
Insurance legislation and supervision in developing countries



UNITED NATIONS

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Insurance legislation and supervision in developing countries

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PART TWO

Insurance legislation and supervision in developing countries

*Study by the UNCTAD secretariat ***

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** The description and classification of countries and territories and the presentation of the material in this *Study* do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country or territory or of its authorities, or concerning the delimitation of its frontiers, its economic system or stage of development. Inclusion of a particular country or territory in any economic or geographical grouping (or its exclusion) has been dictated by economic and statistical considerations.

The study by the UNCTAD secretariat was circulated in mimeographed form as document TD/B/C.3/84-TD/B/C.3/AC.5/1 and Corr.1.

ABBREVIATIONS

| | |
|-----------|--|
| c.i.f. | cost, insurance, freight |
| franc CFA | franc of the African Financial Community |
| CICA | International Conference of African, French and Malagasy States on Insurance Supervision |
| f.o.b. | free on board |
| GNP | gross national product |
| IRB | <i>Instituto de Reaseguros do Brasil</i> (Reinsurance Institute of Brazil) |
| OECD | Organisation for Economic Co-operation and Development |
| UNCTAD | United Nations Conference on Trade and Development |

Part One

INSURANCE LEGISLATION AND SUPERVISION IN DEVELOPING COUNTRIES

Report of the Group of Experts

LETTER OF TRANSMITTAL TO THE SECRETARY-GENERAL OF THE
UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Sir,

We have the honour to submit herewith our report on Insurance Legislation and Supervision in Developing Countries which we were invited to prepare pursuant to the resolution adopted by the Committee on Invisibles and Financing related to Trade at its second session (TD/B/118/Rev.1, annex I, A, paragraph 4). We were asked to review and comment on a study prepared by the UNCTAD secretariat on insurance legislation and supervision in developing countries (TD/B/C.3/84 and Corr.1). That study proved to be a valuable basis for our discussions.

We suggest that the secretariat's study and our report might be of interest to a wider audience and hence that they should be circulated not only to governments but also to insurance companies.

We met in Geneva from 19 to 30 July 1971. The members of the Group served in a personal capacity. Mr. Pedro Reyner was elected as chairman and Mr. Lars Erik Torén as Rapporteur of the Group.

We wish to express our thanks to Mr. G. Paratte, Consultant to the UNCTAD secretariat, whose assistance throughout our deliberations was most valuable. We would also like to record our appreciation to all those members of the secretariat who were responsible for the preparation of the basic document; their collaboration, co-operation and guidance helped us enormously in performing our task.

Accept, Sir, the assurances of our highest consideration.

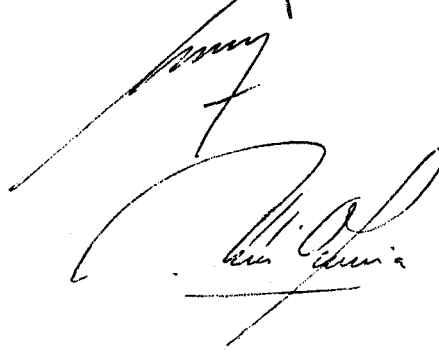


Giuseppe Corso

Baccarini



Mr. Rajah



Lars Erik Torén

Geneva,
30 July 1971

INTRODUCTION

1. Pursuant to instructions given by the Committee on Invisibles and Financing related to Trade at the first part of its first session, held from 6 to 11 December 1965,¹ and approved by the Trade and Development Board at its third session,² the UNCTAD secretariat prepared a study on insurance legislation and supervision in developing countries.³ This study provides an analysis of the existing legislation and supervision of insurance concerns in the developing countries. The Committee, at the first part of its first session, also took note of a study published by the OECD in 1963 on the supervision of private insurance in Europe.⁴ The information required for the preparation of the study by the UNCTAD secretariat was obtained, in accordance with the Committee's instructions,⁵ from Governments of States concerned through their replies to a questionnaire on insurance legislation and supervision⁶ covering a broad range of problems and issues related to the development of insurance and reinsurance markets. The questionnaire was prepared by the secretariat with the assistance of consultants who were familiar with similar problems in the preparation of the above-mentioned OECD study. The questionnaire was circulated to Governments of States concerned early in 1967.

2. The Committee at its second session requested the Secretary-General of UNCTAD "to convene in due course a meeting of insurance supervisors and other experts from developing countries to review, and to comment on the studies of the secretariat based on the

replies to the questionnaire on insurance legislation, supervision and market".⁷

3. The meeting of a Group of Experts was convened by the Secretary-General of UNCTAD at Geneva from 19 to 30 July 1971. A list of the members of the Group of experts will be found in annex I to this report.

4. The Group of Experts expressed its satisfaction with the study on insurance legislation prepared by the UNCTAD secretariat and its appreciation for the comprehensive and thorough information provided therein on the different systems of insurance legislation and supervision in developing countries. The experts agreed that the subjects dealt with in the 10 chapters of the analytical study could serve as background material for the discussion in the Group, and that they should express their views on the various elements of insurance supervision in the same order as they appear in the study. Some participants were of the opinion that a number of subjects should be given more emphasis in the discussion, as the study by the secretariat did not throw enough light on them. However, the general consensus was that the study as such was in accordance with the objectives for which it had been prepared and that no revision was necessary. Particular items which participants wished to analyse more thoroughly or to which they wished to give special importance could be brought up for discussion when the corresponding chapter of the study was reviewed.

5. In addition to the study under consideration, two other reports by the UNCTAD secretariat "entitled respectively establishment of a unified international system of insurance statistics"⁸ and "Investment of the technical reserves of insurance concerns in the country where the premium income arises"⁹ were made available to the experts for their information.

¹ See *Official Records of the Trade and Development Board, Third Session, Supplement No. 3* (TD/B/42/Rev.1), annex I (b), para. 4.

² See *Official Records of the General Assembly, Twenty-first Session, Supplement No. 15* (A/6315/Rev.1), part one, chap. VII.

³ TD/B/C.3/84-TD/B/C.3/AC.5/1 and Corr.1. See part two of this publication.

⁴ OECD, *Supervision of Private Insurance in Europe: Study by the Insurance Committee*, Paris, 1963.

⁵ See *Official Records of the Trade and Development Board, Third Session, Supplement No. 3* (TD/B/42/Rev.1), annex I (b), para. 4.

⁶ TD/B/C.3/42 and Add.1-3, annex I.

⁷ See *Official Records of the Trade and Development Board, Fifth Session, Supplement No. 3* (TD/B/118/Rev.1), annex I, resolution adopted by the Committee on 14 April 1967, section A, para. 4.

⁸ TD/B/C.3/85.

⁹ TD/B/C.3/87 and Corr.1.

Chapter I

AIMS AND OBJECTIVES OF INSURANCE SUPERVISION

6. There was general agreement that insurance supervision was a fundamental requirement for the sound development of insurance activities, and that insurance activities, properly supervised, played an outstanding role in the process of the economic growth of every country. The participants expressed the opinion that insurance legislation should always provide the basis for a continuous supervision over the insurance concerns so as to ensure that the legislation was observed in all respects. They also pointed out repeatedly that insurance supervision, while playing the traditional role for which it had been originally established, namely the protection of policy holders, beneficiaries and third parties, should also take constantly into account the general economic, social and other national interests. As an example, they stressed the role of insurance supervision in co-ordinating the investment activities of insurance concerns with the general economic policies of the Government and in guiding them accordingly. The prevention of an outflow of foreign exchange which could result from excessive recourse to foreign insurance and reinsurance facilities was also mentioned. In developing countries, an additional, specific, and very important task of insurance supervision was, in the opinion of the experts, to provide for measures to establish and strengthen the national insurance market, "a sound national insurance and reinsurance market being an essential characteristic of economic growth".¹⁰ A variety of legislative and other measures could be adopted to achieve this objective, most of which offered a certain degree of protection to domestic insurance institutions, so that they could grow and take over an important part of the business of the national market. The participants considered that the question whether domestic insurance institutions should be public, private or semi-public, should be left to the economic and social philosophy of each country and that the essential thing was to have a sound and efficient national insurance market, where fair premiums would be matched by efficient service to the nation. Some of the experts also emphasized, in this connexion, the usefulness of fair commercial competition.

7. As to the method of State supervision which the insurance legislation should provide for, the participants were unanimous that a purely formal supervision was

¹⁰ See the preamble to recommendation A.IV.23 of the United Nations Conference on Trade and Development at its first session (see *Proceedings of the United Nations Conference on Trade and Development*, vol. I, *Final Act and Report* (United Nations publication, Sales No.: 64.II.B.11), p. 55).

not only inadequate but also could be harmful to the different interests involved, as the general public could be misled as to the extent of the supervision. On the other hand, supervision only with respect to the financial position of the insurance concerns would not be sufficient either, since other subjects, like tariffs and a fair treatment of the policy-holder in the formulation and the general conditions of the insurance policies, were also considered as an essential element in the protection of the public. The participants were thus inclined to consider the great need to extend supervision to the whole range of activities of the insurance concerns, particularly in fields where excessive profits, malpractices or harm to the insured might occur. Therefore, effective and continuous supervision of the insurance enterprises' activities was strongly advocated. However, some participants were of the opinion that such an effective control should not interfere with the day-to-day activities of insurance companies, as it might paralyze the managerial and commercial initiatives of the concerns. Another aspect which was emphasized was that sufficient discretionary powers for intervention should be given to the supervisory authorities to enable them to exercise their sound judgement and take prompt and effective measures if the situation of a particular concern should, in their opinion, warrant any kind of immediate intervention.

8. Another question raised was whether different forms of supervision should be applied according to the class of insurance transacted. While the participants agreed that all transactions should be subject to supervision, as all of them had a direct bearing on the financial strength of the insurance concern, they considered that special emphasis should be laid on supervision for the classes covering the needs of the mass of the insured, for those involving social aspects, long-term commitments and also for those covering policies where the beneficiary and the policy-holder were not the same person. Thus, life, small private property and third party liability insurance were some important examples of what should be the subject of particular supervision. The case of supervision of compulsory insurance schemes also attracted the attention of the participants, who considered that special measures should be adopted for this type of insurance. These special measures should cover tariffs and policy conditions in particular.

9. The subject of prohibiting the insurance of domestic risks abroad was also closely examined. All experts accepted the principle that, in order to promote the establishment and development of a national insurance market in developing countries, national risks, namely

risks concerning property situated within the country, and residents of the country, as well as liability for such risks, should only be insured with insurance companies (national and foreign) duly established in the country and licensed by the national authorities. Effecting insurance abroad should be accepted only in cases where no insurance cover could be found in the country; in such cases, permission should be granted by the supervisory authorities, on condition that such outgoing business should be registered and controlled in some appropriate way, depending on its nature. On the other hand, the authorities should do everything in their power to promote the national market, in order that an increasing number and types of domestic risks could be covered in the country so as to reduce the necessity for exceptional cover abroad. In this respect, reinsurance could play a useful role in appropriate cases.

10. Regarding major international concerns, which sometimes requested permission to insure all their risks, incurred in many countries, under one single worldwide insurance cover at their headquarters, the experts did not consider it appropriate to make an exception in their case to the general principle that local risks which were insurable locally should not be covered abroad.

11. On the question of compulsory insurance, the experts emphasized the social importance of most forms of third-party insurance (cars, agricultural

accidents, etc.), which should be made compulsory. The question whether compulsory third-party insurance should be restricted to physical injury only or should cover material damage as well was also debated. In the view of the experts, the latter was to be preferred, but the former might sometimes be practiced, as a first step in order to keep premiums within the financial means of the insured public. The participants showed special concern for both rapidity in the settlement of claims and the cost of compulsory insurance, particularly in the automobile branch. ¹Supervisory authorities should be urged to intervene effectively and ensure that the premiums and the conditions of the policy were fair. In particular, they should prevent the costs of insurance from becoming excessive, mainly through the control of commissions on the sale of policies, which should be either abolished or reduced to a minimum. On the other hand, risk premiums should be constantly supervised and kept at an appropriate level, corresponding to the cost of claims. ²

12. The possibility of making insurance compulsory for other classes of domestic risks, i.e. property risks, fire, agricultural crops, etc., as well as risks of a natural catastrophe—e.g., hurricanes, avalanches, earthquakes, etc., was also discussed. However, the experts were not able to make a recommendation which would be generally and/or universally applicable. It was felt, therefore, that the developing countries should examine individually each case on its own merits.

Chapter II

PRIOR AUTHORIZATION FOR TRANSACTING INSURANCE BUSINESS

13. All experts agreed on the necessity of licensing insurance concerns and stressed that mere formal registration was not sufficient, but should be preceded by a comprehensive pre-licence examination of the technical and economic conditions of the concern, of its plan of business to be transacted in the coming few years, of the technical skill and integrity of its managers, of its reinsurance arrangements, etc. In this respect, it was pointed out that only a thorough analysis carried out by the supervisory authorities could lead to valid conclusions and that ample discretionary powers should be given to the authorities in appraising all these factors, as this would prevent to a large extent untrustworthy concerns, "front" companies strawmen from entering into the business.

14. Some of the experts stated that not only the operations of the insurance concerns but also those of the insurance brokers should be subject to the prior approval of the supervisory authorities. They referred in particular to the activities of brokers operating for foreign companies not established in the country, i.e. taking insurance abroad, as already referred to in chapter I. The experts recommended unanimously that strong control should be exercised on the activities of such brokers, who should be prevented from taking business abroad without prior permission and, when permission is granted, obliged to register and report on the business taken out. As an example of such control, the text of the regulations of Venezuela is given in annex II to this report.

15. As to the licensing of branch offices or agencies of foreign companies, the experts agreed that the criteria should be similar to those applied to domestic companies (technical, economic and other requirements); the legal representatives of foreign companies (directors

of branch offices and general agents) should be carefully scrutinized as regards their technical and moral qualifications. Under all circumstances, licences to insurance concerns and in particular to foreign companies should only be granted subject to the general policy of the country and the specific needs of its national insurance market.

16. Licences should, in principle, be granted in respect of major classes of business. Life and non-life insurance should in any case be the subject of separate licences. Some countries go even further and, according to the principle of specialization, do not grant to one and the same company licences for both life and non-life business. In non-life insurance further sub-divisions (accident, fire, automobile, marine, credit, etc.) are recommendable; however, these sub-divisions should not proliferate, to avoid complicating the issuance of policies with adequate and complex cover.

17. Limitations of the duration of the licences were not advocated. It was said in this respect that the insurance legislation should give ample discretionary powers to the controller to enable him to withdraw the authorizations granted should the technical, economic or legal situation of a given company call for that measure.

18. As to limitations in respect of the volume of business—namely, the authorization being granted only if the responsible authorities are satisfied by evidence that a minimum volume of business will be written—this solution may be advocated, as pointed out by a number of experts, only if the concentration of the insured market is strongly required. The consequences of this measure for newly constituted national companies should however be considered as, otherwise, serious difficulties may ensue.

Chapter III

LEGAL REQUIREMENTS FOR CARRYING ON INSURANCE BUSINESS

19. Regarding the legal form of insurance concerns, the experts agreed that both joint stock companies with limited liability and mutual concerns should be considered, in principle, as having adequate legal forms because both were apt to warrant, in addition to financial resources adapted to the business requirements, the permanence which is a qualification of great importance in insurance in view of its long term nature. Individuals were to be rejected as insurers, as they did not offer these guarantees.

20. In the opinion of the experts, each of the two above acceptable forms had certain advantages and disadvantages. Joint stock companies were a good means of raising capital and relatively easy to manage, so that they represented a flexible element on an insurance market. However, they sometimes tended to put profit-making over and above all other considerations, which was detrimental to the interests of the insured, in particular as regards the distribution of their benefits. Furthermore, the joint stock companies could fall into the hands of small groups—families for example—and lose their true anonymous character, for which reason the experts recommended that only registered shares should be authorized, in order that the authorities should know at any given moment to whom the company belonged.

21. Mutual companies were generally not constituted for commercial purposes but in order to serve some well-defined and explicit interests of their members. In insurance, mutual companies could be recommended for a large number of classes where many small homogeneous risks for a specific and limited group of persons (whether small or large) were to be covered. In other classes of business, of a more complex character mutual companies could behave in a manner parallel to joint stock companies if they contemplated the sale of their policies to the public and thus act more like joint stock companies without shareholders. On the managerial side genuine mutuals were a good solution. It may be observed that in some countries, mutualization of life insurance is encouraged after the companies reach a certain size.

22. As regards the nationality of insurance concerns established in a market, the experts drew a distinction between domestic companies, subsidiaries of foreign companies and foreign branch offices and agencies. Whilst the nationality of the first and last kind of companies did not pose any particular problem, that of subsidiaries might sometimes be difficult to determine, especially when foreign-owned companies appeared not as subsidiaries, but took the form of genuine domestic

companies. The experts agreed unanimously that a pre-requisite for qualification as a domestic concern would be that it is constituted under the laws of the country with its head office registered therein. Some experts were of the opinion that an additional criterion was that of the nationality of the shareholders. They stressed that nationals of the country should own the majority of a concern before it could be considered as domestic.

23. There was consensus that whatever the form might be, insurance concerns should transact only such business and undertake only such operations as were directly connected with insurance. The supervisory authorities should prevent them from embarking on any kind of business foreign to insurance.

24. All agreed that a specific law regulating the insurance contracts was necessary. In compulsory insurance, there was a conspicuous need for standardization of the contracts. In other classes of insurance, general rules covering the most important terms and conditions of policies should also be observed and the policies controlled by the authorities so that no terms detrimental, obscure or ambiguous to policy holders were permitted. On the other hand, companies should be given enough freedom and should be encouraged to try to improve the types of policies they offered, namely in the direction of greater clarity, so that policy holders could better understand their rights and obligations. In this process, legal precision should not, however, be lost.

25. The question of reinsurance contracts was also discussed. The Group accepted that the legal form and terms of these contracts did not require the thorough supervision which it recommended for policy forms and general conditions of direct insurance, since the parties concerned were assumed to be of similar technical and professional levels. However, the Group recommended that reinsurance contracts should be regularly submitted to the supervisory authorities, at least for information so that the latter could intervene in cases of reinsurance arrangements that were clearly inadequate. Some of the conclusions which could be drawn by the authorities through controlling reinsurance treaties could concern "fronting" (cover for hidden foreign interests), excessive business export, obviously insufficient reinsurance, inadequate commissions, etc. On the other hand, the supervisory authorities should not try to run the companies by interfering excessively in their reinsurance planning.

26. In this connexion, training of the supervisors, until they were able to judge on reinsurance matters and to help companies find the best solutions, was indispensable. The Group considered that UNCTAD should participate in creating training facilities of this kind.

27. The participants also discussed the subject of transfers of portfolio from one company to another and considered that the supervisory authorities, in those countries where they operated effectively, ought to assume the task of regulating such transfers. Their decisions should, of course, be based on the interests

of the policy holders both of the ceding and of the receiving company. In such circumstances, the individual consent of the policy holder did not seem necessary: the policy holder should, however, have the possibility to cancel his contract, if he so wished.

28. The question of the preferential liens for the benefit of policy holders and beneficiaries was also considered. It was generally agreed that there should be both special liens regarding the assets which were earmarked to match the technical reserves of some classes of insurance (for example, life insurance) and a general preferential lien affecting the whole of the assets of the insurer.

Chapter IV

FINANCIAL REQUIREMENTS WITH REGARD TO THE SHARE CAPITAL AND FREE RESERVES OF INSURANCE CONCERNS

29. Referring to the role of the initial share capital, the experts recommended that minimum amounts should be fixed depending on the prevailing conditions in each country as well as on the kind and extent of business which the company applying for a licence intended to transact. In addition to the initial share capital, a contributed surplus (*fonds d'organisation*) should be required for covering the very considerable expenditure involved in the establishment and the initial operations of the company. Whilst the initial share capital should be preserved in later stages (possibly with readjustments in cases of depreciation), the contributed surplus could be completely used up during the initial period of activity of the company.

30. As to the subsequent life of the insurance concern, the experts felt that free reserves should be built up and gradually assume a predominant rôle as compared to that of the share capital in the initial stages. Some experts even stressed that excessive share capital, which would have to yield profits, could be prejudicial to

the policy holders' interests. However, new share capital would have to be brought in if the increase of the free reserves did not lead to a sufficient over-all solvency margin (share capital plus free reserves) corresponding to the kind and volume of business transacted by the concern.

31. The experts pointed to the different names by which free reserves might be referred to in various countries and stressed that, whatever their name, these reserves were most important, as they improved security for the insured portfolios by establishing a safeguard against adverse fluctuations of the company's results, increased the company's retention capacity and strengthened both the company and the national market. Therefore, part of the annual profits should be used for building up free reserves. A solvency margin, such that a company's assets were higher than its liabilities by at least a minimum amount, depending on the volume of business as well as on the composition of the portfolio, was unanimously considered as constituting a necessary measure of security.

