD and UNDP to consider problems of reinsurance security. The objective was to co-ordinate rules for the supervisory bodies on direct insurance and reinsurance and to examine basic concepts on reinsurance security and their effectiveness. Abuses and insolvencies in reinsurance markets (see paras. 142 et seq.) gave impetus to the debates.

160. The Association of Insurance Supervisory Authorities of Developing Countries (AISADC) 42/ held its second general meeting in Casablanca, Morocco, in May 1984. A decision was taken to secure observer status with UNCTAD; 43/ to create working committees on education and training, on research and statistics, on interregional co-operation, on information and dissemination. The permanent secretariat of the Association is with the Insurance Institute for Asia and the Pacific in Manila, Philippines.

161. The Association also met in February 1985 in Geneva to discuss its position on issues which were about to be debated at the eleventh session of the Committee on Invisibles and Financing related to Trade (February 1985). Among these issues was the question of motor insurance, its problems and new guidelines to overcome them and the impact of captive insurance companies. 44/

162. In November 1984, the insurance supervisors of Arab countries met in Tunis at the initiative of the UNCTAD secretariat and with the financial contribution of UNDP to discuss "the need for reinsurance supervision". Participants pointed out that, up to that date, there had been no supervision over reinsurance proper or, at best, it had only been geared towards stemming unnecessary outflow of foreign exchange. It was felt that this situation called for some measures, particularly in view of the unsound practices of some international reinsurance markets, with the aim of protecting Arab insurance companies and their policy-holders and of making reinsurance transactions more consonant with the actual needs of the countries concerned.

163. Among the five African countries of official Portuguese language (known as "Group of Five", i.e. Mozambique, Angola, Guinea, Cape Verde and Sao Tome and Principe), there are yearly meetings to discuss such areas as reinsurance, training, loss prevention, in order not only to exchange ideas but also establish common and, whenever possible, joint fronts and strategies, for the safeguard of common interest. 45/

164. CICA (Conférence Internationale des Contrôles d'Assurances des Etats Africains) held its 8th General Assembly in July 1985 in Bangui, Central African Republic. The Conference underlined the shortcomings of the present system of compensation of the victims of road accidents and the interest of the suggestions put forward in UNCTAD studies on the matter. It also recommended that co-insurance among insurers of member countries be encouraged.

165. In the CARICOM area, the regional Caribbean body has been reiterating the recommendations made at its meetings, including the criteria for legal recognition of companies to be designated as "Caricom regional entity". Particular encouragement has been given to the current trend towards insurance pools as a first step towards the establishment of a regional reinsurance corporation. Efforts are called for in the field of insurance education and training.

166. In this particular field of insurance education and training, regional activities received considerable support from some regional associations of insurance supervisors and other bodies. Thus, the Insurance Institute for Asia and the Pacific 46/ organized one regional course for insurance examiners, one regional seminar on fire underwriting (with the co-operation of Asian Reinsurance Corporation) and three-month courses on general insurance and insurance management (with the co-operation of UNCTAD and UNDP). In addition, one short-term course on supervision of reinsurance was completed in 1985.

167. The Institut International des Assurances, Yaoundé, Cameroon, is reported to have continued its educational activities, in addition to organizing a seminar on reinsurance planning and control, which was held in Pointe Noire (Congo) in February 1984. Several countries have reported that local insurance education facilities had been made available to neighbouring countries for their own training needs.

168. Co-operation among companies and countries, to enable nationals of individual countries to be recognized as meeting the insurance requirements when travelling by car in other countries, has been reinforced in some developing areas. Zambia, Malawi and Zimbabwe have passed an agreement to this effect. The ECOWAS area (Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo) also decided to establish a common system for settling claims arising from international motor vehicle traffic, a system which is expected eventually to lead to the harmonization of regulations on liability in respect of road accidents. National bureaux are to be established in each country, the secretariat of the system being based in Togo.

169. Other projects of a similar character have been carried out among countries of the so-called "Northern Corridor" (Burundi, Kenya, Rwanda, Uganda). In a meeting held in Nairobi in November 1985, a protocol to this effect was signed at ministerial level by the four countries concerned. The protocol is the insurance appendix of a new transit agreement which will greatly facilitate transit between three landlocked of these countries with the rest of the world through the port of Mombassa in Kenya. 47/

170. Several Latin American countries ("Cono Sur") have adopted the uniform text of a Policy on Civil liability for International Road Transportation. ("Póliza única de seguro del transportista internacional por carrtera") and the text of a Convention among insurers, as called for by the Convention of Inland International Transportation and its annexes. (Convenio de Transporte Internacional Terrestre de los países del Conosur y sus Anexos), signed in Mar del Plata in 1977.

171. Other types of co-operation among developing countries are reported, as for instance that adopted by Arab countries of the Gulf area. Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates and Oman agreed on 10 June on a compensation scheme to replace any oil shipped from their ports damaged or lost as a result of the Gulf war. Theoretically, the scheme should mean that tankers travelling to the area will need to take out only hull insurance, as the scheme implies that the full cost of any damage to the cargo will be met (see also para. 35).