Chapter V

FINANCIAL REQUIREMENTS WITH REGARD TO THE TECHNICAL RESERVES OF INSURANCE CONCERNS

32. It was unanimously agreed that technical reserves, being the most important item on the liability side of the balance sheet of an insurance company, were essential and must be evaluated as correctly as possible and strictly verified. All three main types of technical reserves, namely the mathematical reserves, the reserves for unexpired risks, and those for outstanding claims, were discussed by the Group.

33. As far as mathematical reserves were concerned, both the reserves for life insurance with a saving content and reserves for pure risk life insurance were considered. The Group felt that adequate actuarial methods for evaluating these reserves existed and were generally applied.

34. Regarding the reserves for unexpired risks, the experts accepted the principle that—like all other kinds of reserves—they should correspond to the future liabilities of the insurance company. Therefore, the reserves should be calculated in a prospective way based upon experience with due regard to observed trends; they should correspond to the future liabilities and expenses over the full period of the risk, and should not be tied to the premiums, in particular whenever no certainty existed that the tariffs were adequate. Some countries were already basing the valuation of the reserves for unexpired risks on the above mentioned principle. By way of example an extract from the Swedish State Regulations is reproduced in annex III to this report.

35. The usual methods of calculating the reserves for unexpired risks, ranging from the "en bloc" valuation to the "policy by policy pro rata" valuation, were also discussed. The experts felt that separate valuations for the different classes of business were essential. They also recommended frequent checks on the validity of "en-bloc" rates, which should take into account

the distribution of claims and that of the premiums over the year.

36. The supervision of reserves for outstanding claims frequently presented major difficulties. In particular, the supervision of reserves calculated by the "file by file" method became difficult in the case of a large volume of business. However, in some such cases, especially in mass classes (automobile, etc.) an approach based on statistical extrapolation (projection in a given year, with all necessary adjustments, of the average cost per claim and the claims frequency experienced in the past) was possible and was to be preferred. This required a company to use proper insurance statistics, such as were recommended in the report by the UNCTAD secretariat on the establishment of a unified international system of insurance statistics. At all events, an *a posteriori* check of valuations of past financial years was to be strongly recommended.

37. Referring to paragraph 129 of the study by the UNCTAD secretariat on insurance legislation and supervision in developing countries, the Group pointed to the efforts being made in many countries in order to reach satisfactory solutions in calculating technical reserves in the manner as described in the paragraph.

38. With regard to the question of technical reserves for risks ceded in reinsurance, the experts recommended unanimously the constitution of gross reserves by the ceding company, both for unexpired risks and for outstanding claims. However, no consensus could be reached on whether or not claims on reinsurers could be regarded, at least partially, as assets acceptable for covering the corresponding reserves. Nevertheless, it was established that, in cases where these claims could be partly accepted for covering the technical reserves, the reinsurers should earmark a corresponding amount of assets to cover these reserves.

Chapter VI

INVESTMENT, LOCALIZATION AND DEPOSIT OF THE FUNDS OF INSURANCE CONCERNS

39. Regarding the investment of insurance funds, the Group noted with satisfaction of paragraph 3 (a) of the recommendation A.IV.23 of the Conference at its first session, according to which these funds should be invested, in principle, in the country where premiums arose. In this connexion, the experts took note of the report by the UNCTAD secretariat on investment of the technical reserves of insurance concerns in the country where the premium income arises, which had been made available to them for information and in which the UNCTAD secretariat proposed to the Committee on Invisibles and Financing related to Trade ways and means for the implementation of that recommendation by the developing countries.¹¹ Within the limits of that recommendation, the experts agreed that the investment of the assets of insurance companies should have regard to the three criteria of security, profitability and liquidity; in addition, the asset portfolio of each company should be sufficiently diversified. No speculative investments should be accepted in such a portfolio; special caution seemed necessary in investing in shares, but that did not mean that sound equities, traded on the stock exchange (blue chips) could not qualify for inclusion. In order to safeguard the principle that insurance concerns should not embark on business other than insurance, the holding by an insurance company of assets in the form of shares or participation in another enterprise should be kept to a minimum so as to exclude all possibility of acquiring a controlling interest.

40. Regarding the means by which the supervisory authorities could implement such an investment policy, the method of issuing lists of authorized assets was discussed. The Group concluded that owing to the important differences between the capital markets of different countries, such lists could be envisaged only on a country-by-country basis and not internationally. Foreign securities should, in principle, not be accepted; however, exceptions to this rule, having regard to the particular conditions prevailing in individual capital markets, might be necessary and might be allowed by the competent authorities, each case being judged on its merits. Currency matching, whereby commitments in a given currency were covered, in principle, by assets in the same currency, was also recommended. Lastly, the Group recommended that each country should exercise considerable flexibility in the choice of authorized assets, which should, however, comply with the two main objectives, namely the security of the concerns and

the protection of the national interest of the country in question.

41. As regards the problem of the valuation of assets in the balance sheet of an insurance concern, the experts recommended a country-by-country approach as the most suitable way of taking into account local conditions. However, they were unanimously of the view that the valuation should be made on a prudent and conservative basis so as to ensure that the assets really guaranteed sufficient cover of the commitments shown on the debit side of the balance sheet. While the valuation of bonds, especially of those quoted on the stock exchange, did not present any difficulty, equity values were liable to sudden and sharp fluctuations. Some experts recommended the creation of a special equalization reserve corresponding to the relative importance of shares in the asset portfolio of a concern, so as to compensate in part for fluctuations in the value of these securities. Regarding real estate, the purchase price was considered a suitable basis for valuation; however, where the property had been bought long ago and its market value had increased considerably, a prudent revaluation on the basis of expert advice was recommended, in order to give policy-holders a share in the capital gain connected with a purchase they had helped to finance. If such a revaluation were postponed unduly, the benefits from the capital gain would accrue to policy-holders other than those who had financed the original purchase.

42. There was consensus that, so far as assets allocated to cover technical reserves were concerned, all such assets, in all classes of business and of both foreign and domestic concerns, should be localized in the country of premium. There was also a broad agreement that reserves which were a direct complement to technical reserves (such as prescribed equalization, fluctuation and other reserves) should follow the localization rules set for technical reserves. The Group unanimously agreed that reserves constituted for the distribution of benefits to policy-holders (earned surplus) should be kept together with mathematical reserves. As to non-localized share capital and free reserves of foreign concerns, co-operation between insurance supervisors of the receiving country and of the home country was recommended by some experts in order that their existence in other countries, specifically in the home-country of the concerns, could be verified. Such co-operation would in fact permit a precise assessment of the over-all solvency of a particular insurance concern.

43. It was recognized that the localization of assets, that is the actual presence in the country of the assets allocated to cover the technical reserves and their

¹¹ See TD/B/C.3/87, para. 40.

complements, was by no means easy to verify. One very convenient method was, of course, to require that all such assets be deposited with a State bank or agency. This method presented, however, certain disadvantages since, for an essentially financial enterprise such as an insurance company, the blocking of assets could be prejudicial to rational management. Whenever the method of deposit of technical reserves was applied, facilities permitting rational management should be granted to the concerns, namely provision for the easy replacement of deposited assets by other assets, should this be so decided by the concern and approved by the supervisory authority. Deposits should be entrusted to a reliable

institution which was unrelated financially to the insurance concern, preferably to a public institution.

44. Many experts expressed the opinion that the supervisory authorities should have power to order a general blocking of all assets of an insurance concern which were not already deposited, whenever they had reason to believe that the concern was in a difficult position and ran the risk of not meeting in full its obligations. By such means the authorities would be able to prevent the concern from disposing freely of its assets before they had made sure that the interests of policy-holders and third parties were sufficiently protected.

Chapter VII

TECHNICAL, COMMERCIAL AND FINANCIAL MANAGEMENT OF INSURANCE CONCERNS

45. It was unanimously agreed that tariffs, costs, reinsurance arrangements, accounting and statistics were the main elements of insurance management.

46. There was also consensus that the authorities should have the right to approve or disapprove the tariffs submitted to them for both life insurance and compulsory non-life insurance before they were quoted by insurers. For life insurance, the technical bases should be adequate, subject to the approval of the supervisory authorities. The question of uniform tariffs established by the authorities, the insurance associations, etc. was also discussed. The Group concluded that it did not matter who established the tariffs, since they had to be approved by the authorities.

47. In classes other than compulsory and life insurance, supervision could be less rigid. However, the experts were generally in favour of prior approval of these tariffs also, whenever this was technically possible, or at least, their being submitted for information and a *posteriori* control. In connexion with these non-life tariffs, some experts pointed to the usefulness of rating bureaux.

48. The general conclusion concerning tariffs was that the authorities should exercise control over them and forbid both uneconomically low tariffs (the chief cause of insolvency) and excessively high ones, in order to protect the interests of policy holders. In fact, in addition to the principle of solvency, the principle of equity had also to be applied in insurance, and this meant requiring the public to pay a price duly reflecting the cost and adequacy of the services rendered.

49. Regarding the income from assets, there was consensus that at the very least the income from assets covering the technical reserves either should be taken into account in calculating tariffs (and reducing them) or should be made available to the policy holders in some other form (participation in benefits).

50. All running expenses of insurance concerns, and in particular commissions paid, should be kept under constant control. Sales commissions to agents and intermediaries should be commensurate with the services they offered to the public. In compulsory insurance, the commission should be very small, if any, as already mentioned in chapter I of this report (see para. 11). Some experts recommended that in classes other than compulsory insurance, maximum rates of commission should be prescribed, class by class. All agreed that no rebate of any kind to policy-holders should be allowed.

As to the distribution of dividends to shareholders, they should not be paid before review by the authorities.

51. The experts emphasized once more the importance of reinsurance arrangements in particular as regards the volume of business retained by the company. The supervisory authorities should be informed of these arrangements and provide advice, but they should not try to run the company by excessive interference in its reinsurance planning. Some experts maintained that, if national regulations concerning reinsurance were too inflexible, this would worsen the terms on which companies could find reinsurance cover. Others pointed to the advantages of local co-insurance and pools which might help in some circumstances in finding adequate local cover for risks beyond the retention capacity of a single company and improve also the total amount of business retained in the national market.

52. Regarding accounting and insurance statistics, it was emphasized that annual returns to the supervisory authorities (including balance sheets, profit and loss accounts and other statements) constituted one of the most important tools for effective insurance supervision. As the UNCTAD secretariat had prepared, with the help of another expert group, a report covering specifically the problems of insurance statistics,¹² and this report was to be submitted to the Committee on Invisibles and Financing related to Trade, the Group preferred to refrain from proposing a detailed statistical system. However, it recommended that, as suggested by the secretariat in its report, the developing countries should adopt a good, analytical system of statistics to be employed by both the domestic and the foreign concerns licensed to transact business in the country. The widespread use of good analytical statistics (broken down by class of business, etc.) and their standardization should be the objectives; the experts fully supported the efforts of UNCTAD in attempting to achieve these objectives by proposing a unified international system of insurance statistics.

53. Reverting to the problem of distinguishing between life and non-life business, the Group praised the merits of specialization (see para. 16 above) and urged that, even in cases where both life and non-life business were transacted by one and the same concern, the administration of these two classes, including the accounts, investments, etc. should be kept completely separate. This separation should be fully reflected in the annual returns to be submitted to the supervisory authorities.

¹² TD/B/C.3/85.

Chapter VIII

REGULATIONS REGARDING INCOMING REINSURANCE BUSINESS (ACCEPTANCES)

54. Regarding reinsurance acceptances (active reinsurance) the Group drew a distinction between domestic and foreign concerns. For the former, they unanimously agreed that some control over accepted business was necessary but that it should be, in principle, different from supervision of direct business and limited rather to the recording of data than to substantive supervision. Reinsurance acceptances of domestic concerns transacting also direct insurance business should be more closely supervised because an unsound policy regarding reinsurance acceptances might easily upset the concern's stability and endanger also its direct portfolio; accepted reinsurance business should be managed separately from their direct insurance portfolio. As to domestic professional reinsurers, several experts stressed that supervision should be of a very broad nature, and that the supervisory authority should avoid entering into details and assuming responsibility for the underwriting and general management of the reinsurance concerns.

55. Some experts pointed to the beneficial effects on certain developing insurance markets of the presence there of one wholly or partially State-owned national reinsurance concern, to which all companies transacting business in the country were compelled to cede a certain percentage of every risk written in the country. The main advantages of the existence of such an institution are: reliable recording of all business transacted in the country, including its rates and technical results; adequate increase of total retention capacity of the national market; redistribution of the risks among the national companies; improving the bargaining

power towards the international reinsurance markets through the pooling of a considerable mass of premiums. The Group agreed on the usefulness of such institutions. Some experts expressed the opinion, however, that the compulsory cessions should be of a temporary nature; it was also agreed that the rates of compulsory cessions should not be excessive, because otherwise they might endanger rather than promote the development of the national ceding companies.

56. Regarding foreign reinsurers, there was broad agreement that they did not need to be established in a country in order to be able to accept reinsurance business there. It was suggested that supervision of such business should generally take place at the level of the ceding domestic companies, by means of appropriate supervision of their reinsurance cessions (see para. 25 above). The Group also considered that taxes on reinsurance premiums of business accepted were technically objectionable and should be avoided.

57. The problem of investments corresponding to the technical reserves of accepted reinsurance business was also discussed. It was agreed that a case-by-case solution had to be sought, depending on whether or not the ceding company was obliged to keep in its possession the corresponding assets. In other words, in cases where the ceding company had constituted gross technical reserves (see para. 38 above), including the setting up of the corresponding assets for the cover, the reinsurers should refrain from constituting the same cover once again; claim on the direct insurer should be regarded in this case as assets acceptable for covering the corresponding reinsurance reserves.

Chapter IX

ORGANIZATION OF INSURANCE SUPERVISORY SERVICES

58. There was general agreement in the Group that, owing to the specific and very technical nature of their duties, insurance supervisory authorities should constitute an independent branch of the civil service, at a high level, responsible directly to a high-ranking government officer (Minister). This was justified by the fact that the insurance supervisory authority, within the framework of insurance legislation, carries out its control in the complex and very technical field of insurance in which it possesses broad powers of intervention. Decisions of a technical or economic nature made by the supervisory authority should not be over-ruled by other departments or agencies. However, the activities of the supervisory authority should, of course, be subject to the general control of a superior body (such as the government and the judiciary, etc.) in accordance with rules generally applicable to the review of administrative actions.

59. Such heavy responsibility called, naturally, for high technical qualifications of the staff of the insurance supervisory authority. The chief of the service, or the members of the board, in the case of a collective body, as well as the senior officials, should in fact be highly competent in all matters covering *inter alia* legal, economic, accounting and actuarial questions. A certain continuity in performing the functions of insurance supervisor was also required.

60. The Group considered also the question whether or not the insurance supervisory authority should intervene in the settlement of disputes between the insurance concerns and their policy-holders. Although the usefulness of that intervention in certain cases was admitted, several experts expressed the opinion that the supervisory authorities should refrain from encroaching upon the functions of the courts. Others pointed, however, to the advantages for policy-holders in having minor disputes settled in a less formal and inexpensive way, by entrusting the supervisory authority with this task. Both those in favour and those against giving formal power of arbitration to the supervisory authority fully supported informal interventions by the supervisory authority in order to speed up direct negotiations between the parties to a dispute in insurance matters.

61. In the Group's unanimous view, the publication of a comprehensive annual report (national monograph) by the supervisory authority was an all-important obligation as it provided extremely useful information on the state of the insurance industry and the development of the insurance market of a country. Exchanges of such annual reports among supervisory authorities of different

countries—especially if adequate summary translations were included—were also highly recommended. In this respect it was agreed that a certain standardization of the statistics included in the annual report, as proposed by the UNCTAD secretariat in its report,¹³ would considerably improve the understanding, and hence the usefulness, of national reports.

62. Co-operation among insurance commissioners of different countries with a view to an exchange of experience and information was also advocated. In reply to a specific question, the Group was assured by the UNCTAD secretariat that it would gladly help in establishing such contacts between insurance commissioners of various countries.

63. Most experts felt that a permanent advisory body, comprising the various representatives of professional and other interested groups concerned with insurance, and making suggestions to the supervisory authority on problems related to the insurance market, could serve a useful purpose, in view of the complexity of insurance operations and the role of insurance in the national economy. However, it was unanimously agreed that any such body should be a purely advisory one so that the final decision on any matter was always left to the supervisory authority.

64. Whether or not there was a permanent advisory body, the Group felt that specific tasks might be given to certain institutions, e.g. professional bodies; such bodies could perform certain functions which would assist the supervision of insurance under the control of the authorities. For instance, given sufficient guarantees as to the qualifications of examiners, licensing of agents by the authorities might be made subject to the passing of examinations organized by the insurers' or agents' association, on the basis of minimum requirements regarding the technical skill as well as the moral aptitude of the candidates.

65. The importance of proper training of supervisors, so that they can adequately perform their complex duties, has already been referred to. The Group pointed out, furthermore, that in developing countries it was often difficult to undertake such training at a national level, especially as regards the senior staff of the supervisory authority. Possibilities of organizing such training on a regional, or even an interregional basis, were discussed. UNCTAD's participation in such a programme was

¹³ *Ibid.*, chap. IV.

strongly recommended. In the light of information given by the secretariat concerning possible arrangements for such a programme, the Group stressed both the importance of a careful selection of the trainees, who

should be sufficiently familiar with insurance, and the necessity for courses to be oriented towards problems and issues connected with the duties of insurance supervision.

Chapter X

NATIONALIZATION OF THE INSURANCE INDUSTRY

66. The Group reiterated the view expressed in paragraph 6 above that the question whether insurance institutions should be public, private or semi-public was a matter for each country to decide, on the basis of its economic and social philosophy and that the essential thing was that each country should have a sound and efficient national insurance market, providing adequate insurance cover at reasonable rates. The Group took note of the corresponding chapter of the secretariat study (chapter X of part two of this publication) and listened to explanations given by an expert from a country which had nationalized its entire insurance and reinsurance industry.

67. The very interesting additional information provided by this expert covered many technical aspects of nationalization, such as the structure of the nationalized market, its managerial problems, the question of investments, and also that of promoting the development of a nationalized insurance market. In the course of his explanations, the expert emphasized that there was no difficulty for a nationalized insurance industry to function on a sound technical basis, as was recommended by the Group in the present report. The Group came to the conclusion that nationalization, while it created a new form of market, did not substantially change the nature of the technical problems which an insurance market (private or nationalized) had to solve in order to function properly. The Group was happy to note that the recommendations made in the present report in relation to all these problems were to a great extent valid also in the particular case of a nationalized industry.

ANNEXES

Annex I

LIST OF MEMBERS OF THE EXPERT GROUP

- Mrs. Gregoria C. ARNALDO, Insurance Commissioner; President of The Asian Association of Insurance Commissioners; Manila (Philippines).
- Mr. Sadettin BARLAS, President of the Insurance Supervisory Council of Turkey; Istanbul (Turkey).
- Mr. Giuseppe CORSO, Inspector General of the Italian Insurance Supervisory Service; Chairman of the Working Party "Financial Guarantees" of the Insurance Committee of OECD; Rome (Italy).
- Mr. Saâd KANOUNI, Inspector of Finance and Deputy Director, Chief of the Assurance Service of Morocco; Rabat (Morocco).
- Mr. Abdurrahman M. KHALFE, Insurance Commissioner, Chief of Insurance Department, Pakistan; Karachi (Pakistan).
- Mr. Samuel O. KEKU, Superintendent of Insurance, Federal Ministry of Trade (Insurance Division), Nigeria; Lagos (Nigeria).
- Mr. Moustafa RAJAB, Chairman and General Manager, "Iraq Reinsurance Company"; Ex-Insurance Controller; Baghdad (Iraq).
- Mr. Paul-Emmanuel RAMANAMBE, Chief of the Insurance Services; President of the "Conférence internationale des contrôles d'assurances des Etats africains, français et malgache"; Tananarive (Madagascar).
- Mr. Pedro REYNER, Counsellor to the National Bonding Enterprise; Ex-Director of National Commission of Insurance; Mexico City (Mexico).
- Mr. Lars Erik TOREN, Vice-President of the Swedish Insurance Supervisory Service; Stockholm (Sweden).
- Mr. Augusto J. VASQUEZ,* Superintendent of Insurance; Buenos Aires (Argentina).
- Mr. Eduardo WALLIS, Superintendent of Insurance, Ministry of Finance; Caracas (Venezuela).

Consultant

- Mr. Gabriel PARATTE, Director of "Patria" Swiss Life Assurance Company; Ex-Chairman of the Working Party "Insurance Legislation" of the Insurance Committee of OECD.

* Was unable to attend.

Annex II

VENEZUELA

A. Extracts from the Insurance and Reinsurance Concerns Act of 26 June 1965 relating to insurance intermediaries

Chapter IX

CONCERNING INSURANCE INTERMEDIARIES

Article 94. Only persons duly authorized by the *Superintendencia de Seguros* (insurance supervision authority) may act as intermediaries between policy-holders and insurance concerns. Authorization shall be granted by the *Superintendencia de Seguros* in accordance with the rules laid down in the Regulations.

Article 95. The activity of insurance intermediaries shall in no case prevent direct communication between the insurance concern and the policy-holder.

Article 96. The *Superintendencia de Seguros* may authorize only the following to act as insurance intermediaries:

1. Agents who act directly and exclusively with an insurance or brokerage concern;
2. Brokers who act directly but not exclusively with an insurance concern and
3. Brokerage firms.

Sole paragraph: Insurance concerns may act as insurance intermediaries without being required to have the authorization referred to in article 94.

Article 97. The following may not act as insurance intermediaries:

- (a) Public officials and civil servants;

(b) Directors, managers, executives and employees of banking, credit and insurance houses or commission and Customs agencies, as well as banking, credit, and insurance houses or commission and Customs agencies themselves;

(c) Underwriters, claims adjusters and expert appraisers;

(d) Persons who act as reinsurance intermediaries;

(e) Persons not domiciled in the country, unless, in cases specified in the Regulations they have the express authorization of the *Superintendencia de Seguros*;

(f) Persons who, having acted as intermediaries for an insurance or brokerage concern, have failed as such to fulfil their legal contractual obligations.

Article 98. The Regulations shall prescribe the rules concerning the minimum professional qualifications to be possessed by persons who propose to act as insurance agents and brokers.

Article 99. Insurance brokers and brokerage companies shall deposit a cash or personal bond to the amount and in the form prescribed in the Regulations. Such bond shall take priority over other credits in the following order:

(a) Over the payment of obligations arising from the exercise of their profession, and

(b) Over the payment of fines.

Article 100. The bond may not lapse until six months after publication of the Resolution cancelling the authorization referred to in Article 103.

Article 101. If the bond should lapse or be reduced, the *Superintendencia de Seguros* shall order it to be replaced or increased, and the broker or the brokerage company may not exercise his or its functions until it has been so replaced or increased.

Article 102. Insurance brokerage companies which are legally established in Venezuela shall communicate the fact of their establishment and any amendments to their articles of incorporation to the *Superintendencia de Seguros*, and shall be directed by persons who are authorized to act as insurance agents.

Article 103. The *Superintendencia de Seguros* shall revoke its authorization and cancel the registration of insurance intermediaries in the following circumstances:

(a) If their conduct deviates from the moral principles and rules of professional ethics;

(b) If they offer or grant discounts which are not provided for in the approved rates;

(c) If they give up all or part of their commission to the policy-holders;

(d) If they offer the policy-holders terms which are not contained in the policies and annexes thereto, unless they are acting with the written authorization of the concern on whose behalf they are contracting;

(e) If they conceal any act by a person who is not authorized to function as an insurance intermediary;

(f) If they neglect the regular performance of the operations for which they have been authorized; and

(g) If they dispose for their own profit of the money collected as premiums.

Sole paragraph: If the intermediary is declared to be under restraint, incompetent, in arrears or bankrupt, this shall have the legal effect of revoking his authorization.

Article 104. Insurance intermediaries shall keep the account-books prescribed in the Regulations.

Article 105. The commissions and bonuses to which insurance intermediaries are entitled shall be kept by the insurance concerns within the limits of sound business management.

Article 106. The *Superintendencia de Seguros* may, when it considers it advisable to do so, alter the commission rates which have already been approved in the insurance concerns.

Article 107. The expert appraisers and claims adjusters shall possess the qualifications prescribed in the Regulations of this Act.

B. Regulations made under the Insurance and Reinsurance concerns Act Concerning the Collection of Premiums by Insurance Intermediaries

Article 1. For the collection of premiums, insurance agents may use only the receipts issued by the insurance concerns. The sums collected shall be delivered to the insurance concerns in cash within the following time limits:

(a) Insurance brokerage companies: within 15 consecutive days from the last day of the month in which collection was made;

(b) Insurance brokers: within 15 consecutive days from the day on which collection was made;

(c) Sole agents of insurance or brokerage companies: these shall make payment on the working day following the day on which collection was made, except where such collection had to be made in places some distance from the head office of the employing company, in which case payment shall be made within five working days from the date of collection.

In relations between the insurer and the intermediary, delivery of the premium receipt by the latter to the policy-holder shall be regarded as evidence of receipt by the intermediary of the amount concerned, except in the case of receipts delivered for the purposes of payment transactions before official bodies.

Sole paragraph: Delivery of premium receipts to the policy-holder by an insurance intermediary places the insurance company concerned under obligation to cover the risks to which the said receipts relate during the period they are in force.

Article 2. Brokerage companies and insurance brokers shall observe the following practice in the collection of insurance premiums:

(a) Insurance brokerage companies and brokers shall maintain a special account, solely for premium transactions, in a bank officially domiciled in Venezuela.

The full amount of premiums collected shall be deposited immediately in the above-mentioned account.

(b) The special account may be used only to transfer sums to the insurance concerns to which the premiums collected belong, and for payment from the account of commissions payable to the insurance brokerage companies and insurance brokers, where this is authorized in writing by the insurance concerns.

Article 3. Insurance brokerage companies and insurance brokers shall inform the insurance concerns, in writing, of the premium collection, with all necessary details, within five working days from the date of collection.

Article 4. Should the time-limits laid down in Article 1 expire without the agent having delivered to the insurance concern the premiums he has collected, the insurance concern shall demand premiums in writing. A copy of this communication shall be sent at the same time to the *Superintendencia de Seguros* (insurance supervision authority).

Article 5. The return for cancellation, of receipts issued by insurance concerns to insurance intermediaries for purposes of collection, and which have not taken effect, shall be governed by the following rules:

(a) Receipts covering the following classes of insurance: transport, employers liability (workmen's compensation), guarantee and any

other which, with the agreement of the *Superintendencia de Seguros*, is considered to involve collection for an expired risk-within 180 days from the date on which cover was to take effect;

(b) Receipts relating to all other classes of insurance shall be returned within 90 working days from the date on which cover was to take effect;

(c) Receipts for any public body corporate, i.e. National, State, Municipal, or a concern in which the State has a controlling interest, shall in all cases be returned within 30 working days from the date of refusal or objection.

Article 6. When insurance concerns issue new receipts to replace those cancelled, they shall be obliged to extend the period of cover of the policy concerned by a period equivalent to the interval between the date on which the policy began and that on which the new receipt was issued, except in those cases referred to under (a) in the preceding article.

Article 7. Advances on commission shall be taken to mean actual cash advances made by insurance concerns and insurance brokerage companies to their respective insurance agents.

Article 8. When agreements are concluded between insurance concerns and agents regarding loans on a current account or operational account, or when debit balances of any kind are authorized, real or sufficient personal guarantees shall be provided to meet the terms of the agreement. Such agreements and guarantees shall be recorded in a legal document.

For the purposes of this article, advances against unearned commissions shall not be regarded as loans.

On loans which insurance concerns grant to agents, interest shall be charged at a rate to be determined by the Ministry of Development in consultation with the Supervisor of Insurance.

Insurance concerns may in no case grant to agents loans for the financing of premiums.

Article 9. In investing their resources, insurance concerns may not grant loans or discounts to any person with the object of cancelling premiums on insurance which he takes out.

Article 10. Loans granted to insurance agents on the security of mortgages or other collateral shall not exceed 60 per cent of the value assigned to the respective assets by an expert duly authorized by the *Superintendencia de Seguros*. Only first mortgages shall be acceptable as security.

Article 11. Intermediaries having credits granted by insurance concerns against the security of a guarantor are required to submit annually to the lender a statement, certified by a public accountant, of the financial position of their guarantors. An insurance concern may in no case act as guarantor.

Credits granted to insurance intermediaries against security shall not exceed 10 per cent of the total commission which the agent received from the insurance concern granting the credit during the preceding six-month period.

When applying to insurance concerns for loans, insurance intermediaries shall send their inventories, balance sheets and profit and loss statements with their application.

Article 12. An insurance concern may not grant to insurance brokerage companies or insurance brokers advances on commission exceeding 30 per cent of the amount of the commissions which they received from the insurance concern during the preceding six-month period.

Advances on commission granted to insurance brokerage companies and insurance brokers shall be repaid within not more than 60 days from the date on which they were granted.

Insurance brokerage companies and insurance brokers may not request further advances on commission until 90 days after the date of repayment of the last advance granted.

Article 13. Insurance concerns and insurance brokerage companies may grant advances on commission to their agents up to an amount equivalent to 40 per cent of the total commission received by them during the preceding six-month period.

Advances on commission granted to insurance agents shall be repaid within not more than one year from the date on which they were granted.

Advances on commission granted to an insurance agent may in no case exceed the amount of commission received by the agent during the preceding three-month period.

Article 14. Insurance agents who do not repay advances in full when due shall not be allowed to receive any further advance until at least a year has elapsed from the date on which the advance was repaid in full.

Article 15. In the documents by which advances on commission are granted, the insurance agent shall authorize the insurance concern, in the event of non-repayment, to withhold, in cancellation of his debt, any commission due to the agent.

Article 16. The provisions relating to loan or discount transactions for purposes of payment of insurance premiums shall apply eight months after the entry into force of these regulations.

Article 17. Articles 178, 179 and 180 of the Regulations made under the Insurance and Reinsurance Concerns Act of 6 March 1969 are hereby abrogated.

DONE at Caracas, on 22 June 1971, 162nd year of Independence and 113th year of Federation.

Annex III

SWEDEN

Extract from the State regulations as regards the "unexpired risk reserve"

A. Premium reserve: direct insurance

According to the Insurance Act, paragraph 262, this reserve should correspond to the future liability of the company due to unexpired risks. Thus a calculation in advance of the expected claims is required as well as an estimation of the costs of the administration for the remaining duration of policies in force at the end of the year. This calculation must mainly be based upon the company's experience with due regard to observed trends. As to insurance for which the indemnity is not tied to an amount agreed upon, such as motor third party insurance and some other kinds of insurance, estimated rise of costs due to inflation, wage increases etc. must also be considered.

The procedure whereby estimation of the reserve is based upon unearned premiums (with deduction of sales costs and certain administration costs) is satisfactory provided that the reserve calculated in this way is deemed to be sufficient for the remaining unexpired period. An application of this method must thus involve an estimation of the premium level and, if necessary, a revaluation of the calculated result.

The calculation of unearned premiums may, when it cannot conveniently be done *pro rata temporis*, be performed using the fraction method, for instance one of the 1/24, 1/12 or 1/8 methods. Similarly, the so-called "*en-bloc*" methods, i.e. the transfer of a percentage part of premiums paid, may be used provided that the percent rate applied is controlled every third year or at any earlier date warranted by the circumstances.

Part Two

INSURANCE LEGISLATION AND SUPERVISION IN DEVELOPING COUNTRIES

Study by UNCTAD secretariat

INTRODUCTION

Origin of the study

1. This study has been prepared by the UNCTAD secretariat pursuant to instructions given by the Committee on Invisibles and Financing related to Trade at the first part of its first session (6-22 December 1965). The Committee approved at that time a programme of work suggested by the UNCTAD secretariat¹ which included, *inter alia*, a study of the existing legislation and supervision of insurance concerns and insurance transactions in the developing countries.² In the Committee's opinion, a study of this kind was justified "In view of the growing interest in a number of developing countries in the introduction or improvement of legislative or administrative measures governing the operation of national and foreign insurance and reinsurance". The UNCTAD secretariat was asked to include in its research "measures in force regarding: licensing; the examination of accounts; the nature and amount of financial guarantees and investment of funds; taxation; rules governing contracts of insurance and various other aspects of the organization and supervision of insurance markets". It was also stated that "information required for this study would be obtained directly from governments". Lastly, the Committee noted that "a study on the supervision of private insurance in its European member countries has been published by the Organisation for Economic Co-operation and Development (OECD)."³

2. As a result of the Committee's instructions, a questionnaire was drawn up and addressed to all the developing countries early in 1967. For the preparation of this questionnaire the secretariat requested and obtained the assistance of a number of consultants from developing countries and of experts from industrialized countries who had already had an opportunity of familiarizing themselves with similar problems during the preparation of the above-mentioned OECD study. This is the substance of the information given in the UNCTAD secretariat's progress report to the Committee at its second session (April 1967).⁴ In reporting on what

¹ For the programme of work approved by the Committee on Invisibles and Financing related to Trade at the first part of its first session, see *Official Records of the Trade and Development Board, Third Session, Supplement No. 3* (TD/B/42/Rev.1), annex I (b).

² *Ibid.*, para. 4.

³ The OECD study to which the Committee referred was published in Paris in 1963 and entitled *Supervision of Private Insurance in Europe: Study by the Insurance Committee*. It consists of a general study and individual country reports. Most of the references in the present study to the laws and regulations in force in the industrialized countries of Western Europe have been taken from the information in the OECD publication.

⁴ "Progress report on the programme of work in the field of invisibles: report by the secretariat of UNCTAD" (TD/B/C.3/42 and Add.1-3). For the text of the questionnaire addressed to the developing countries, see TD/B/C.3/42, annex I.

it had done for the preparation of the studies which the Committee had requested it to undertake, the secretariat also stated that "information required for these studies will be obtained from replies to the above-mentioned questionnaire on insurance legislation, supervision and market, which seeks to elicit information covering a broad range of problems and issues related to the development of insurance and reinsurance markets".⁵ At the same time it was suggested that a group of insurance supervisors from a number of developing countries should be convened; the Committee approved this suggestion and, in the resolution on invisibles (insurance and tourism) adopted on 14 April 1967, requested the Secretary-General of UNCTAD to take the necessary steps to enable this group of experts to "review, and to comment on, the studies of the secretariat based on the replies to the questionnaire..."⁶ The Committee approved in general of the contents of the questionnaire itself and stated that "the replies to the questionnaire would greatly assist in implementing the programme of work of the Committee".⁷

3. It should be added that the Trade and Development Board at its fifth regular session (September 1967) approved the resolution concerning insurance and tourism adopted by the Committee on Invisibles and Financing related to Trade.⁸

Scope and aim of the study

4. In preparing the study, the UNCTAD secretariat had first systematically to extract all information received in the replies to the above-mentioned questionnaire. Other sources of information, however, were not neglected. The insurance trade press was particularly useful. It was, however, largely owing to the help and encouragement received from the insurance supervisory services and other authorities of the developing countries that the study could be brought to completion. Because the number of countries which answered the questions suitably was large, the study is very widely based; 61 replies were received by the secretariat to the 98 questionnaires sent out, 20 from African countries, 20 from Asian countries, 5 from European countries and 16 from Latin American countries. In most cases, the answers were of a remarkably high standard. The secretariat fully realizes how heavy a burden fell on the

⁵ See TD/B/C.3/42, para. 19.

⁶ See *Official Records of the Trade and Development Board, Fifth Session, Supplement No. 3* (TD/B/118/Rev.1), annex I, section A, para. 4.

⁷ See *Official Records of the Trade and Development Board, Fifth Session, Supplement No. 3*, para. 8.

⁸ See *Official Records of the General Assembly, Twenty-second Session, Supplement No. 14* (A/6714), part one, para. 114.

insurance supervisory services in answering so many questions over and above their already heavy daily routine; it wishes to express here its gratitude to all those who enabled it to compile such accurate and voluminous information.

5. The information provided was then analysed and to some degree standardized to obtain comparability. Finally, it was condensed into the present study, which has sought to concentrate on essentials. As the information was received, it became apparent that a number of items dealt with in the questionnaire were of only marginal interest to the developing countries or had little relevance to UNCTAD's basic concerns relating to insurance and reinsurance. These items have been discarded.

6. It may be useful to recall here that UNCTAD's main interest in the subjects dealt with in this study relates to the effect which legislative action may have on the development of insurance business and the insurance industry, a development which plays an important part in the process of general economic growth. This interest was reaffirmed at the second session of the United Nations Conference on Trade and Development (February-March 1968), when "the importance of establishing and strengthening insurance and reinsurance markets in developing countries so that they can contribute most effectively to economic development and growth and to the strengthening of their balance of payments" was explicitly recognized in resolution 13 (II).⁹ As far as possible, therefore, emphasis has been laid on those aspects of laws and regulations which are most relevant to the aims set out above and on measures calculated to facilitate—or to hamper—their achievement.

7. The first topic will therefore be the basic criteria which have governed the enactment of insurance laws and regulations in the developing countries. The study will then deal with the conditions established by these countries for giving insurance concerns authorization to commence business; the legal requirements with which they must comply and the legal rules applying to their transactions with policy holders; the financial guarantees to be provided from the concerns' share capital and free reserves; the financial guarantees constituted by technical reserves directly connected with contractual commitments to policy holders and beneficiaries; and the requirements relating to investment of all such guarantees. A third topic will be the requirements with regard to the management of portfolios, rates of premium, retentions and cessions in reinsurance and the rules related to the accounts. The study will go on to examine the special conditions applicable to reinsurance concerns and acceptances. The operation of the supervisory services and their structure will also be considered. With each topic it has been thought desirable

to refer briefly to the systems used in Western European countries, in order to facilitate comparison between the measures adopted in the developing countries and those adopted in countries with a generally longer tradition of insurance supervision. Most of the information relating to the latter countries has been drawn from the OECD study mentioned earlier.

Nationalized insurance industries

8. In most of the developing countries dealt with here, insurance business is conducted by private concerns. In preparing laws and regulations on insurance supervision—and in setting up supervisory services for their enforcement—account was taken of the structure of the market, where it could give rise to conflicts between the special interests of the private insurance concerns and the general interest of the public, which the State has to safeguard. The total or partial nationalization of the insurance industry, where it has occurred, has undoubtedly created a special situation in which the legislative measures required differ from those needed for the supervision of private concerns. These measures usually take the form of an enactment instituting the principle of nationalization, accompanied by other instruments to regulate the operation of the nationalized institutions. In view of the basic differences between the two institutional forms, the various features of the supervision of private insurance described in the different chapters of this study can only seldom be expected to apply to State insurance institutions, and much less to wholly nationalized markets. A special chapter will therefore be devoted exclusively to the legislation establishing and governing nationalized insurance industries. Such legislation will, however, also be mentioned in the other chapters whenever relevant.

Comparative summary tables

9. For obvious reasons, the ten descriptive chapters in this study cover only the main features of any particular problem of supervision observed in the developing countries, and they do not list in detail all the various shades of difference or all the countries which use one or other of the systems under consideration. Comparative tables have therefore been drawn up and annexed to the study in order to supplement the ten descriptive chapters and give a better conspectus of the state of insurance supervision in the developing countries covered. These tables recapitulate the main features of insurance supervision and show—wherever possible—the system used in each country to deal with the particular question involved. The tables can serve several different purposes; they enable the reader to follow a given country through all the tables and thus obtain a picture of its system of insurance supervision as a whole, or else, if he so wishes, to take a particular aspect of supervision as his point of departure and to compare the approaches adopted with respect to it by all the countries surveyed.

⁹ See *Proceedings of the United Nations Conference on Trade and Development, Second Session*, vol. I and Corr.1 and 3 and Add.1-2, *Report and Annexes* (United Nations publication, Sales No.: E.68.II.D.11), annex I, p. 50.

Chapter I

BASIC CONCEPTS IN THE SUPERVISION OF INSURANCE BUSINESS

A. Raison d'être and aims of supervision

10. In almost all countries insurance concerns are subject to special laws and regulations. This is directly due to the economic function of insurance, which it performs in its own particular way. This function consists basically in converting the aleatory losses which any economic entity may suffer as a result of fortuitous incidents into much smaller fixed costs, in other words in offsetting the economic consequences of any losses which may occur by paying a premium which is fixed in advance and which can therefore be included in the production costs of the insured. It might even be said that all that insurance concerns do is spread the cost of losses sustained by a few persons over the entire community of policy holders and that it is in fact this community which compensates the victims for their losses. This compensation is not effected immediately, however; a relatively long period elapses between the time when the insurance concern receives the premiums and the time when the claims are paid. The policy holder generally pays the premium at the beginning of the period for which the risks are insured, whereas the insurance concern has to pay the claims only in the course of that period or, in many cases, after it. At any given moment, therefore, the insurance concern is in possession of sums which it will have to make available to the policy holders at some time or other, but of which it temporarily has the use. The portfolio of an insurance concern is made up of a large number of policies which follow each other practically without interruption, so that there is no break in the replenishment of the funds available to the concern. The latter thus has permanent access to a certain volume of resources which, in principle, it does not own.

11. Especially during the infancy of the insurance industry, the concerns did not always manage these funds in a sufficiently responsible manner. The public's trust in the insurance concerns of the period was betrayed on several occasions, with the result that Governments, regardless of their political outlook, were compelled to intervene. The measures they took established certain criteria to be applied and the requirement to provide minimum guarantees for the conduct of insurance business; and they also placed insurance concerns under some degree of supervision. A case in point was the United Kingdom Life Insurance Companies Act, which was passed in 1870 with the stated purpose of protecting policy holders against the scandalous abuses on the part of unscrupulous concerns of which they had been victims, many of these concerns having been judicially declared insolvent before they could meet their contractual

liabilities to the policy beneficiaries. In the United States of America a law on the supervision of insurance concerns was enacted even earlier in 1855 by the Commonwealth of Massachusetts and the earliest department for the supervision of insurers was set up at Boston. This law not only introduced for the first time the system of government supervision of insurance business, but also imposed restrictions on the conduct of that business and established the principle of express authorization by the authorities having to be obtained before business can be commenced.