172. Several regional trade organizations met during the period under review and adopted new lines of policy.

173. <u>FIDES</u> (Federación Interamericana de Empresas de Seguros) held its General Assembly in La Paz, Bolivia, in November 1984 and adopted several resolutions, including the rejection of government intervention in the economic process, as "excessive interference in productive activities and competition with the private sector was responsible for obstacles to development". Another recommendation considered that liberalization of trade in services, as promoted in international forums, was dangerous for young insurance markets. "We insurers love freedom but we also love our markets' survival. If big markets step into small markets, the latter will perish." In its XX Hemispheric Conference, held in Panama, in October 1985, FIDES dealt with "Insurance and Productivity". Technical, managerial and marketing information, experience and concepts were exchanged on this subject.

174. The <u>FAIR</u> (Federation of Afro-Asian Insurers and Reinsurers), at its ninth session in Beijing, September 1985, considered the subject of "insurance of target risks in Afro-Asian countries". This subject proved to be very important particularly in view of the rapid increase in the number and size of extraordinary risks, accounting for a large part of the potential premium income of the national markets in Afro-Asian countries. It was pointed out that "The nature of Target Risks called upon developing countries and on those responsible for the promotion of domestic insurance markets to carefully study and learn the technique of providing cover for Large Risks in order to discontinue allowing it to be covered directly abroad. Evidently they will face some serious problems when called upon to provide cover for risks of extraordinary size and/or technical complexity.".

175. While it was widely accepted that the magnitude of target risks, and that of the foreign exchange component which damages often involve, called for a large spread and a considerable resorting to foreign reinsurance, it was also admitted that a new and closer relationship between domestic companies, the insured, the government and the foreign specialized insurers and reinsurers was called for in negotiating the best adapted covers. Participation of and co-operation among developing markets was considered an essential strategy to ensure an adequate balance between local and foreign utilization of insurance resources.

176. The Association of Latinamerican Reinsurers (Asociación de Reaseguradores Latinoamericanos), ARELA, set up in 1985 a Special Committee to address the question of proficiency examinations in insurance studies and their standards in the various countries concerned. Another Committee will analyse the obstacles to the development of reinsurance in the region and the problems of foreign exchange remittances among Latin American companies, the harmonization of the criteria for risk selection and other matters.

177. The General Arab Insurance Federation (GAIF) held its 15th Conference in Baghdad from 27 to 29 March 1984. Among the matters the Conference discussed were maritime fraud, motor car systems among Arab countries, the promotion of life insurance and the improvement of the performance of Arab insurance pools. The Conference adopted several resolutions in all these fields.

B. Exchange of business among developing countries and other forms of operational co-operation

178. The period under review has not been very favourable to the concept of exchanging insurance and reinsurance operations among developing countries. In certain developing regions, the volume of these operations, as measured in real terms, which was already small, has actually decreased in 1984-1985. Analysis of the obstacles facing a closer co-operation in this area, of the potential benefits to be derived therefrom and of the legal, economic, institutional encouragements that should be provided towards that objective, appears to be a task of considerable interest at the present stage.

179. However, not all the information available on exchange of business during the period is negative. For instance, reports from the ASEAN Reinsurance Pools highlight achievements which are not negligible. Some excerpts follow:

> "Origin of the Pool: The ASEAN Re Pool was the brainchild of the ASEAN Insurance Council formed in April 1978 by the insurance associations of the original five-member countries. It is a pioneering measure adopted by the ASEAN Insurance Council to promote reinsurance co-operation among the insurance companies in the region. This affords an opportunity to an ASEAN insurer for the first time to participate in the reinsurance business of the region on a systematic, selective and well-spread basis.
>
> Pool 1 (non-marine) is the chief vehicle of reinsurance exchange among the ASEAN companies. All insurers operating in the region, including joint venture companies and branches of overseas companies, are eligible to participate in this Pool (as also in the other two Pools), provided that the treaties they propose to cede are acceptable to the Pool.
>
> The pooled business is distributed back to all participants in the proportion of the premium ceded by them to the Pool. However, the Pool's profit would be distributed back only to those companies which give a profit to the Pool, in proportion to the profit given by them, the latter to be calculated on three-year average basis.
>
> Pool 2 is meant to provide non-marine excess of loss reinsurance capacity to insurers operating in ASEAN countries for business originating in the region. The Pool accepts the business at normal market terms following

recognized leads. It has a capacity of $US 500,000 any one treaty/programme. Participation in the pooled business is not compulsory for ceding companies, but if any of them wish to participate they are welcome to do so.

Pool 3 operates on the same principles as Pool 2 except that it is meant for non-marine facultative business in the ASEAN region. It has a capacity of $US 2,500,000 any one risk. Business for Pool 3 are being underwritten by the national reinsurance companies in their respective countries. This ensures that only Underwriters closest to their home markets write the business.

General comments: The number of participants in and treaties in the Pools had shown steady increase over the years. In 1985 there were 68 participants and 152 treaties. These rose to 86 participants and 217 treaties by 1986. The 43 per cent increase in support indicated a growing acceptance of the Pool by the insurance companies in the region. Premium income had also risen correspondingly. The projected premium increased by 17 per cent from $US 1,651,000 in 1985 to $US 1,930,000 in 1986.".