12. The principle of State intervention has since been generally recognized and adopted in almost all countries. The few exceptions which do exist do not invalidate the rule that when the volume of insurance transactions reaches a certain level, legislation must be enacted to provide for some degree of supervision of the activities of insurance concerns. The spectacular growth of the insurance industry during the past half century may be said to be closely connected with the existence and efficacy of the legislation and supervision to which the State has made it subject.

13. In many countries State supervision covers both the financial guarantees to be provided and legal and technical requirements. Legally, it is considered essential both that insurance business should be conducted by institutions having legal personality and so organized that they can ensure some degree of continuity, and that the contractual relations between the insurance institutions and their clients should not be prejudicial to the clients. Since the policy-holders do not usually have any say in the stipulation of the terms of the contracts and in many cases lack the requisite legal knowledge, they may generally be regarded as the weaker party in a bilateral agreement, and as such, they are entitled to protection by the State. In some cases, too, the State supervises the technical aspect, especially the calculation of premiums, since, while premiums which are set lower than the amount of the risk may endanger the existence of the insurance concern, to derive an excessive profit from the premiums would be contrary to the interests of the policy holder and of the community as a whole.¹⁰

¹⁰ In Western Europe all systems of insurance supervision have one common aim: to safeguard proposers, policy-holders, beneficiaries and any other third party interested in the due performance of the contract. Their essential function is to see that insurance concerns conduct their business properly and remain solvent and, in most countries, that the contracts conform to the law. Certain countries carry the principle of protecting the insured further, particularly as regards the supervision of premium rates and the limiting of profits of insurance concerns (see OECD, op. cit., para. 9).

14. An important point to be borne in mind is that the insurance legislation of a number of countries seeks to meet more general needs as well. One of these is the need to build up a strong national insurance industry, for this is an important factor in a country's economy. It is also necessary that the portion of the national savings mobilized through the insurance concerns should be invested to the best purpose in the national interest. Reconciling these varied concerns in one and the same set of laws and regulations is very much facilitated by the fact that conflicting or divergent means are not required for the realization of these different aims. On the contrary, the various forms of intervention tend to support each other and the results tend to converge. All these measures, in fact, are subsumed in the general principle that the tendency of the concerns to seek the greatest profit should not be detrimental to the interest of the nation as a whole. The result in some cases is a striking concurrence of the means used: by requiring, for example, that the reserves of insurance concerns be invested locally, the State helps to furnish policy-holders with guarantees which can be directly supervised and are more readily accessible to those with claims on them; this increases the supply of funds to the capital market and prevents the transfer abroad of a portion of the national savings. This concurrence of means is even more marked where, in a given country, insurance business has expanded to the point where the community of policy-holders tends to become virtually identical with the national community as a whole.

15. In the developing countries insurance legislation and supervision may vary greatly from country to country, but the underlying purposes are as a rule very much akin. Their primary object is to protect the public—policy-holders, beneficiaries and all others with an interest in the existence of a sound insurance market—against malpractices on the part of insurance concerns by which it might be victimized and against the risk that such concerns may be unable to meet their liabilities. Though the legislation enacted tends in general in this direction, in some countries it goes beyond these purposes to reach the further aims listed in paragraph 14 above. In some cases it has been accepted, expressly or by implication, that the economic sector in which the insurance industry operates appreciably affects the economy as a whole; steps have therefore been taken to co-ordinate the operations of the insurance concerns with national economic activities as a whole. Elsewhere, the first concern of legislation has had to be to create or reconstruct the insurance market in order to foster its development and adapt it to national requirements. Some legislative measures, too, are designed to organize this market and eliminate such distortions as may have developed.

16. The legislation sometimes expressly states its manifold purposes. The Brazilian insurance law, for example, refers to the need to "promote and develop the insurance market and to provide the necessary operating conditions for its integration in the country's economic and social development; to prevent the outflow of foreign exchange by ensuring a balance in external trade; ...to maintain the liquidity and solvency of insurance concerns; to co-ordinate insurance policy

with the investment policy of the Federal Government, having regard to the principles adopted in the monetary, credit and fiscal fields".¹¹ In that country, therefore, State intervention is not confined merely to ensuring the due performance of the contracts concluded by insurance concerns. In other countries also other aims are embodied in the more recent legislation; their purpose, for example, is stated to be to ensure that "the manifold risks to which the national economic activities as a whole give rise shall be absorbed by a sufficiently powerful insurance industry"¹² and that "the savings of the community of policy holders which are concentrated in the concerns' technical reserves are invested and mobilized in conformity with the interests of the community and in accordance with the individual contracts covered by those reserves". This last objective is one of those underlying the Venezuelan Insurance Act of 1 July 1965.¹³ Usually, however, the State's objectives are not stated explicitly in the legislation and can be discerned only by interpretation.

17. In countries in which the insurance concerns are owned or directly controlled by the State, the latter attains its objectives by intervening directly in these institutions, which enjoy a *de facto* or *de jure* monopoly, rather than by formal legislative action. Where, in these countries, the State has, for example, to supervise a concern's financial position, it resorts more often to the system of administrative audit of the accounts of public or semi-public undertakings than to the systems adopted for supervising private insurance concerns where private interests can conflict with the general interest. Such, then, are the institutional differences in the insurance market which govern the form of the systems of legislation and supervision adopted in these particular cases. (These systems will be examined in greater detail in chapter X below.)

B. Legal sources of the existing supervision legislation

18. The State aims being very similar in most countries, the various systems of supervision differ only in their formulation and their legal and administrative origins.

19. Insurance law in the developing countries is derived from two main sources: the United Kingdom tradition on the one hand and the legislation of Western European countries, especially France, on the other. Generally speaking, the systems of law based on the United Kingdom system may be said to leave a greater freedom of action and decision to the insurance concerns; independent actuaries and auditors play a predominant role in determining their solvency. Moreover, this

¹¹ Brazil, *Sistema Nacional de Seguros Privados (National System of private insurance)*, Decree No. 73, of 21 November 1966, article 5.

¹² This was how Mr. Poniatowski put it in 1963 when he was Director of Insurance in the French Ministry of Finance and Economic Affairs. Quoted by E. Caballero in "*Comparación entre los sistemas y legislaciones europeos e ibero-americanos de control de seguros*" in *Riesgo y Seguro* (Madrid), No. 10, 1965.

¹³ See "*El Seguro en Venezuela - Historia - Cifras*" in *Seguros Y Reaseguros, Cuadernos de la OCI*, No. 9 (Caracas, Central Office of Information) August 1966.

determination is mainly concerned with ensuring the over-all solvency of concerns operating in several countries. In the systems of law based on those of continental Western Europe, on the other hand, independent experts play a more limited role and the regulations to which the concerns are subject are spelled out in greater detail. Verification of the solvency of the concern—which is the direct responsibility of the supervisory authority and in which independent experts are not involved—is primarily concerned with the results of business conducted locally.¹⁴

20. The adoption by developing countries of one or other of these systems is usually the consequences of their colonial past. They might therefore be regarded as divided into two main categories or groups. Clearly, however, such a division would be largely arbitrary, since many countries do not fall into either category. The earlier a country achieved its political and economic independence, the sooner the juridical influence of the colonial Power decreased, and the greater was the opportunity for novel solutions to evolve. This applies particularly to the Latin American countries, all of which started with the same conception of law, but which today present a rather wide range of systems of insurance legislation and supervision. However, the classification into two groups may be regarded as broadly valid.

21. The juridical influence may sometimes—in contrast to the case of the Latin-American countries—be so direct that the laws and regulations reproduce virtually word for word those of the country from which they drew their inspiration. The most extreme case would appear to be the French Act of 13 July 1930 on the contract of insurance, which has been adopted *in toto* by a fairly large number of African countries. The considerable influence of French legislation in Africa is also especially due to the signing of the Convention on Co-operation in the Supervision of Insurance Undertakings and Operations¹⁵ to which, so far, the following countries have acceded: Cameroon, the Central African Republic, Chad, Dahomey, Gabon, the Ivory Coast, Mauritania, Madagascar, Niger, the People's Republic of the Congo, Senegal, Togo, Upper Volta and France. This Convention, signed in Paris on 27 July 1962, established the International Conference of African, French and Malagasy States on Insurance Supervision (CICA), which is especially concerned with harmonization of the insurance legislation and administrative regulations of the member States. Article 1, provides that "The signatory States undertake to bring their laws and regulations concerning insurance undertakings and operations into harmony", and the preamble to the Convention declares that its aim is "to facilitate the development of insurance operations and, having regard to the essentially international character of the insurance

industry, to promote the establishment in all the territories of their respective States of a more extensive market offering satisfactory conditions of stability from a technical, economic and financial standpoint". The Convention also plays an important role in the supervision of concerns operating in the member States; article 7 provides that financial supervision of a concern is to be exercised only in the territory of the signatory State in which its registered office or headquarters are situated. Each of the signatory States "shall supervise the operations carried out its territory in order to ensure that the stipulations of its national laws are respected".

22. The countries which have adopted a United Kingdom type of legislation and supervision—these are mainly in English-speaking Africa and a large part of Asia—have far less close and formal links than the African members of CICA. Nevertheless, United Kingdom legislative principles and administrative practices have in many cases been followed very faithfully. Among the many examples that might be mentioned is the case of Pakistan, which, in broad outline, was recently explained by the Controller of Insurance himself in the following terms: "The pattern of insurance legislation in Pakistan was originally based to a very large extent on that of the United Kingdom. . . . Legislation in that country consists mainly of licensing of insurance companies and publication of the accounts and other relevant financial details of insurance companies. The principle followed is that of 'freedom with publicity'. There is no restriction on the mode of investment of funds. The only restriction apart from the above is that insurance companies are supposed to satisfy a minimum security margin. . . . In Pakistan the principle of freedom with publicity is being maintained." However, he took care to add that "in addition regulatory provisions in certain sections, most notably investment audit and taking over administration of companies acting in a manner prejudicial to the interest of policy-holders, have been included in the statute".¹⁶

23. The basic insurance legislation of Pakistan (the Insurance Act, 1938) dates from before independence. This is by no means exceptional. India's Insurance Act was also passed in 1938, although it was profoundly modified by the Insurance (amendment) Act, 1968. Even this modification, however, does not seem to entail very considerable divergence from the United Kingdom legislation, which has itself undergone parallel change. The basic elements are indeed very similar: introduction of the principle of the solvency margin for companies under supervision and the attribution of a large sphere of decision-making to the supervisory authority, which has wide powers, "including powers of inspection, power to give directions and to remove directors and principal officers".¹⁷

¹⁴ These points were developed by R. S. Skerman, Chairman of the Institute of Actuaries, London, in an address to members of the Institute on 27 October 1970 (quoted in *Policy Holder Insurance Journal* (London) vol. 88, No. 44, 30 October 1970, p. 1953).

¹⁵ See *Officials Records of the Trade and Development Board, Fourth Session, Annexes*, agenda item 16, document TD/B/105, annex.

¹⁶ A. M. Khalfe, Controller of Insurance, Government of Pakistan, "Insurance industry regulation in Pakistan", in *Pakistan Insurance Times* (Karachi), 16 April 1970.

¹⁷ See "Interregional Seminar on Insurance and Reinsurance, Prague, 20-31 October, 1969: report by the UNCTAD secretariat" (TD/B/C.3/83), chap. VI, "Relations between the State and the insurance industry and insurance legislation and supervision", section B, "Background paper by Mr. Ananthachari Rajagopalan (India)", para. 167.

24. It should be noted, in this connexion, that the United Kingdom, the country which developed the famous principle of "freedom with publicity" and which practised it most, has in recent years seemed inclined to abandon it. The new rules in force in that country since 1968 have initiated what has been termed "a revolution in insurance accounting",¹⁸ so far-reaching have been the changes introduced in the presentation of the companies' accounts and statistics to the supervisory authority and so novel the criteria applied by the latter in appraising company solvency. In this connexion, it is worth noting that some of those concerned not only accepted the necessity of complying with the new regulations but actually welcomed them. For example, the British Insurance Association officially announced that "the new requirements will add to insurance companies' administrative costs, but the BIA is in favour of the new system, which will help the Board of Trade to detect quickly any company operating on unsound lines. With the increased powers of investigation granted by the Companies Act, 1967, the Board will be better able to take speedy action before an insolvency occurs".¹⁹ This note of approval was all the more sincere in that the need for far-reaching change had been felt for some time and the interests which were to be directly affected felt it most. Even before the new legislation appeared, an important United Kingdom insurance personality publicly stated: "We can no longer seriously maintain that our own hallowed method of freedom with publicity and a merely symbolic margin of solvency is adequate for our own needs today".²⁰

25. It is difficult to evaluate the principal drawbacks which application of the system of "freedom with publicity" may entail in developing countries. Some idea may be gained, however, from the following view of the effect of this policy in India:

"The Assurance Companies Act, 1909, on which the Indian Act was modelled, was based on the principle of 'freedom with publicity'. While this principle had undoubtedly worked well in Britain it was completely unsuitable to Indian conditions. Literacy was low and, since there was practically no financial press, even among the literate very few could tell a good company from a bad one."

The Government had practically no powers under the Act. Since the minimum deposit was only Rs.25,000, a large number of companies came to be established, a few under sound, enlightened management, but the rest under managements which were either inefficient or worse. The inevitable crop of failures followed.²¹

26. Whether or not the insurance legislation of the developing countries fulfils its proper role and whether it is adequate or imperfect, it has at least the merit of

being practically everywhere in existence and capable of periodic improvement and adaptation. Among the countries studied there are few that have not yet adopted legislation in this field; a few African countries such as Botswana, the Gambia, Lesotho, Liberia and Sierra Leone might be mentioned. In Latin America, El Salvador and Nicaragua have not yet done so. Some of these countries did not become independent until fairly recently and the amount of insurance business transacted in most of them may perhaps not justify the establishment of a special legal framework for insurance concerns. Even in those countries, however, there is often an awareness of the need for insurance concerns to be governed by special rules to ensure that their activities are in the general interest. For that reason, in some of them, draft legislation has already been prepared and has been or is about to be placed before the parliament.²²

C. Prohibition of insuring domestic risks abroad

27. The purposes of insurance laws and regulations might be only partly achieved if insurance could be freely taken out abroad. For this reason, practically all the existing legislation prohibits the insuring abroad of property situated within the country, persons there resident or liability for risks there incurred. In the event of infringement of this rule, certain countries, such as Morocco, even go so far as to declare the insurance contract null and void, although "this nullity may not be pleaded against the insured, whether policy holders or beneficiaries in good faith". Other countries impose a fine; in Colombia, it may be as much as 50 per cent of the premium payable in that country for coverage of the particular risk insured abroad; in Paraguay, the fine is determined *ad hoc* by the supervisory authority; in Peru, it is 35 per cent of the premium, but this is not so much a penalty as a tax payable by the policy-holder. In Guatemala, an income tax law does not allow deduction of premiums paid to non-licensed insurers. The heaviest penalty, however, appears to be that imposed in Brazil: the equivalent of the sum insured (or reinsured, since the regulation also applies to reinsurance ceded abroad without the permission of the supervisory authority).

28. The exceptions to the general rule mentioned in paragraph 27 above are to be found mainly in countries which already have very stringent exchange control regulations; prohibition of the transfer of premiums abroad indirectly prevents or hampers the business activity of unauthorized foreign concerns in the country. In Egypt and Ceylon, for instance, the insurance legislation does not formally prohibit taking out insurance with foreign concerns, but, as stated by Ceylon, "Foreign exchange would not be granted to pay the premia". The situation is similar in Barbados, Guyana, China (Taiwan), Pakistan and the Sudan. In Hong Kong, restrictions of this kind are imposed with respect to life insurance premiums payable in a country outside the sterling area. In Israel there is a general prohibition on

¹⁸ See *Policy Holder Insurance Journal* (London), vol. 86, No. 39, 27 September 1968, p. 1491.

¹⁹ *Ibid.*

²⁰ C. G. W. Whibley, Overseas Manager of the Commercial Union, "Overseas business in the next ten years" in *Policy Holder Insurance Journal*, vol. 85, No. 25, 23 June 1967, p. 929.

²¹ A. Rajagopalan, *op. cit.* (see TD/B/C.3/83, paras. 158 and 159).

²² Nicaragua, for instance, promulgated a *Ley General de Instituciones de Seguros* (General Insurance Institutes Act) on 24 August 1970 and Ethiopia also enacted its first insurance legislation during the same year.

insuring abroad, but an exception is made for life insurance contracted by residents who have a "privileged foreign currency account". Kuwait and Ghana also make an exception for life insurance.

29. Some countries which have adopted the fundamental principle that all insurance must be taken out with concerns authorized to operate in their territory nevertheless allow an exception to be made where it is clear that the capacity of the local insurance industry is insufficient to cover certain large risks. Many countries therefore provide in their insurance legislation for foreign coverage of such risks, but with the prior approval of the supervisory authority. In the case of those Latin American countries which have a national reinsurance institution, the latter is usually empowered to take out such coverage abroad. In those countries, the authorization is not confined to risks which cannot be covered locally, but extends to risks which it might not be in the national interest to cover locally (Brazil).

30. Lastly, in a number of countries, the prohibition of insuring abroad is not expressed in the insurance legislation but legal obstacles of some other kind are placed in the way. Malaysia, the Philippines, Singapore and the Republic of Viet-Nam prohibit recourse to the services of local agents and brokers for non-authorized companies. A person who decides to insure abroad must therefore do so himself without any intervention by local canvassers, new-business agents or other intermediaries.²³

31. As far as domestic coverage of risks is concerned, it is clear that insurance transactions connected with international trade, especially insurance of the carriage of goods, present the most difficult problems. Depending on whether the conditions of sale are stipulated as f.o.b. or c.i.f., the transport risk is borne by the importer or the exporter, and the insurance is therefore taken out by the former or the latter. The terms of the commercial contract are governing in the matter and this is why, on this question, the insurance legislation of a number of countries refers to the terms of the contract of sale, which the seller and buyer are left to negotiate freely. An administrative decision in Madagascar, for instance, provides that "insurance relating to goods or services shall be contracted in the country where the insured is domiciled, that is, the place where he has his head office or his principal place of business in the country; the insurance coverage shall be determined by the nature of the contract for the sale of the goods insured, which shall be freely negotiated between the parties, the seller being the insured in the case of a c.i.f. sale". Other countries, such as Tunisia, accept an even simpler solution and allow marine risks to be covered abroad, regardless of the terms of the commercial contract giving rise to the carriage of the goods.

32. When the goods are insured by the exporter, the insurance cost is nevertheless borne by the importer, since this cost is then normally incorporated in the selling price. In this case, the practical consequences for the

country are the same as they would be if the importer bought on f.o.b. terms and himself took out transport insurance abroad, which would involve a derogation from the generally-accepted principle that risks insured by residents should be covered, within the national frontiers, by licensed concerns. To avoid this situation, some developing countries (e.g. Colombia) have arranged for import licences to be issued only for goods bought f.o.b. In India, where such stringent conditions do not prevail officially, the Government nevertheless appears to have the necessary powers to see that only authorized concerns are permitted to cover the transport risks for imported goods. However, where imports are arranged under a loan/credit and the lending countries insist on insurance with their national companies such insurance is also permitted. The same applies in Pakistan. In Iraq, the State indirectly plays a part, through the credit institutions, by avoiding the placing of marine insurance abroad. The banks are instructed not to open letters of credit on other than a c. and f. basis. This means that whenever a letter of credit is involved for the importation of goods into Iraq insurance must be effected in Iraq. In the Syrian Arab Republic there are similar regulations and, in addition, the insurance must be effected within the country if the importer in the Syrian Arab Republic is a branch of the foreign exporter, even if the goods are shipped against bills of lading. Import licences for goods which must compulsorily be insured in the country contain the following clause: "Goods imported under this licence may not be cleared through Customs unless a certificate of insurance effected in Syria is produced". The provisions of a Ministerial Order made in 1969 further strengthen these measures; the Order provides that "Contracts for imports from the United States of America, the Federal Republic of Germany and the United Kingdom must be on an f.o.b. basis". In Ghana, not only imports, but also exports, must be insured within the country. The information available does not explain how, disputes to which may be caused by these strict provisions especially where the exports are destined for a country which also has imposed legal requirements in the matter, are in practice settled.

D. Legislation concerning compulsory insurance

33. A large majority of the countries covered by this study have passed laws requiring the owners of motor vehicles to take out public liability insurance. This obligation is usually embodied in special laws and regulations other than the general laws which are applicable to insurance concerns and insurance transactions. In India, for instance, this type of insurance must satisfy the requirements of the Motor Vehicles Act, 1939; in Iraq, an act of 1964 establishes the principle of such insurance and governs the relations between concerns engaging in such business and the policy-holders. In some countries (e.g., Sierra Leone), these special laws and regulations are the only laws so far in existence on insurance contracts and the operations of insurance concerns. In such cases, the content of the legislation goes beyond the strict framework of the obligation

²³ Freedom to insure abroad is also usually subject to restrictions in Western European countries (see OECD study, op. cit., paras. 220-224).

to insure and deals with matters which are normally covered in a different type of enactment. In other countries, the principle of compulsory insurance is incorporated in general legislation concerning all insurance matters subject to State intervention. To cite only one example, article 20 of Brazil's Decree No. 73 which establishes the "National system of private insurance", lays down the compulsory requirement to insure motor vehicles and also makes compulsory other forms of insurance which will be referred to later. Implementing legislation is set out in chapter III of Decree No. 60459.

34. Whether by means of special legislation or general legislation governing insurance, most countries have found it necessary to introduce the principle whereby compensation for damages suffered by third parties as a result of traffic accidents is guaranteed. Sometimes (in Jamaica, for instance) the obligation to insure applies only to death or personal injury, but in most cases it applies to material damage too. In some countries (e.g. Lebanon) although there are already laws introducing the principle of compulsory insurance, no implementing legislation has yet been adopted. Lastly, in a very small number of countries, which include Argentina and Indonesia, motor vehicle public liability insurance has not yet been made compulsory, although it has been required in the case of owners of public transport vehicles (passenger and goods). Private vehicles are already largely insured voluntarily by their owners and this type of insurance is one of the most important branches of the operations of the insurance concerns. Even in these countries, however, the trend towards making such insurance compulsory, in the public interest, is becoming more and more pronounced.

35. This type of insurance may be replaced, in Hong Kong, by a legal deposit of HK\$200,000. For obvious reasons, it may be assumed that this facility is little used. It does, however, give an indication of the importance the authorities attach to some form of coverage of the material consequences of a motor vehicle accident.

36. Types of compulsory insurance other than motor vehicle public liability are also to be found mainly in Latin America. In certain cases, such compulsory insurance may be considered as having the nature of social insurance. For instance, the Argentine legislation making group life insurance compulsory for civil servants and public employees (Acts Nos. 13003, 14003 and 14364), farm workers (Act No. 16600) and crews of fishing vessels (Act No. 16517) appears to take into consideration factors related rather to social welfare than to commercial or private insurance. This is all the more evident if account is taken of the fact that such insurance has to be effected with a single institution (the National Postal Savings Fund) which is under direct State control.

37. The same comment applies in the case of countries which have made employers' liability insurance compulsory, whether such business is reserved for a single State-owned concern or institution or may be carried on by any authorized company, there being

freedom of choice for the insurer. Countries such as Brazil and Spain have recently adopted legislation providing that accidents at work must be regarded as social risks. Portfolios in this branch of insurance have therefore been transferred to the social welfare bodies concerned.

38. Apart from motor vehicle public liability and employers' liability, the two fields in which the obligation to insure is most widespread, there are a number of other risks the insuring of which has been made compulsory by law. In Bolivia, for instance, the Banks Act (article 145) stipulates that immovable property covered by a mortgage must be insured. In Costa Rica, coverage of the business risks of a considerable number of undertakings and institutions has been made compulsory; in Guyana this applies to marine risks and in Uruguay to aviation risks (damage to insured and damage to third parties). In Brazil and Mexico the list of items the insuring of which is compulsory is particularly long; in both countries it includes farm property financed by means of agricultural credit. The list of risks which must be insured in Brazil, as given in Decree No. 73, may be mentioned here:

(a) Personal injury to passengers of commercial aircraft;

(b) Public liability of proprietors of motor vehicles, motor boats (river, lake or sea-going), aircraft and carriers in general;

(c) Public liability of building contractors in urban areas, for personal injury or material damage;

(d) Property offered as security for loans or financing by public financial institutions;

(e) Security for undertakings by property developers and builders;

(f) Guarantee of payment by mutual building societies;

(g) Buildings divided into independent units;

(h) Fire and transport risks in respect of property owned by bodies corporate which is situated or is transported within the country;

(i) Farm loans;

(j) Export credit granted by public financial institutions.

39. It should be noted, however, that in the case of a number of these insurance requirements no implementing legislation had yet been adopted at the time when the information was provided, so that the obligation had not yet come into force.²⁴

²⁴ All the countries of Western Europe have made some types of insurance compulsory. Such insurance has to be taken out either with private insurers established in the country or with State or semi-State institutions. The principal risks for which compulsory coverage has been introduced are public liability (including workmen's compensation) and especially motor vehicle third-party liability, sickness, fire and livestock mortality (see OECD, *op. cit.*, paras. 212-219).

Chapter II

PRIOR AUTHORIZATION FOR COMMENCING INSURANCE BUSINESS

A. The principle of prior authorization

40. In almost all the developing countries (as in the developed countries) no persons, whether individuals or bodies corporate, may carry on insurance business unless they have obtained prior authorization from the State. In some countries this requirement applies both to insurers proper and to agents, brokers and canvassers. Prior authorization (commonly called *agrément* in French administrative practice and "licence" in United Kingdom practice) is a requirement so universally recognized that it sometimes exists even in countries which have no specific insurance law and where concerns are not subject to any special supervision other than that deriving from commercial law. A case in point is Botswana, where the 1966 Trading Act requires that authorization shall be obtained by any person "who carries on the business of obtaining or attempting to obtain proposals for insurance". In Liberia, too, insurance concerns must, under commercial law, be "chartered by special acts of the legislature upon the President's recommendation".²⁵ In some other countries registration alone is required; this is the case in Gambia and Sierra Leone, and in Laos with regard to domestic concerns. In one way or another, however, the principle of prior authorization is almost universally observed. It reflects a concern to ensure that none but institutions which can provide from the beginning the guarantees deemed necessary by the competent authorities shall have access to the insurance business. This principle has also been applied in some cases as an instrument of policy designed to protect national concerns (Brazil, Chile, Mexico) and has provided a means of hindering or preventing access by foreign concerns to the national market.

41. For obvious reasons, no prior authorization is required in countries where no concerns except those founded or directly controlled by the State may carry on insurance business. These are mostly countries in which a single concern or a very few concerns enjoy a monopoly and where the establishment of new concerns is consequently a matter for the State, not for private enterprise. The countries in this group include Egypt in Africa; Iraq, Syrian Arab Republic, Burma, the Khmer Republic, Ceylon and India (with respect to life insurance concerns) in Asia and Costa Rica and Uruguay in Latin America. In a few of these countries, however, as will be described in more detail in chapter X, the laws relating to prior authorization have not been

²⁵ See Associations Law, Liberian Code of Laws of 1956, Title 4, chapter I, section 47.

formally repealed. Most of these laws were enacted before insurance was nationalized and are now inapplicable, such as Act No. 195 of 1959 (Insurance Institutions Code) of the Syrian Arab Republic.

B. Nature of the authorization and authority competent to grant it

42. In the countries which require a prior authorization for engaging in insurance business, the grant of such authorization takes the form of an administrative act. In some countries the executive power, that being the responsible Minister—the Minister for Finance or the National Economy—or the Government grants the authorization, in which case the latter is embodied in a ministerial order or a decree. The countries in this group are mainly the Latin American countries, some French-speaking countries of Africa and some countries in the Near East, Laos (with regard to foreign concerns) and Republic of Viet-Nam (in the case of domestic concerns). In other countries the decision on granting authorization falls within the competence of the administrative authorities—usually the insurance supervisory service; the authorization then takes the form simply of a certificate issued by the responsible authority. In Ghana and Malawi, for example, the term used is "registration by the registrar of insurance"; the system is similar, with a few slight differences of form or name, in Lesotho, Nigeria, Kenya, Sierra Leone (where the Department of Immigration also plays a role), Gambia, Botswana and most of the Asian countries. In practice, if there is an insurance supervisory service, it has the main say in whether an authorization to commence business is to be granted. In the case of the first group of countries this service acts as an advisory body to the minister responsible and gives a preliminary opinion, which in most cases appears to be decisive. In the second group of countries the insurance supervisory service itself grants or denies the authorization.

43. In the case of the African countries and Madagascar which are signatories, together with France, to the Convention on Co-operation in the Supervision of Insurance Undertakings (see para. 21 above), the authority competent to grant licences or to admit new concerns presents some distinctive features. If an insurance undertaking applies for a licence to conduct business in at least four of the signatory States, "the technical study of the documents submitted by the undertaking in support of its application is carried out, on behalf of all the signatory States, jointly by the competent national

authorities of the signatory State in which the undertaking has its registered office" or "headquarters". Wherever this procedure is adopted, the conclusions of the technical study carried out on behalf of all countries concerned are transmitted to the Conference on Insurance Supervision for a technical opinion. If the opinion is favourable, it is transmitted for action to the competent national authorities of each of the signatory States. These authorities may then either grant a licence, and possibly also agree to the appointment of a legal representative for the territory of the State concerned, or they may defer licensing action altogether. However, in the case of an insurance concern whose registered office or headquarters is in one of the States members of the organization, the Conference must be informed of the reasons for any decision not to grant a licence.²⁶

44. Lastly, it should be noted that there are a few countries in which the power to grant a licence is exercised at a level higher than the ministerial. In the Republic of Viet-Nam this power devolves upon the Head of Government with respect to the licensing of foreign concerns; in Liberia the registration of new insurance concerns, both national and foreign, requires "a special legislative act" signed by the President of the Republic; moreover, the National Bank of Liberia has sole competence in the registration itself.

45. The authority empowered to grant the authorization to commence business is usually competent also to withdraw the authorization in circumstances which will be specified below.

C. Limitations on authorizations: duration and scope

46. As a rule, licences are granted either for an unlimited period or for the duration of the concern itself, if that duration is specified in its memorandum and articles of association, or else for renewable periods of one year. The first method is that generally used in the African and Latin American countries, with the exception of Colombia, Lesotho and Kenya. Annual licensing is usual in those three countries and also in Cyprus and most Asian countries, except India, Nepal and the Philippines. In at least two countries, however, the system differs according as to whether the concerns are national or foreign: in Tunisia licences are granted to national concerns for unlimited periods, but to foreign concerns only for the duration of the licence they obtained in their country of origin; in the Republic of Viet-Nam foreign concerns must periodically renew their application for a licence.

47. In the countries in which prior authorization is required, the licence is not usually granted for all insurance operations, but is restricted to the conduct of a specified number of classes of business which the applicant concern must identify in its application. If the concern decides in the course of its business to engage in other classes of insurance, it must make the appropriate application to the competent authority. This rule is very

²⁶ See Convention on Co-operation in the Supervision of Insurance Undertakings, articles 3 and 4.

widely applied. It is followed especially in countries where the financial guarantees required by the supervisory authority differ with the number and type of classes of insurance which concerns wish to transact.

48. In some countries, in order to safeguard the interests of holders of long-term policies (primarily life insurance and insurance schemes of like nature with a large capitalization and savings element) there are legal provisions prohibiting insurance concerns conducting this class of business from engaging in other types of general insurance. This is called the principle of specialization, and it is applied in some Asian countries (such as India and the Republic of Viet-Nam) and some African countries (Tunisia, Dahomey and Madagascar). In Mexico, although the principle is not embodied in any formal instrument, concerns must keep separate accounts (capital and reserves) for life insurance, for accident insurance and for sickness insurance. This practice appears also to be followed by and large in many English-speaking countries of Africa although here too the principle of specialization is not formally embodied in the law.

D. Provisions concerning the minimum volume of business

49. There is at least one country, Morocco, in which licences are granted only on the express condition that the concern provides a guarantee that its turnover—net premiums, excluding reinsurance—will amount to at least 1 million dirhams by the end of the third year of business. A concern which wishes to start business must produce an accounting scheme showing the estimated receipts and expenditure for the first three financial years. Furthermore, the concern must submit to the Ministry of Finance half-yearly performance reports on its financial scheme for each of the first six half-years. If the report shows an imbalance or serious deficit, the Minister for Finance may at any time require the concern to take such steps as he considers necessary in order to remedy this state of affairs, and, should it fail to do so, he may withdraw its licence. Companies licensed before 1 January 1965 which had a turnover of less than 1 million dirhams during the financial year 1964 had to submit a financial scheme for the next three financial years. If, under the scheme, the estimated turnover would be less than 1 million dirhams by the end of the period, the Ministry withdrew the licence. It also did so if the effective volume of premiums was below that level.

50. These measures were designed to accelerate the trend towards the concentration of insurance concerns; they certainly appear to have been successful, since the number of concerns has fallen from 130, before the measures were introduced, to 54 today. This is an encouragement to even greater concentration, which is the objective of further measures recently decided on. An order of the Minister for Finance of 5 April 1968 raises the minimum level of premium income in 1971 to 4 million dirhams. The effect of this decision will be to make the market more sound by encouraging

mergers; only some 30 concerns should ultimately remain in business.²⁷

51. Brazil, too, has quite recently adopted measures, in the form of a Decree and an Order²⁸ to encourage concentration of insurance concerns. First, it was decided that the authorities would issue no further licences for a period of three years. Secondly, special regulations were to be laid down during this period to encourage mergers of existing concerns. These concerns will enjoy exemption from the tax on earnings and will be allowed an increase in the underwriting and retention limits. These will be fixed on the basis of the new capacity likely to result from the merger. These measures are expected to bring about an improvement of the market, which is needed in view of the fact that "nearly 190 concerns are today competing for premiums amounting to about 1,200 million cruzeiros, which obviously reflects an excess of supply over demand. This state of affairs results in some 70 concerns having liquid assets of under 1 million cruzeiros; more than half of the concerns having assets below 2.5 million and only ten concerns having assets of over 10 million".²⁹

52. Article 6 of the Decree referred to above empowers the Ministry of Industry and Trade to cancel licences previously granted. The intention is to make it easier to eliminate concerns whose volume of business is considered to be inadequate, since their existence runs counter the purposes of the Decree.

E. Discretionary powers of the supervisory authority to grant or deny authorization

53. Fulfilment of the requirements laid down in the existing regulations does not confer an automatic right to a licence to carry on insurance business. Except in the case of a few countries in Africa (in particular Ghana, Kenya, Malawi and Nigeria), the Khmer Republic and Hong Kong in Asia and Panama and the Dominican Republic in Latin America, the supervisory authority has discretionary powers in the granting of licences. It exercises these powers mainly when the economic and social conditions make it necessary to do so. Thus, when it is feared that too many concerns will be established in relation to the size of the local market, causing saturation or disequilibrium, the authority may either withhold further licences or apply to new applications criteria stricter than those required by the existing laws, in order to exclude the less qualified applicants. Licences may be refused on other grounds, especially in the case of foreign concerns where there is a policy of promoting

²⁷ The information in these paragraphs is taken directly from an article "Le secteur des assurances au Maroc", in *L'économie et les finances des pays arabes*, No. 19/145 (Centre d'études et de documentation économiques, financières et sociales, Beirut and Damascus). This article gives as its source of information the *Bulletin de la Banque marocaine du Commerce extérieur*, No. 93, March 1969.

²⁸ Decree No. 1,115 and Order No. 289, dated 27 July 1970, of the Ministry of Industry and Trade.

²⁹ See "Governo estimula fusão de Seguradores" in Instituto de Resseguros do Brasil (IRB), *Boletim Informativo*, No. 130, August 1970.

the national insurance industry. Thus, in a number of countries, particularly in Latin America, a correlation can be established between the relative reduction in the number of foreign concerns and the use of the discretionary powers vested in the supervisory authority (it is interesting that the Spanish laws expressly mention resort to these powers in order to counter penetration by foreign concerns). These powers are also widely used against foreign concerns where their country of origin does not grant reciprocity to the national concerns.

54. In some countries the insurance law does not mention these discretionary powers, but the market situation is nevertheless taken into consideration by provisions in the law itself placing limits on the granting of further authorizations. Thus, the insurance law in Jordan provides that no new licences shall be granted to foreign concerns for a period of three years from the date on which the law comes into force. In Kuwait a similar provision sets the period at five years, and in both cases there has been further extension of these periods.

55. In a fairly large number of countries refusal of authorization for imperative economic reasons is decided only after consultation with bodies of recognized competence. Thus, in Argentina and Brazil the national reinsurance institutions, which are considered to have a thorough knowledge of the state of the national markets, are asked for an advisory opinion. In other countries there are advisory bodies with due competence to examine applications for licences and to advise the supervisory authorities.

56. Lastly, it may be noted that it is the African countries in general, except those in northern Africa, which appear to make least use of the discretionary powers mentioned above. In the English-speaking countries of Africa the fact that a concern satisfies the legal and financial conditions laid down in their laws almost automatically entitles it to authorization to conduct insurance business. Although, legally, the African countries members of CICA can oppose the establishment of new concerns, opposition to a concern operating in four or more member countries must be supported by written evidence and brought to the attention of CICA.

F. Withdrawal of authorization to engage in business

57. The authorization to carry on insurance business may be, and generally is, withdrawn when the legal requirements and the conditions on which the authorization was granted are no longer fulfilled. The legal provisions concerning the withdrawal of authorization relate mainly to unsatisfactory financial situations. Thus, in many countries the legislation expressly provides that authorization shall be withdrawn "where the financial situation of an insurance undertaking does not provide guarantees sufficient to enable it to perform its commitments". In some countries the legislation expressly fixes the limits below which the financial position of a concern is considered to be endangered and no further commitments can be undertaken. In Jordan and Kuwait,

for example, the limit is determined as the loss of over one half of the concern's share capital; but, with these few exceptions, it is the supervisory authority which determines whether and to what extent the state of the concern's finances calls for application of the provisions of the law relating to withdrawal of licences.

58. In some English-speaking countries of Africa the authorization is withdrawn not only when the margin of solvency falls below the legal requirement or when the concern has failed to comply with any other provision of the law, but also where a judgement against the concern remains unsatisfied for a specified period ("judgement remains unsatisfied for a period of time", as laid down in Ghana, Kenya, Malawi and Nigeria). In Kenya, too, a concern subject to supervision has to comply not only with the national law but also with "any foreign law applying to that company in so far as this law relates to the maintenance of a life insurance fund or the holding in trust of insurance premiums". Lastly, in all the above-mentioned countries the licence may be withdrawn if "business is not conducted in accordance with sound insurance principles". The practical difficulty of defining precisely enough what is meant by sound insurance principles seems to give the supervisory authorities a fairly wide margin for interpretation and in consequence broad discretionary powers with regard to the withdrawal of licences.

59. The fact that a concern has ceased to underwrite a class of insurance within a stated period (usually one year) may also be grounds for withdrawal of the licence granted for that class. This provision exists in a number of African countries, in particular Cameroon, the Ivory Coast, Dahomey, Niger, Madagascar and Tunisia. In other countries (in Lebanon and Mexico, for example) the licence is withdrawn if the concern has not commenced business during the year following the date on which the licence was granted. Lastly, it has already been noted that, in the case of Morocco, the licence may be withdrawn if the concern fails to transact a specified volume of business. The practical effect of the authorities' efforts to eliminate marginal concerns has been the disappearance in recent years of a large number of small concerns which were considered responsible for many of the distortions which had plagued the Moroccan insurance market.

60. In some countries licences granted to foreign concerns may be automatically withdrawn if the concern's country of origin ceases to apply the principle of reciprocity. In Lebanon, for example, the maintenance of licences granted to Lebanese companies operating in foreign countries is an essential requirement which must be satisfied. In the event of failure by any country to conform to this principle, licences granted to concerns nationals of that country would be withdrawn without regard to the date of issue of the licences previously granted to them in Lebanon. In this regard Lebanon does not constitute a special case and this requirement, even if it is seldom explicitly stated in insurance laws, may be imposed in countries in which the supervisory authorities enjoy a measure of discretionary power. It is true, however, that there are not many concerns of developing countries which operate abroad through

branches or otherwise, so that there is as yet little opportunity for applying this provision.

G. Right of appeal against decisions concerning the grant or withdrawal of licences

61. Whether it is possible to appeal depends mainly on the authority against which the appeal is to be brought. As a rule, the right of appeal is more readily recognized in countries in which decisions on authorization to commence business are taken at the level of the insurance supervisory services than in countries in which these decisions are taken by the Government. Whether an appeal is possible obviously depends, too, on the country's legal and administrative organization. This applies in many countries in which the exercise of the right of appeal does not depend on the laws relating to insurance. In other, although rarer, cases, these laws are explicit, particularly with regard to lodging appeals against administrative decisions to suspend or withdraw licences. On the other hand, appeals lie in far fewer cases against decisions to deny authorization.