180. Other developments in the area of reinsurance operations among developing countries include the operations of CICA-RE 48/ which started operating on 1 January 1984. Company's Head Office is in Lomé, Togo.

181. Asian Reinsurance Corporation, Bangkok, was to be given an important boost to its activities by the Ministers of Trade of ESCAP when they met in Bangkok in June 1986. Part of the Ministerial Declaration reads: "Recognizing the importance of insurance in the field of national economic development and the impact reinsurance cession bears on the balance of payments of countries in the ESCAP region and further noting the beneficial role the Asian Reinsurance Corporation (ARC) is already playing in promoting insurance co-operation amongst its present members, the Ministers therefore invite countries in the ESCAP region to consider joining the Asian Reinsurance Corporation so as to make it truly a regional institution.".

182. A possible field for collective action among developing countries has been suggested in relation to the problem of alleged discrimination in the aviation insurance and reinsurance business. At a FAIR seminar held in Pyongyang (The Democratic People's Republic of Korea) in September 1985, it was proposed that, in addition to a domestic policy aimed at developing cover programmes for their national aviation fleets, a South/South policy be undertaken for an active reciprocal participation in the cover of these fleets, including the operations of an ad hoc aviation pool.

Notes

1/ See Official Records of the Trade and Development Board, Fifth Session, Supplement No.3 (TD/B/118/Rev.1), annex I, sect. A, para. 6.

2/ The periods 1968-1970, 1971-1972, 1973-1974, 1975-1976, 1977-1979, 1980-1981 and 1982-1983 were dealt with in documents TD/B/C.3/99, TD/B/C.3/107, TD/B/C.3/122/Supp.1, TD/B/C.3/141, TD/B/C.3/169, TD/B/C.3/178 and TD/B/C.3/189.

3/ World Insurance Report, London, 4 October 1985.

4/ Ibid., 26 July 1985.

5/ Henry G. Parker III, Chairman, International Insurance Advisory Council, Washington D.C., June 1986.

6/ Quoted in Time magazine, 24 March 1986.

7/ World Insurance Report, London, 21 March 1986.

8/ Ibid., 12 December 1985.

9/ Ibid., 6 April 1984.

10/ Ibid., 7 February 1986

11/ Ibid., 9 August 1985.

12/ See Alberto Sarria Molina: "Terremoto de México", Publicación de la Compañía Central de Seguros, Bogotá, Colombia, 1986.

13/ World Insurance Report, London, 13 December 1985.

14/ See in this respect reports from various sources on ship-owners' fake bankruptcies and auctioned cargo effectively owned by shippers in developing countries.

15/ World Insurance Report, London, 3 May 1985.

16/ Ibid., 13 January 1984

17/ The problem of assessing the solvability and credibility of reinsurers to which risks from developing countries are transferred is dealt with in TD/B/C.3/218. See also para. 142.

18/ World Insurance Report, London, 18 October 1985.

19/ See TD/B/C.3/189, para. 65.

20/ Singapore - Annual Report of the Insurance Commissioner for the year ended 31 December 1984.

21/ World Insurance Report, London, 27 January 1984.

22/ See Foresight, London, vol. XI, No. 9, March 1986.

23/ World Insurance Report, London, 22 February 1985.

24/ Ibid., 6 April 1984.

25/ Ibid., 13 July 1984.

26/ Ibid., 20 April 1984.

27/ Ibid., 22 February 1985.

28/ The Post Magazine and Insurance Monitor, London, 19-26 December 1985.

29/ Mercado Reasegurador, Buenos Aires, September 1986.

30/ World Insurance Report, London, 7 September 1984.

31/ The Post Magazine and Insurance Monitor, London, 19-26 December 1985.

32/ World Insurance Report, London, 6 April 1984, quoting Mr. Colin Smith, London.

33/ Ibid., 13 July 1984.

34/ Data extracted from a paper presented by Société Centrale de Réassurance, Casablanca, to a FAIR seminar on aviation and engineering insurance, Pyongyang, Democratic People's Republic of Korea, in September 1985.

35/ Reactions, London, February 1985.

36/ See TD/B/C.3/189, para. 118.

37/ World Insurance Report, London, 13 July 1984.

38/ Document TD/B/C.3/221.

39/ World Insurance Report, London, 24 August 1984.

40/ South, London, August 1986.

41/ See the preceding issue of this Review (TD/B/C.3/189, para. 132).

42/ See the preceding issue of this Review (TD/B/C.3/189, para. 128).

43/ The Trade and Development Board, at its thirtieth session in March 1985, admitted the AISADC to participate in its work as a non-governmental organization under rule 71 of the Board's rules of procedure.

44/ See TD/B/1044-TD/B/C.3/204, Report of the Committee on Invisibles and Financing related to Trade on the first part of its eleventh session, Geneva, 18-22 February 1985.

45/ See also the preceding issue of this Review (TD/B/C.3/189, para. 148).

46/ *Ibid.*, para. 140.

47/ *Ibid.*, para. 145.

48/ *Ibid.*, para. 149.