62. In most of the French-speaking countries of Africa which are members of CICA, and also in Morocco, appeals may be instituted before the appropriate court deciding administrative matters. In Ghana, Kenya, Malawi and Nigeria appeals are lodged with the Minister responsible for the insurance supervisory services. In Kenya, a copy of any appeal against the cancellation of a licence by the supervisory authority must be sent to the Insurance Advisory Board, a consultative body empowered to advise the Minister on these matters. The decision taken by the Minister "shall be final and conclusive and shall not be questioned in any court".³⁰ In Sierra Leone appeals are lodged with the Prime Minister. Appeals are lodged with the Government or with the administrative authorities in the following Asian countries: India, Kuwait, China (Taiwan), Nepal, Philippines, Singapore, the Republic of Korea, the Republic of Viet-Nam and Lebanon. In Lebanon, however, the competent authority for appeals against the withdrawal of licences is the Council of State whereas in Jordan it is the High Court of Justice, and in Israel and Pakistan the Courts. No entitlement to appeal against the withdrawal of licences exists in Hong Kong, Indonesia, Malaysia, Thailand and Laos, and the last two countries do not admit appeals against refusal of a licence. In Latin America appeals usually lie to the Government and its decision may be appealed to the administrative courts or to the Supreme Court.³¹

³⁰ See the Insurance Companies Act of 2 May 1961, *Laws of Kenya*, revised ed. (Nairobi, Government Printer, 1962), chap. 487, section 13 (4).

³¹ With the exception of the United Kingdom, where registration alone is required, and Iceland, as regards domestic concerns, all Western European countries have a system of prior authorization for commencing supervised insurance business. This is an administrative procedure, called "licensing" in the OECD texts. A licence is normally given for an indefinite time although some countries require the concern to commence business within a specified period after the granting of the licence. The licence is not general, but is given in respect of specified classes (see OECD, *op. cit.*, paras. 27-35, 153-167).

Chapter III

LEGAL REQUIREMENTS FOR CARRYING ON INSURANCE BUSINESS

A. Legal requirements relating to the form and nationality of insurance concerns

63. In nearly all the countries considered, the supervisory authority requires insurance concerns to assume a particular legal form. As a rule, the only forms recognized are the joint stock company with limited liability (*société anonyme* or *société par actions*) and the co-operative society or mutual concern. Legislation to this effect has been enacted in Tunisia, China (Taiwan), India, Pakistan, Laos, the Republic of Korea, the Republic of Viet-Nam and the great majority of the Latin American countries (except Colombia), as well as in most of the French-speaking countries of Africa members of CICA. In the latter countries, however, mutual concerns are not authorized to underwrite the main forms of life insurance, whereas in Lebanon mutual concerns may conduct only life, sickness and personal accident insurance business. In Morocco, although officially there are no special requirements in this regard, all the national insurance concerns are of the joint stock or mutual type. Only a few countries (Indonesia, Singapore and Thailand) recognize joint stock companies only, to the exclusion of mutual insurance societies or those with some other legal form. The countries whose insurance laws do not lay down requirements on this subject are also few in number. They include Senegal and Morocco (subject to what has already been said), a few of the English-speaking countries of Africa (but not Ghana, Kenya and Nigeria), Hong Kong and Israel in Asia, and, lastly, Colombia in Latin America.

64. In no country are individuals or partnerships allowed to set themselves up as insurers. However, some countries (Cyprus, Ghana, Jordan, Kenya, Nigeria, and Lebanon) recognize—in addition to joint stock companies, co-operatives and mutual societies—associations of underwriters.³² These associations, particularly Lloyd's, appear to be regarded with a measure of tolerance in some other countries, especially in French-speaking Africa; in Dahomey, for example, although

³² As stated in the Insurance Companies Act of Kenya, Section 2 (5), an association of underwriters is "an association organized in accordance with the system known as Lloyd's, by which system every underwriting member of a syndicate of the association becomes liable for a separate part of the sum assured by every policy subscribed to by that syndicate, limited or proportionate to the whole sum thereby assured". These associations appear to be very active in the region: only recently Lloyd's concluded an arrangement with the authorities of Kenya "to overcome exchange control restrictions and so permit the underwriting of Kenyan business to continue. . . ." ("The past year at Lloyd's: progress of US activity" in *Policy Holder Insurance Journal* (London)), Vol. 88, No. 26, 26 June 1970, p. 1139.

only joint stock companies or mutual insurance concerns are formally authorized to carry on insurance business, Lloyd's are considered to be outside the scope of the existing legislation; in other countries, such as Senegal, transactions by Lloyd's are covered by special regulations.

65. Except for these associations of underwriters, the requirements are usually the same for both domestic and foreign concerns, i.e. the latter must be constituted in their country of origin in one of the legal forms which the domestic concerns are required to adopt. The countries which authorize foreign concerns to do business in their territory generally require such concerns to appoint, in the country in which they elect domicile, a principal agent who will be responsible vis-à-vis the authorities for the administrative centralization of all the business of the concern in that country. Sometimes these requirements are rather stricter; in most of the French-speaking countries of Africa, and in Morocco, Tunisia and Kenya, the appointment of the principal agent or representative of the foreign concern must be approved by the supervisory authority. Moreover, the role of these representatives goes beyond that of a mere underwriting agent or broker; Morocco, among other countries, requires them to maintain in the country the same administrative and accounting organization as the registered office of the company. A similar requirement exists in Mexico, where the branches of foreign insurance concerns must also undertake not to invoke the protection of a foreign government, subject to confiscation of assets and their transfer to the Mexican nation ("Calvo" clause).³³ In other countries of Latin America, Africa and Asia, on the other hand, foreign concerns are subject to less stringent establishment requirements. In particular, business may be carried on by simple agencies.³⁴

66. In practically all the countries which require that insurance concerns adopt a particular legal form the

³³ More recent information received by the UNCTAD secretariat indicates that there have been considerable changes in Mexican legislation concerning authorization of foreign companies and other essential questions. This information reached the UNCTAD secretariat too late to be taken into account in the present study.

³⁴ The regulations in force in the developing countries are very similar, on the whole, to the rules laid down on this subject in the countries of Western Europe, where virtually the only legal forms allowed are the joint stock limited liability company (*société anonyme* or *société par actions*) and the co-operative, also known as the mutual or mutual-type, society. Generally speaking an individual may not carry on insurance business. However, certain associations of individual underwriters may be authorized to do so; the most characteristic example is that of Lloyd's insurers, who operate in most European countries. Foreign concerns are required to be constituted in a form recognized in the country in which their registered office is situated (see OECD, op. cit., paras. 36-43).

articles of association must be submitted to the supervisory authorities for approval. This is one of the conditions imposed on the concerns before they are granted authorization to commence business. Some countries, e.g. Malaysia, Singapore, Thailand and Madagascar, are an exception to this rule.

67. Any modification of the legal form of the concern, or of its memorandum and articles of association in the course of its existence, must be approved by the supervisory authority, at least in those countries where legislative or statutory provisions restrict the choice of legal structure of the concern. Some countries which do not impose such restrictions, e.g. Malaysia and Singapore, nevertheless require that any changes be brought to the notice of the responsible authority, whose approval is not, however, necessary. Even in these cases it is obvious that no change can be made unless it is consistent with the country's commercial code or its various laws on commercial concerns of all kinds.

68. In many countries, insurance concerns must limit their activities to insurance business only; in many cases, this requirement must be expressly stated in the articles of association. Even the agents of foreign concerns must obtain special authorization to carry on business in other economic sectors (Sierra Leone); in any event, they must keep separate accounts and possess separate assets for their insurance activities (Ghana). The exceptions are very few and they have an apparently very limited practical effect. For example, the Insurance Corporation of Ceylon is authorized to transact such other business as may seem to the Corporation to be capable of being conveniently carried on in connexion with insurance business carried on by the Corporation and to be conducive, directly or indirectly, to render profitable the latter business. Thus it may be noted that activities which, strictly speaking, are not those which insurance concerns traditionally engage in may be carried on by domestic concerns only as a sideline which must be closely related to the concern's primary objectives. The Ivory Coast stipulates that licensed concerns may engage in commercial or financial activities other than those resulting from the business for which they have been licensed and those resulting from re-insurance operations. This statement appears to apply to the activities of the representatives of foreign concerns conducting business in the Ivory Coast rather than to those of domestic concerns, which are no doubt required to observe the common rule.

69. The problem of the requirements to be met by the owners or shareholders of insurance concerns or, in the case of mutual-type concerns, by their members, is just as important as that of the legal form of the concern. In this connexion, we may distinguish between three different cases:

Countries in which insurance is wholly or partly a State monopoly and in which insurance concerns are directly controlled by the State;

Countries in which domestic concerns—public or private—have a legal status different from that of foreign concerns;

Countries in which there are no special restrictions in this regard.

70. The first case is mentioned merely in order to stress the fact that the State is not always the formal owner of the concerns to which the monopoly has been entrusted. In Iraq, for instance, where one company carries on general insurance business, another life insurance and a third reinsurance, all three companies are owned by the State Insurance Organization, which is a State body. Similarly, in Egypt, the three companies which carry on direct insurance business, and the re-insurance company, are owned by the Egyptian General Insurance Organization. Such holding organizations hold the shares of the concerns and are responsible for implementing the State's general directives concerning the insurance business carried on by the companies which the organizations control.³⁵

71. In the second group of countries, where foreign insurance concerns are treated differently from domestic concerns, it is important to determine the requirements which insurance concerns must satisfy to be regarded as domestic concerns, particularly in the extreme case where foreign concerns are prohibited from carrying on insurance business. Among the countries which have such a prohibition are Ghana (with regard to life insurance) Guatemala, Venezuela and, to some extent, Panama, where foreign concerns are not authorized to underwrite fire insurance. In determining what is meant by "domestic concern", reference is usually made either to criteria relating to the registered office of the concerns or to the legal requirements which must be fulfilled by their owners, shareholders or members. In Ghana, it is the fact of the head office being located in the country which qualifies the concern as "domestic". In Guatemala, the legislation under which the concern was established is the determining factor. In these two cases, *inter alia*, the nationality of the concern is not determined by the nationality of its owners and the origin of the share capital is of no relevance in this connexion. The possibility that concerns which are nominally domestic may be wholly or partly controlled by foreign interests cannot therefore be excluded. In some countries, however, if a concern to be legally regarded as domestic, the participation of foreign capital is limited, either by legislative provisions which apply not only to insurance concerns but to the economic sector as a whole, or by specific provisions of the insurance laws. Such provisions are in force in Venezuela, where at least 51 per cent of the share capital must be held by nationals or by domestic institutions. Similar provisions exist in Panama and a bill along these lines has been prepared in the Dominican Republic. Likewise, a very recent law enacted in Nicaragua stipulates that at least 75 per cent of the share capital must be held by nationals; the law provides, however, that foreigners with at least ten years' uninterrupted residence in the country also satisfy the requirement. Lastly, in Thailand, at least three quarters of the shareholders of domestic

³⁵ The insurance legislation in force in countries where insurance concerns are nationalized will be considered in chapter X.

concerns must be nationals, and no shareholder may own more than 5 per cent of the share capital.

72. Generally speaking, the members of mutual insurance companies are not subject to any restrictions as regards either their nationality or legal status. Only the Mexican law contains a provision on this subject, but it merely specifies the minimum number of members required for a mutual insurance concern to be recognized as such. This question will be dealt with later, however, in connexion with the financial requirements which the concerns have to fulfil.

B. Legal requirements concerning contractual relationships with policy holders

73. Basically, insurance law is supposed to regulate two broad fields: the functioning of insurance concerns and the contractual relationships between insurance concerns and policy-holders. Although this division is justified in theory, for practical reasons it has not been adhered to strictly in the following paragraphs; because of its nature, this study does not call for more than a cursory analysis of legislation concerning insurance contracts.

74. The obligation to submit to the supervisory authority the documents forming the basis of the contractual relationships with policy-holders exists in nearly all the countries considered, and at any rate in those where private insurance concerns are subject to supervision. In many countries the documents in question—in particular pro forma policies, general policy conditions and proposal forms—must be submitted to the competent authority before business is commenced and approval of these documents is a prerequisite for the grant of an authorization or licence to operate.

75. The object of this inspection of documents by the supervisory authority is to ensure that the contractual relationships have a legal basis which is not prejudicial to the interests of the insured. In principle, the insured do not participate in the framing of policy clauses; the State, by ensuring the correctness of these clauses, fulfils one of the primary functions of insurance supervisory services. The latter are concerned, above all, with seeing that none of the clauses of the contracts which the concern proposes to use conflicts with the requirements of the relevant laws: the law on insurance contracts, if any; the commercial law or code, and any other provisions of ordinary law.

76. The countries with a specific law on insurance contracts, which governs the contractual relationships with policy-holders and to which the insurance policies must conform, are relatively few in number. They are, for the most part, Latin American countries (Argentina, Brazil and Mexico, although in the last-named country the law on insurance contracts does not apply to marine insurance contracts—which are governed by the law on shipping and maritime trade—agricultural insurance policies, which are the subject of special regulations and some forms of group insurance contracts). In that part of Africa which is French-speaking, as well as in North

Africa, many countries have adopted in its entirety the French Act of 13 July 1930 on insurance contracts.³⁶ In the field of marine and inland navigation insurance, credit insurance and reinsurance, contracts for which are expressly excluded from the coverage of the French Act, the commercial code and other ordinary laws apply.

77. When there is no specific law on insurance contracts, as is most frequently the case, the provisions of ordinary law apply; this law sometimes contains sections or chapters specifically devoted to insurance contracts, as, for example, in the case of the Commercial Code of the Republic of Korea. It is fairly common, moreover, for amendments to the ordinary law on commercial contracts to be included in legislative texts governing the activities of insurance concerns. In India, for example, there are specific provisions on insurance contracts in the Insurance Act, 1938 and the Marine Insurance Act, 1963, modifying and extending the scope of the Law of Contracts. The latter, however, remains the basic legislative text on insurance contracts. The situation is similar in Indonesia and Paraguay, where part of the law on insurance concerns is designed to supplement the provisions of the Commercial Code. In Lebanon also, two chapters of the Insurance Act deal with a few marginal aspects of certain contracts and policies underwritten by insurance concerns.

78. Lastly, some countries have laid down rules which apply to contracts for specific classes of insurance—generally compulsory forms of insurance. In these classes, the insured persons normally very small margin for negotiation of the policy terms with the insurer is even narrower than in the case of other classes of insurance. This has led some countries to introduce mandatory provisions designed to restore the legal balance between the parties. For the same reason—as will be seen further on—compulsory tariffs have been fixed in some cases for compulsory insurance. In this field, specific laws exist in a few English-speaking countries of Africa (Ghana, Kenya, Lesotho, Sierra Leone); in Iraq and Jordan on motor vehicle insurance, and in Mexico on compulsory agricultural insurance and some forms of group insurance.

79. Marine insurance contracts are sometimes governed by special laws (e.g., India, Kenya, Mexico). As a general rule they are not covered by existing insurance contract regulations. The very nature of marine contracts, which usually affect international trade transactions in which the parties could invoke different and even conflicting legislations, has probably led legislators to permit the parties broader contractual freedom.

80. Not all the countries considered require prior approval by the supervisory authority of the documents forming the basis of insurance contracts. This rule does not apply, for instance, in countries where insurance is entrusted to State concerns or is closely controlled by the State, and where the methods adopted are accordingly

³⁶ This does not mean that the Act has been formally adopted by the countries mentioned. The Act was promulgated, at the time when those countries were colonies, by an order of the Governor General. It accordingly remains in force unless it has been abrogated.

supposed to be closer to those of a public service than to those of a profit-making organization. Also exempt from this obligation are uniform or standard policy conditions which have already been examined by the supervisory authorities; thus, in Morocco, the general conditions for motor, fire and employers' liability insurance do not have to be approved in the case of concerns which adopt previously approved standard forms. In India, establishment of general policy conditions is the responsibility of the Tariff Committee, an advisory body composed of representatives of the authorities and the insurers. This frees the insurance concerns from the obligation to submit these documents to the supervisory authorities. In other countries (e.g. Hong Kong, Singapore, Jordan, Kuwait, Kenya, Nigeria) the documents have to be submitted, but only for information; in other words, no formal approval by the authorities of the documents submitted to them is required. In Brazil, on the other hand, this approval must be obtained not only from the supervisory authorities but also from the IRB.³⁷

C. Legal requirements concerning contractual relationships with reinsurance concerns

81. Reinsurance contracts, by which insurance concerns divest themselves of part of the risks insured, are subject, in the great majority of countries, to supervision which, from a legal point of view, is far less strict than that exercised over direct insurance contracts. In fact, the requirements of the law do not go beyond the stipulation that copies of treaties and other contractual documents, and the list of reinsurers, shall be submitted to the supervisory authority. This obligation exists in most of the French-speaking countries of Africa, but not in the English-speaking countries. It should be noted, however, that in both groups of countries the markets are dominated almost exclusively by foreign concerns, whose reinsurance cessions are handled at the registered office level and consequently escape the control of the local supervisory authorities. Thus the legislative provisions noted in some countries are, for the time being, still purely theoretical. However, wider powers have been assumed by the supervisory authorities in a few rare instances. Cameroon, for example, has indicated that modification of reinsurance contracts might be required in the interests of the sound functioning of the concern and in the general interest.

82. Submission of reinsurance documents to the supervisory authority is compulsory in the following countries: Bolivia, Colombia, Indonesia, Israel, the Khmer Republic, Laos, Morocco, Nepal, Peru, Philippines, Republic of Korea, Republic of Viet-Nam and

³⁷ All the countries of Western Europe have laws or provisions specific to the contract of insurance. Moreover, certain very special laws, in particular those establishing compulsory insurance, contain special provisions on contracts for such insurance. In general, these laws or provisions do not apply to reinsurance treaties or marine insurance. In most countries the documents forming the basis of contracts must be submitted to the supervisory authority, either for approval or for information. In the United Kingdom there are no special requirements in this regard (see OECD, *op. cit.*, paras. 201-210).

Venezuela; the same requirements exist in Argentina and Brazil, in the case of contracts which are directly placed abroad. In the last two countries such contracts are allowed only for certain classes of insurance or certain special risks, on condition that the national reinsurance institution has refused to cover them. Such cases appear to be relatively rare. In other Latin American countries and elsewhere, where the submission of reinsurance contracts to the supervisory authority is not mandatory, the authority nevertheless has the necessary powers to examine them upon request. In Colombia, the transfer of funds abroad arising from reinsurance transactions is authorized only in cases where the reinsurance treaty has been submitted to and registered by the supervisory authority.

83. In fact, the examination of reinsurance treaties seldom appears to be concerned with the fairness of the legal relationships between the parties to the reinsurance contract; it is aimed rather at ensuring observance of any technical and financial requirements laid down by the competent authority. These requirements are considered below. The possibility of reinsuring is an essential factor for the financial stability of insurance concerns, but normally this stability is achieved only at a rather high cost which frequently affects the balance of payments, particularly in the case of developing countries. There is therefore justification for State supervision of reinsurance operations; it is probably the strictly legal aspect of such supervision that is least justified.

D. Requirements in connexion with the transfer of portfolios

84. The insurance law of many countries provides for the possibility of transferring portfolios. Insurance concerns wishing to transfer to another concern all or part of their business must observe a number of requirements. These do not always derive from the specific laws on insurance, but from ordinary commercial law which, in the case of the transfer of liabilities, takes precedence over and applies in conjunction with any special provisions. "The subject is certainly complex, because the rules governing it are rules of both public and private law, which are themselves incorporated in provisions of both ordinary law and insurance law and are not always in harmony."³⁸

85. In principle, portfolio transfers must be authorized by the supervisory authority, which has wide discretionary powers to grant or deny authorization. In many cases, moreover, the tacit or formal assent of a certain percentage of the policy-holders is required. Thus, in most of the countries of Latin America and French-speaking Africa (except, in particular, Senegal, whose insurance law makes no provision for such operations), the application for authorization to effect a transfer must be brought to the notice of policy-holders, individually, and, in some cases, by a notice published in the official

³⁸ See E. Caballero Sanchez: "Comparación entre los sistemas y legislaciones europeos e iberoamericanos de control de seguros", in *Riesgo y Seguro* (Madrid), No. 10, 1965, p. 59.

gazette. If a certain proportion of the policy-holders does not lodge objection to the proposed transfer of portfolio, the supervisory authority may approve it if it considers the operation to be in the general interest. Such approval makes the transfer enforceable vis-à-vis the insured, whether policy-holders or beneficiaries of contracts, as well as vis-à-vis creditors. The procedure is similar in China (Taiwan), Israel, Lebanon and the Republic of Korea.

86. As regards policy holders who lodge objection to a proposed transfer, the law of Paraguay, *inter alia*, provides that they are entitled to immediate cancellation of their policies and reimbursement of the corresponding mathematical reserve or reserve for unexpired risks.

87. In the English-speaking countries of Africa, competence to decide on requests to transfer a portfolio from one insurance concern to another lies rather with the courts. In Malaysia, transfers (and amalgamations of concerns) must be confirmed by the High Court. In Pakistan, too, the courts are competent, but only where life insurance companies are concerned. In Kenya, the procedure appears to be the same, and special provisions, included in the Insurance Companies Ordinance, apply to domestic concerns carrying on "long-term business" (mainly life insurance, and employer's liability insurance). In these cases, the courts are seized of the request for a transfer, which is not approved if any objection is lodged by policy-holders whose interest represents at least one tenth of the total sums insured by the concern. Consequently, "the agreement or deed under which the amalgamation or transfer is effected shall be open for inspection of policy-holders and shareholders at the offices of the companies for a period of fifteen days after the publication of the notice in the Gazette".

88. Lastly, in India and some other countries, the formal assent of the supervisory authorities is not required, but concerns must produce "a declaration signed by every party concerned... that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer is therein fully set forth and that no other payments beyond those set forth have been made or are to be made..."³⁹

E. Preferential liens for the benefit of policy-holders and beneficiaries

89. In most of the countries considered, preferential liens are established on the assets of insurance concerns for the benefit of policy-holders and other third-party beneficiaries. There are a few exceptions to this general rule, particularly among the English-speaking countries

³⁹ In the countries of Western Europe a portfolio may always be transferred provided certain formalities are observed. If the transfer is decided by the competent authority it becomes compulsory; it takes place only in the event of the total or partial cessation of the concern's activities. The national laws call for various measures in connexion with the transfer of portfolios, particularly publicity measures aimed at enabling policy-holders to protect their rights (see OECD, *op. cit.*, paras. 168-192).

of Africa where no distinction is made between policy-holders and other categories of creditors. The United Kingdom view that "since the business of insurance concerns is so specialized their creditors are chiefly the policy-holders and beneficiaries", and that consequently the establishment of a special preferential lien is not justified has prevailed in these countries,⁴⁰ as well as in most Asian countries (except Pakistan, the Republic of Korea, Lebanon and Syria) and, in Latin America, in Argentina.

90. Elsewhere, however, in the event of the winding-up of an insurance concern, the insurance laws establish a preferential lien for the benefit of policy-holders' claims. The procedure followed in Mexico in this regard is typical and it may be useful to reproduce the terms in which it is described by the supervisory authority: "In the event of liquidation, the costs and fees incurred by the liquidation procedure are deducted from the realizable assets and the balance is distributed among the policy-holders in proportion to the technical reserve for each policy on the date on which liquidation was announced, and, for claims due, in proportion to the value of the policies. All these calculations, on which the distribution of the assets among policy-holders is based, require the prior approval of the Department of Finance and Public Credit, which is responsible for the supervision of insurance. Policy-holders may submit their observations concerning their claims to this department. To this end, the liquidator will communicate to each policy-holder the amount of the corresponding technical reserve or, where appropriate, the value of the policy in the case of claims due. These provisions are contained in article 126 of the general law on insurance institutions. It should be noted that there is a preferential lien for the benefit of the concern's wage and tax liability and for contributions to the Mexican Social Insurance Institute."

91. Sometimes, this preferential lien assumes a special character when it covers only the assets allocated to cover the technical reserves (as opposed to the general preferential lien, which covers the concern's entire assets). This is the case in Morocco and most of the French-speaking countries of Africa (except Cameroon, Niger and Dahomey, where policy-holders enjoy a general preferential lien). Moreover, in Upper Volta, Mauritania, the Central African Republic, Madagascar and the Republic of Viet-Nam, the preferential lien is strengthened by the registration, at the government's request, of a statutory mortgage on immovable property designated to cover the technical reserves. In Brazil, too, there is a special preferential lien, but it is covered not only by the assets allocated for the technical reserves, special funds and other technical provisions, but also by assets representing half of the share capital allocated to supplement the technical reserves on a continuing basis. In Pakistan, there is a special preferential lien on statutory deposits and a general preferential lien on the insurer's other assets.

92. Lastly, in some countries, the preferential lien is established only for the benefit of a certain category

⁴⁰ See OECD, *op. cit.*, para 200.

of insured. It is usually in such cases that the legislator's concern to protect savings and the position of the socially disadvantaged is most apparent. Thus in Tunisia, the beneficiaries of workmen's compensation policies enjoy a special preferential lien. In Lebanon, liability towards beneficiaries of life insurance and liability to provide compensation following death or bodily injury rank before all other liabilities (after contractual obligations

towards the public treasury). A similar situation exists in the Republic of Korea and in Paraguay.⁴¹

⁴¹ In most countries of Western Europe, all or part of the assets of insurance concerns are the security of the policy-holders or beneficiaries for their claims. For this purpose they are subject to preferential liens. But the United Kingdom and a few other countries have not adopted this institution of the preferential lien in insurance (see OECD op. cit., paras. 193-200).

Chapter IV

FINANCIAL REQUIREMENTS WITH REGARD TO THE SHARE CAPITAL AND FREE RESERVES OF INSURANCE CONCERNS

A. Initial share capital and initial fund

93. Joint stock companies are usually required to have a minimum share capital. In most countries, the supervisory authority's requirements in this regard are specified in the law; the competent authority is rarely completely free to fix the amount of share capital thought necessary. In Morocco, however, there is an Advisory Committee on Insurance to which the supervisory authority must apply for a recommendation; this Committee's decisions are consistent with the Government's policy of increasing the country's capacity to retain business by reducing the number of concerns operating and by increasing their size. In Mexico, the amount of share capital and funds must be within the maximum and minimum limits laid down in the insurance law, and wide discretionary power is given in this respect to the supervisory authority.

94. Several English-speaking countries of Africa have refrained from regulating the amount of the share capital. This is partly due to the particular structure of those markets, which are almost entirely dominated by foreign concerns, and partly to the high opinion of the supervisory measures already taken in the countries where the concerns have their head offices. The case of Sierra Leone, where, for practical reasons, the Government accepts a British company registered with the Board of Trade "as a fact of stability", is revealing. In the French-speaking countries of Africa, the situation is different, since most of their insurance laws include specific requirements regarding the share capital of concerns subject to supervision. However, these legislative provisions do not impose requirements which are more stringent than those applicable under French law (Central African Republic, Mauritania, Niger: a minimum of 80 million CFA francs; Madagascar: 120 million CFA francs), or merely reproduce the provisions of the French Decree of 30 December 1938 on the subject⁴² (Cameroon, Dahomey); therefore in this group of countries too, the special features of the insurance market appear to have influenced the legislation.

95. Another African example is the case of Ghana, where the rules applicable to joint stock insurance companies make a distinction between domestic concerns

(for which a minimum capital of New Cedi 1,200,000, or about £490,000, is required) and foreign concerns (New Cedi 1,800,000, or £738,000). In the case of the latter concerns, the share capital need only be New Cedi 240,000 (£98,400) if the premium income exceeds New Cedi 2,400,000. Double the above amount are required in the case of concerns transacting both life and other types of insurance business. Kuwait requires foreign concerns to have a larger capital (Kuwait dinars 225,000, as compared with Kuwait dinars 150,000 for domestic concerns). Neither of these countries, however, insists on local investment of this share capital, the bulk of which is presumably invested in the country where the concern has its head office.

96. Whether or not the share capital requirements are more stringent for foreign than for domestic concerns, some countries are aware that the share capital of a foreign company serves as a guarantee for many commitments, often spread over a large number of countries, and that it therefore escapes local insurance supervision. For this reason, Mexico's insurance law does not allow foreign concerns to advertise the capital and over-all reserves at their disposal, but only the resources which are actually in the country and are directly allocated to cover liabilities contracted there. This restriction would imply that the use in Mexico of the total resources of foreign companies can by no means be guaranteed. Other countries have felt the same concern, which appears to have been the basis for certain measures taken in the Philippines, where foreign concerns are not required to have any particular amount of share capital, whereas domestic companies are required to have a share capital of 500,000 pesos. Foreign concerns are, however, required to make a statutory deposit of at least 250,000 pesos in the Philippines, as a guarantee for business transacted there (the question of deposits will be examined in greater detail later).

97. Minimum capital requirements are also imposed on joint stock companies in all the Latin American countries. The amounts vary slightly from country to country and depend on the classes of insurance which the concern wishes to transact. A larger amount of capital is generally required for life business than for other classes of insurance, except in Paraguay, where only 500,000 guaranies are required in the case of life insurance, as compared with 2,500,000 guaranies for fire insurance (and a minimum of 4 million guaranies for transacting all classes of business). A novel feature of the requirements of Argentina is that the amount of share capital is fixed not only in relation to the class

⁴² The minimum capital requirement initially specified in the Decree has since been increased substantially. It is at present 5 million francs for life, public liability and credit insurance concerns and for concerns carrying on reinsurance in these classes, and 3 million francs for companies transacting other insurance and reinsurance business (see OECD, op. cit.).

of insurance transacted but also in relation to the volume; the amount of the share capital and capital reserves must be not less than 15 per cent of the direct premium income for each accounting period, less cancellations. Until this percentage is reached, the concern cannot distribute any cash dividends. This requirement appears to be designed not so much to ensure that the share capital increases in proportion to the expansion of business (which, if the increase were linear, would hardly be justified), as to maintain a constant ratio, not between the share capital and the currency unit, which has been subject to frequent and substantial devaluations, but between the share capital and the state of the economy, since premium income rises with economic growth. In Brazil too, because of the desire to maintain the real value of the share capital, the supervisory authority has frequently to modify the amount of share capital required; these modifications generally take place every two years. In those countries where these readjustments are not required—i.e. in most countries—the effect of inflation has considerably undermined the security measures which the various national laws sought to introduce by requiring a certain minimum share capital. This applies particularly in countries where the insurance law is not a recent enactment.

98. As regards the initial fund which must be provided by mutual societies, co-operatives and other institutions whose legal form is such that they are not required to have a share capital, some countries generally impose a less stringent requirement than in the case of the share capital of stock companies. The initial fund is usually only a fraction of the amount of share capital. In Madagascar, it is 50 per cent of the amount of share capital required in the case of joint stock companies (60 million CFA francs); in the Ivory Coast it is 30 per cent (30 million CFA francs). In Upper Volta, however, there is no difference between the initial fund required in the case of a mutual society and the share capital required of a limited company, i.e., 100 million CFA francs. In China (Taiwan) co-operative societies are required to have a fund amounting to one sixth of the share capital normally required for limited companies (which is normally NT\$30 million for non-life insurance and NT\$20 million for life insurance). There are a number of similar cases in Latin America. Mexico shows some peculiarities in this regard which are worth noting: mutual societies are not required to have an initial fund but must have a minimum number of members, i.e., 300, and a minimum total of sums insured: 300,000 pesos for life insurance business and 500,000 pesos for other business; the premiums payable in the first year must not be less than 5,000 pesos. This is the only recorded case where an attempt has been made to replace the initial financial guarantee constituted by a certain sum by technical requirements designed to ensure a balance in operating the portfolio; provided stability is achieved, there is no need for any initial financial guarantee.

99. Relatively little information is available concerning share capital or initial fund adjustments which may be ordered by the supervisory authority. It has already been noted that in Argentina and Brazil there is provision for virtually automatic adjustment to ensure that the

real value of the share capital remains constant and thus to counter the erosive effect of inflation and the currency devaluations which have been particularly felt in recent years. However, the readjustments which may be required by the supervisory authority are generally due to other considerations. The most important reason is the need to replenish the share capital if the concern has experienced serious losses. As a rule, readjustment is required when the capital falls below whatever legal minimum is fixed by the insurance laws. In Colombia, however, readjustment on these grounds is required only when the loss suffered by the concern amounts to 50 per cent or more of the minimum share capital required by law.

100. The question of readjustment of the share capital appears to have been dealt with in greatest detail by the Mexican law. Article 78 of the Insurance Concerns Act specifies the ratio which must be maintained between the paid-up capital and capital reserves, on the one hand, and the concern's volume of business on the other. For the purposes of this provision, the volume of business is represented by the premium reserve in the case of life insurance and by the premiums in the case of non-life insurance. The Act provides that when the National Insurance Commission considers that this ratio is inadequate to offset possible losses resulting from statistical deviation, it shall determine by how much the share capital should be increased. If the concern fails to carry out the Commission's decision within one year, its authorization to accept new business is withdrawn.

101. These readjustments may in all cases be effected by injection of new capital by the owners of the concern and, in certain cases, by transfer to the share capital account of the appropriate sum from the legal reserves or undistributed profits. The rules that apply here are more those of the general law than the specific insurance laws examined. The situation is the same as regards readjustment in the opposite direction, i.e. reduction of share capital in order to increase the technical reserves, where the latter might not be sufficient to cover the contractual commitments. Although no specific information on this point is available, it is understood that such readjustments can be authorized only where the share capital thus reduced would still exceed the minimum amount fixed by the law.

102. In those cases where a share capital (or initial fund) of a particular amount is required for each different class of insurance, there must obviously be a readjustment whenever the concern proposes to carry on any other class of business.

B. Other capital funds: legal reserves, free reserves and solvency margins

103. The constitution of "legal reserves" (or "capital reserves") is very often dealt with in the commercial code to which insurance concerns, like any other commercial undertaking, must conform. Insurance concerns are also frequently required to conform to additional rules, usually embodied in specific insurance legislation

that takes into account the special character of the industry. Insurance concerns in Argentina, for instance, are required to conform both to the provisions of the Commercial Code—which provides that a reserve fund shall be constituted by at least 2 per cent (5 per cent in the case of co-operative societies) of profits up to an amount equal to 10 per cent of the share capital—and to those of the special insurance law, which requires the constitution of a special reserve (“*reserva especial*”—Resolution No. 2190). This special reserve is constituted by setting aside 12.5 per cent of the profit, where the amount of the profit is between 5 and 10 per cent, of the capital and free reserves, 25 per cent where it is between 10 and 15 per cent and 50 per cent where it exceeds 15 per cent. An important point to note is that as justification for these regulations, the Argentine authorities invoke not only the need to provide additional security for policy-holders, but also the effect of an increase in the share capital and free reserves on the industry’s capacity to retain business and the consequent reduction of the need of reinsurance.

104. As is the case in Argentina, the legal reserves are generally constituted by the concern’s cash profits for the year, which, being not yet distributed, are an additional financial guarantee for the policy-holders. In the event of abnormal losses, this guarantee is drawn upon after the technical reserves, but before the share capital or initial fund is touched. It is precisely this intermediate role of the legal reserves which gives them in some cases a somewhat imprecise character, making their classification rather difficult. Although by definition they form a part of the concern’s share capital and free reserves, they are sometimes regarded as supplementing the technical reserves; in this special role they are more contractual commitments than property of the concern, whatever the name given to them.

105. There are quite a number of countries (e.g. Madagascar, Morocco) where there is both a so-called guarantee reserve, which is considered to be in the category of share capital and free reserves and is “intended to cover any inadequacy of the technical reserves” and another reserve, the “compulsory supplement to the technical reserves” which is regarded as forming part of the concern’s commitments. The similarity of these two reserve funds is further underlined by the fact that they are calculated on the same principles, i.e., by setting aside a certain percentage of the premiums written until the fund thus accumulated amounts to a certain percentage of the technical reserves. It must be assumed, although the point does not emerge from the information obtained on the subject, that the proportion of premiums written to be set aside does not, in practice exceed the amount of the concern’s profits. Above this amount the guarantee fund could be supplemented only by drawing on the capital or the technical reserves proper, which would be absurd.

106. The system of a guarantee reserve thus constituted and based on the volume of business and not on the profits realized, obviously resembles the system followed in a number of countries that have based themselves on United Kingdom administrative practice, which calls for the constitution of a certain “margin of solvency”:

(in Africa: Ghana, Kenya, Malawi and Nigeria; in Asia: Malaysia and Hong Kong, and possibly other less well-known cases). “Margin of solvency” is understood to mean the excess of the value of the concern’s assets over that of its liabilities, the liabilities being limited to “all contingent and prospective liabilities, but not liabilities in respect of share capital”.⁴³ The excess so defined will therefore include the amount of the share capital, plus a minimum reserve fixed by law; this minimum will in most cases depend, in part, on the concern’s volume of business. The law of Kenya, for example, deals with this question as follows:

“Assets under classes of insurance other than life insurance shall exceed liabilities by £50,000 or one tenth of the general premium income of the company in its last preceding financial year, whichever is the greater amount. For this provision, the premium income shall be taken to be the net amount, after deduction of reinsurance premiums paid by the company. Furthermore, in assessing the amount of the liabilities, all contingent and prospective liabilities shall be taken into account, but not liabilities in respect of share capital.

“The Minister responsible for insurance supervision may, however, waive this provision, partially or totally, on an application of any insurance company if he is satisfied that (i) business is carried on mainly for the purpose of insuring a limited class of persons having in common financial or other interests; (ii) having regard to the limited nature of its business, the provisions of this section are inappropriate or unduly onerous to the company; (iii) in the case of a foreign company that it has complied with the insurance laws of the country where its head office is established and is solvent. Moreover, these provisions are not applicable to mutual associations and to guaranteed companies.”⁴⁴

107. The principle followed in the other countries mentioned is roughly the same. In the case just cited, foreign concerns are clearly treated very generously, since they are exempt from any specific obligation; but this example is not followed everywhere. In Ghana, for instance, the amount of the solvency margin required in the case of foreign insurance concerns is twice that required in the case of domestic insurers, unless one tenth of the net premiums for the previous accounting period exceeds the prescribed amount, in which case the solvency margin is fixed at the amount of this one tenth for both foreign and local insurers.

108. However, the cases where the required margin of solvency or legal reserve must be calculated on the basis of the volume of business are a departure from the traditional concept of the legal reserve in the strict sense of the term, as noted in the case of Argentina, where that reserve is constituted from a percentage of the profits up to a specific percentage of the capital and free reserves. This is the system usually followed in

⁴³ See the Insurance Companies Ordinance (*Laws of Kenya*, revised ed. (Nairobi, Government Printer, 1962), chap. 487) section 25 (3).

⁴⁴ *Ibid.*, section 25 (2), (3), (4) and (6).

Latin America, in the French-speaking countries of Africa, the North African countries and some Asian countries. The percentage of profits specified does not differ very greatly from one country to another, and contrary to the Argentine practice mentioned above, it is normally a fixed percentage, which applies regardless of the profit realized. In this respect the example of Lebanon and Mexico is broadly typical: 10 per cent of the concern's net profits are allocated to the legal reserve until it amounts to one third (in Mexico one half) of the share capital.

109. Any much higher requirement usually applies only to concerns carrying on classes of business which, as a result of exceptional circumstances, have in the past suffered considerable losses and face the possibility of similar exceptional fluctuations in the future. In Venezuela, for instance, concerns carrying on guarantee insurance business have to set aside at least 20 per cent of their net profits as a contingency reserve (*reserva de contingencia*) distinct from the other reserves provided for in the Commercial Code and the insurance law, to an amount equal to the share capital.⁴⁵

⁴⁵ Article 48 of the Insurance and Reinsurance Concerns Act.

110. The regulations applicable to concerns constituted in the form of joint stock companies are not always the same as those governing concerns which have adopted other legal forms. In the case of Argentina and Kenya it has already been noted that special provisions apply to mutual societies and co-operatives. In both cases, however, it appears that these are exceptions. A similar exception is to be found in Malawi's regulations applicable to Associations of Underwriters, each member of which must set aside reserves of at least £5,000 to be deposited with the Committee of the Association, "as security in respect of each member's underwriting liabilities".⁴⁶

⁴⁶ In Western European countries the amount of the share capital and initial fund generally set by special insurance regulations is higher than that required for ordinary commercial concerns. An initial fund is not everywhere insisted upon; its purpose is to meet the initial expenses of a concern just starting business, so that it may avoid drawing on its net assets. It may be reconstituted several times. Such initial guarantees are increasingly regarded as advance deposits of assets corresponding to the whole or a part of the technical reserves. In some countries insurance concerns are required to build up "legal" reserves, which usually amount to a certain proportion of the share capital and are set aside from the concern's profits (see OECD, *op. cit.*, paras. 44-46 and 83-85).

Chapter V

FINANCIAL REQUIREMENTS WITH REGARD TO THE TECHNICAL RESERVES OF INSURANCE CONCERNS

A. The nature and function of technical reserves

111. Most of the insurance laws examined deal at length with the question of technical reserves, which cover the insurance companies' commitments towards the policy-holders, beneficiaries and third parties with claims. These are generally different kinds of reserves according to the class of insurance involved. In non-life insurance, premiums are normally payable for annual periods beginning at any point in the financial year. Consequently, the insurer may not have earned all the premiums by the end of that year and a reserve must therefore be set up to cover the part of the premiums for the period during which the insurer is still liable for any claims which may be made. This is the "reserve for unexpired risks" or "premium reserve", which thus represents the premiums paid in advance for the period subsequent to the date of drawing up the balance sheet. In non-life insurance, reserves must also be established to cover claims accepted by the insurer but still outstanding at the date on which the balance sheet is drawn up; these are known as "reserves for outstanding claims".

112. In the case of life insurance, the reserves which must be constituted are usually very substantial. They consist, in the first place, of the element of voluntary savings which exists in certain classes of life insurance (endowment insurance, annuities, etc.). There is also a certain proportion of implicit savings in any long-term contract with a level premium where the risk increases with the age of the policy holder (life, sickness and disability insurance). Since the level premium is too high during the early years of the contract and inadequate in the last few years, normal financing is assured by means of a reserve built up during the period when the premium is too high. All these factors are taken into account in mathematical reserves calculated by the actuarial method.

113. In some countries, the regulations provide for supplementary reserves for special purposes, such as the excess mortality reserve and the reserves for depreciation of assets. These are often no more than a palliative which seeks to correct mistakes made in evaluating the conventional technical reserves or their covering assets. Lastly, the supervisory authorities sometimes require "compulsory supplements to the technical reserves", which fulfil much the same purpose as the other type of reserve. Great importance is often attached to the role of these compulsory supplements in covering any statistical discrepancies that may occur,

because the reserve for unexpired risks is only a provision made for claims that may arise after the balance sheet is drawn up. Owing to the random nature of the events insured, the real amount of a claim may sometimes differ very considerably from the provision made to cover it.

114. In maintaining the financial equilibrium of an insurance concern, accurate calculation of the technical reserves and a sound choice of investments to cover them are obviously of cardinal importance. These items are the most important ones on both sides of an insurance concern's balance sheet. Therefore, as the role of the State is essentially to see that the concern remains solvent throughout its existence, legislative and supervisory powers are used in certain countries to ensure that technical reserves are so calculated as always to cover contractual commitments to policy-holders and third party beneficiaries. In other countries, however, the relevant legislation is very liberal and permits the concerns considerable freedom of action. Others again have no legislative means of ensuring that insurance concerns maintain a minimum level of solvency. But, even in those countries where technical reserves are subject to many legal provisions, there is no certainty that the supervision will be adequate to ensure that all the provisions are properly enforced and that all the company's commitments have been determined accurately. In other words, in many of the developing countries technical reserves seem to be better regulated in theory than in practice.

115. In legislation on this question, however, reserves have been considered not only in terms of the solvency of insurance concerns but more particularly on account of the economic role such reserves can play. Viewed as part of the national savings, they are a potential source of investment capital and are therefore of considerable importance in view of the capital needs of the developing countries.⁴⁷ The regulations providing for proper evaluation of technical reserves are thus designed for different purposes, all of which justify State intervention and supervision. But if the evaluation of commitments is a problem for the insurance concerns themselves, which are fully aware of the risks they have assumed and the composition of the portfolios covering those

⁴⁷ The Minister of Finance of Morocco expressed similar views in a statement made to the *Comité consultatif des assurances privées* in 1968. He also stated that the insurance industry as a whole invested annually more than 155 million dirhams or 1.2 per cent of Morocco's gross national product and more than 10 per cent of the gross capital invested annually in the country (see *La Réassurance*, Nos. 606-607 (Paris), August-September 1968, pp. 295-296).

risks, it is unfortunately far more difficult for the State, which has to determine the minimum levels of solvency required and to verify that those levels are maintained by all the concerns under its supervision. Their solvency cannot be verified except *a posteriori*, when it can be seen whether the claims paid have not exceeded the provision to cover the risk. Reliable estimates, however, should be available by the end of a given accounting year, and the greater the volume of business represented by the portfolios and the degree of homogeneity of the risks, the more reasonable will the estimates be. These requirements are seldom met by the portfolios of newly established domestic concerns or of small agencies of foreign concerns. Under some insurance laws, particularly those with specific rules on the establishment of technical reserves, the standard minimum provisions are unfortunately applicable to all concerns whatever the statistical distribution of the portfolio and it appears difficult, for practical reasons, to go beyond these provisions. Other laws, which are less specific on these points, give the supervisory authorities broad discretionary powers to determine the adequacy of the concern's technical reserves. The effectiveness of the law therefore depends entirely on the technical competence of the authorities responsible for the supervision of insurance concerns, which cannot always be relied upon.

B. Mathematical reserves in life insurance ⁴⁸

116. The regulations for mathematical reserves are usually more stringent than those for any other kind of technical reserve. This is because mathematical reserves contain a large element of savings which are managed for the policy-holders by the insurance concerns over long periods of time. The need for supervision to ensure that these savings can be paid back to the policy-holder when the contract reaches maturity is more imperative than in the case of other classes of insurance where contracts are normally renewable from year to year. Furthermore, it is generally the mathematical reserves that determine the surrender value, i.e. the compensation payable to the policy-holder in the event of cancellation of the contract before maturity. By supervising the manner of calculating the reserve for each contract, the supervisory authority supervises indirectly the surrender value of the policy and thus determines the minimum rights of the policy-holders at all times during the term of the contract.

117. The difficulties of calculating and supervising mathematical reserves are more apparent than real. As life insurance has a more ample and stable statistical basis than other classes of insurance, mathematical systems can be used for calculating both reserves and premiums, whereas they are not directly applicable to the complexities of other classes of insurance. This

⁴⁸ Mathematical reserves must also be established for other classes of insurance, such as sickness insurance, in which the risk increases with time while the premium remains constant. It is life insurance, however, which is by far the most important source of mathematical reserves, and the name by which these reserves are known is therefore traditionally linked with life insurance business.

relative facility, which is a feature of life insurance, is the reason why so many laws deal with the question of mathematical reserves and provide for their calculation by the normal actuarial methods, which ensure a very satisfactory relation between the insurance concern's reserves and its potential liabilities.

118. It is also necessary to define, if not the method of calculation of these reserves, at least the technical bases on which the calculation should be made. Three systems are apparent from an examination of the laws and regulations concerning mathematical reserves:

(a) Insurance concerns may be required to use specified technical factors in carrying out the actuarial calculation of the reserves, such as a particular mortality table or rate of interest;

(b) Insurance concerns may be required to use the same technical factors (mortality, interest rate, acquisition costs and administration expenses) for the actuarial calculation of reserves as for the calculation of premiums;

(c) Insurance concerns may be required to provide aggregate actuarial estimates of their mathematical reserves at periodic intervals (not necessarily annual), for subsequent submission to the supervisory authorities. The estimates must be made in accordance with the methods adopted by the concern with the prior approval of the supervisory authority, or be accompanied by the technical data and an account of the actuary's method of calculation. In the latter case, the authority determines the acceptability of the method and data and, if necessary, indicates the corrections it thinks should be made.

119. The first of these methods is often combined with the second, as most of the countries which specify the technical bases to be used in calculating the reserves also insist that the same bases be used to calculate the premiums. This is the case in Mexico, in most of the French-speaking countries of Africa (these have, in fact, simply taken over the provisions of the French law), the North African countries, the Republic of Korea and China (Taiwan). In Brazil, the mathematical reserves are calculated on the basis of mortality and interest rates determined by the supervisory authority, unless the technical bases used for calculating premium rates give higher figures. A rather similar solution is for the reserves to be calculated on the basis of a particular interest rate, irrespective of the technical bases adopted for fixing the tariffs. This is the practice followed in Argentina, where the technical rate must not exceed 4 per cent. Paraguay also has this 4 per cent limit, but can raise it to 5 per cent for reserves to cover immediate life annuities. In Bolivia the limit is set at 5 per cent. In Lebanon, the rate of interest is fixed by order of the Minister for the National Economy, after consultation with the National Insurance Council. In each case, by requiring that mathematical reserves be calculated on the basis of a low interest rate, the supervisory authority seeks as far as possible to provide for any lowering of the real interest which would make the mathematical reserves inadequate (since they have to be built up all the more rapidly when they yield less interest).

120. A greater number of countries have adopted the method mentioned in paragraph 118 (c) which

consists in leaving the supervisory authorities some discretion to determine whether the method of calculating the mathematical reserves that is proposed by the insurance concerns is sound. As the use made of these discretionary powers by the supervisory authorities may vary from country to country, the determining factor is more the effectiveness of the supervisory authority than the country's laws and regulations.

121. All the national legislations call for an actuarial valuation to be made of the reserves. In some countries (e.g. Ghana, Kenya, Israel, Jordan and Pakistan), the supervisory authorities are satisfied if the accounts are certified by an independent actuary who has applied "sound insurance principles". In Jordan, a valuation must be made every five years and a description of the methods of calculation must accompany the actuary's report. In a considerable number of other countries, the insurance concerns are required to establish and use their own methods of calculation and technical bases. As a rule, they must first submit the methods to the supervisory authority for approval, together with the tariff of premiums and the methods of calculating surrender values. This solution has been adopted by many of the Latin American countries.

122. Some laws authorize the concerns to deduct unamortized acquisition costs from the mathematical reserves. These are expenses incurred by a concern when a life policy is issued (new business commission, medical expenses, etc.) of which a certain proportion is included in the periodical premium paid by the policy-holder and is therefore recovered by the concern as the premiums are paid. The available information shows that the regulations in force in China (Taiwan), Malaysia and the Republic of Korea, in Asia, and in Bolivia, Guatemala, Peru, Brazil and Paraguay in Latin America expressly authorize this kind of deduction. In other cases, the deduction is subject to certain limitations. In Paraguay, for instance, it may not exceed 80 per cent of the premium of the policy to which it applies. Moreover, no deduction may be made after the first five years of insurance. The latter provision applies also in Brazil.

123. Reduction of the mathematical reserves by the amount of the unamortized commissions is allowed not only in the case of the concerns operating in the countries listed in paragraph 122 above, but appears to be the practice in almost all the developing countries. In most cases, the requisite authorization seems to be regarded as having been tacitly given. This is particularly true of concerns in countries where mathematical reserves are calculated by the so-called "American" method, which consists in taking as the basis for calculation a period of one year less than the term of the contract, and in allocating the first year's premium to cover death risk and acquisition costs. Where the technical bases are the same, reserves thus constituted are virtually the same as the normal mathematical reserves after deduction of unamortized acquisition costs, which are therefore not detailed in the accounts.

124. In the countries mentioned above, the unamortized portion of the acquisition costs is in fact regarded as a credit granted by the insurance concern to the policy-

holder and reimbursed through the periodic premium payments; it reduces the credit granted by the policyholder to the insurance concern by the same amount through the advance payment of part of the risk. Viewed in this light, the deduction (which is sometimes called Zillmer's deduction) appears to be warranted, but for safety reasons, it is not allowed in a considerable number of developed European countries on the ground that it allows life insurance concerns to finance new business at the expense of their technical reserves.

C. Reserves for unexpired risks of premium reserves

125. In some of the countries which were consulted, the risks for which the insurer is still liable on the date on which the balance sheet is drawn up (reserves for unexpired risks) must be covered by a fixed percentage of the premiums due in the course of the year. The proportion tends to range from 30 to 50 per cent, with a marked preference for 40 per cent, which is the figure long adopted by the United Kingdom concerns. The case of marine insurance, where special percentages are used, is an exception. In opting for 40 per cent, the supervisory authorities are assuming that if the annual commitments—or the risks for which an annual premium is payable—are underwritten by a concern regularly and uninterruptedly throughout the financial year, the portfolio as a whole may be considered as underwritten in mid-year. When the balance sheet is drawn up, there is still a half-year of risks to run, so half the annual premium paid must be set aside. If it is assumed, on the other hand, that the concern has paid 20 per cent of the premium for commission and miscellaneous acquisition costs and that the balance is earmarked as risk cover, a 40 per cent reserve for the half-year still to run should suffice.

126. As already pointed out, this method is very widespread. It is to be found in a number of French-speaking countries of Africa members of CICA (where, however, another method of calculation—which will be described later—is also used). In these countries, and also in the North African countries, 36 per cent of the premium is normally set aside. In Morocco, however, proportionally lower percentages have been statutorily fixed for annual insurance premiums payable in six-monthly, quarterly or monthly instalments. In Egypt the percentage of the premium allocated is even higher, being 47 per cent for motor vehicle third party insurance and 40 per cent for other non-life insurance. Lebanon, Syrian Arab Republic, Ceylon, China (Taiwan) (for fire insurance only), Israel, Malaysia, Pakistan, Singapore and most of the Latin American countries have adopted 40 per cent, whereas Mexico has chosen 45 per cent and Panama 50 per cent. In Brazil, a rather more elaborate system of calculation is used which takes into account the special characteristics of each class of insurance and the rate of payment of premiums, when the latter are not paid annually. In Paraguay and Peru the provisions are more flexible, and the supervisory authorities do not yet appear to have adopted specific rules.

127. Marine insurance (goods) is usually governed by special regulations, because the duration of the risk

is normally limited to the length of the voyage and not to an annual period fixed by agreement. Consequently, when the balance sheet is drawn up, the period of the risk still to run is assumed to be less than the half-year adopted in the case of other classes of insurance, and hence a smaller percentage of premium is reserved. In some countries, the percentage is set at 15 per cent of the premiums due each year.⁴⁹ The same percentage is compulsory in certain countries for specific business of less than a year's duration, such as certain kinds of personal accident insurance. In others, the law stipulates a higher percentage for classes of insurance subject in the past to above-average fluctuation. In Venezuela, for example, reserves for unexpired risks in the case of financial guarantee insurance must be established by setting aside 60 per cent of the premium income of the financial year. In India, marine insurance business must also be backed by much larger reserves than those normally required elsewhere. These cases of higher-than-average percentages are, however, extremely rare.

128. It has already been pointed out that in some French-speaking countries of Africa (e.g. Cameroon and Dahomey) not only does the supervisory authority enforce a fixed percentage, but the insurance concerns are also required to make a more accurate valuation of their reserves for unexpired risks by what is known as the "twenty-fourth" method. This method is based on the assumption that any insurance contract written in a month "m" of a year ($m = 1, 2, 3, \dots, 12$) was written at mid-month. On 31 December, when the balance sheet is drawn up, the insurance concern sets up a reserve for

unexpired risks $P_m \cdot \frac{2m - 1}{24}$ for all non-life business

written in the course of the month "m", where P_m is the sum of the premiums due in the course of the "mth" month, net of the acquisition costs actually incurred by the concern. The total reserve for unexpired risks can be calculated by aggregating the twelve terms of this series. If the due dates of the premiums are spread evenly over the year, the result obtained by this method will be identical with that obtained by setting aside half the total annual premiums net of acquisition costs. If, on the other hand, as is more likely, the due dates of premiums are spread irregularly over the year, the difference may be fairly substantial.

129. Both methods, however, are based on the assumption that the premium collected by the insurance concern is sufficient to cover the risk, an assumption which is seldom valid, for the business of every concern includes classes of insurance that are sometimes in surplus and sometimes in deficit. To allow for this, larger reserves must be set up in the first case and smaller reserves in the second. In this connexion, it should be noted that premiums are usually calculated in the light of past experience, whereas they are intended to cover future

⁴⁹ In some countries, which use the accounting systems of the United Kingdom concerns and of Lloyd's marine insurance, accounts are prepared on a three-year basis. Annual accounts, are left open for three years, after which all the premiums and claims for the first year are considered to have been settled. Profits and losses are not entered on the balance sheet until the end of the three-year period.

risks, and it is precisely these risks that the reserves should cover. The reserves should therefore be related to the concept of these risks, an essentially dynamic element, rather than to the static criterion of the premium already written. Attention has often been drawn to the contradiction implicit in establishing reserves for unexpired risks as a percentage of the annual premiums due; the result of this system is to compel companies that follow a policy of under-rating, in other words those in greater danger of becoming insolvent, to maintain relatively smaller reserves than those required of concerns whose rates are more compatible with the risk and which are therefore in a sounder position. This is a highly complex problem, however, and it is clear from the discussion and exchanges of view on the subject in OECD and the European Economic Community that even the most developed countries have not yet succeeded in solving it satisfactorily.⁵⁰

130. Lastly, it should be pointed out that a large number of countries impose no requirements on insurance concerns in this regard. They are the English-speaking countries of Africa, some countries of Latin America and the Far East, Jordan and Kuwait. Some laws urge such concerns to follow "sound insurance principles" and to have their accounts examined by an independent auditor. In other countries, e.g. Jordan and to some extent India, the regulations applied do not derive from insurance law but from foreign exchange control legislation, which prohibits the transfer of technical balances abroad unless reserves have been set up on the basis of a specific percentage of premiums. The supervisory authorities have adopted the same criteria for determining the commitments of insurance concerns and apply them to all companies, whether domestic or foreign.

D. Reserves for outstanding claims

131. Most insurance laws expressly require the establishment of reserves for losses which have occurred but which have not yet been settled by the date of the balance sheet. These may be of two different kinds: those whose amount has been calculated but which have not yet been paid, and the larger category of those whose amount is still the subject of discussion with the policy-holder but for which a rough estimate is made when the balance sheet is drawn up. There is also a third category of claims in connexion with current life or disability annuities. The amount of such claims at the date of drawing up the balance sheet, in other words the capital needed for their payment to maturity, is aleatory and must be determined on an actuarial basis.

132. The importance and difficulty of calculating reserves for outstanding claims have been stressed by many authorities. In a study on the margin of solvency,⁵¹

⁵⁰ See the excellent article by Professor Bruno de Mori, of Italy, on margins of solvency and the various opinions expressed in these organizations in *The Astin Bulletin*, reproduced in *Riesgo y Seguro* (Madrid), No. 11, third quarter, 1965, under the title "Posibilidad de establecer unas bases técnicas aceptables para el cálculo de un margen mínimo de solvencia de las empresas de seguros contra daños".

⁵¹ *Ibid.*

Professor de Mori acknowledges that these reserves are "the most delicate, the most difficult and the most unpredictable—even dangerously unpredictable—of the factors affecting solvency". In the same study, he describes the results of his inquiries in a number of European countries with regard to the rate of settlement of motor vehicle third party claims: only 40 per cent of claims are settled in the course of the year in which the loss occurred; 27 per cent in the following year; 11 per cent in the third year; 7 per cent in the fourth year and 5 per cent in the fifth, the sixth and the seventh years.

133. The developing countries' insurance laws seldom specify the method which insurance concerns must follow in establishing reserves for outstanding claims or the safety measures they should take to cover any possible discrepancy between the estimate made when the balance sheet is drawn up and the amount of the actual settlement. It should be noted, however, that the French-speaking countries of Africa, the North African countries and other countries whose insurance law is based on that of France, expressly require insurers to calculate their liabilities on a "file-by file" basis, in other words estimate for each outstanding claim the probable settlement amount and to add to that amount a further 5 per cent to cover administrative costs and claims expenses. In most of the other countries, the individual file method is either expressly authorized by law or tacitly accepted by the supervisory authorities.⁵²

134. This method is, of course, very vulnerable to the subjective influence exercised by the concern making the valuation, and such valuations are very difficult to check. The only way to ascertain how far an insurance concern has been properly objective in calculating its reserves for outstanding risks is by means of an *a posteriori* verification. If the supervisory authority finds that the reserves are being systematically under-estimated, appropriate action should be taken. However, the laws referred to above do not contain any provisions which indicate that this is actually enforced.

135. In an attempt to make these valuations more objective or at least to exercise a measure of control over them, some laws (that of Cameroon for instance) require other lump-sum methods of calculation to be used as well and the method ultimately adopted is that which gives the highest figure for the reserves. The two methods most widely used are the average-cost-of-claims method and the loss-ratio method, both of which are based on the insurance concerns' experience in previous years, which is compared with the results of the current year. The first method is based on the average cost of losses in previous financial years. This is obtained by dividing the total amount of compensation paid and due by the number of claims. The average cost is then multiplied by the number of losses in the course of the current financial year and the result, net of claims paid at the date of the balance sheet, will be

the reserve that must be set up for outstanding claims. The second method consists in applying the coefficient of the loss ratio over a number of earlier financial years to premiums earned in the current year. For example, if, in a particular class of insurance, the ratio of claims paid or outstanding to premiums earned in the last two financial years is 50 to 60 per cent, the coefficient for the ratio of claims to premiums in the current financial year will be 55 per cent. A weighted average may also be used instead of a simple arithmetic mean.

136. Another country which demands more than a mere subjective evaluation of each claims file is Brazil. As is well known, that country's exceptional rate of inflation has in many cases rendered totally inadequate reserves that would otherwise have been sound. When the time comes to provide compensation for damage or to determine losses, the most pessimistic evaluations fall short. This is no doubt why the supervisory authorities have drawn up a number of rules which the supervised insurance concerns must apply in fixing their reserve for outstanding claims. To quote only a few of the more important of these provisions, the insurance concern must set aside:

(a) The value agreed upon between the insurer and the beneficiary if an agreement has been reached between the two parties;

(b) The sum demanded by the policy-holder, if not objected to by the insurer;

(c) The value estimated by the insurer and accepted by the supervisory authority, when the policy-holder has not stated the amount of the damage;

(d) The arithmetic mean of the sum claimed by the policy-holder, on the one hand, and the sum accepted by the insurer, on the other, in the event of a difference between the two;

(e) The value determined by any legal tribunal, even if it does not constitute its final decision;

(f) The value estimated by the supervisory authority when the insurer considers that he is free of any commitment under the terms of the insurance contract;

(g) The maximum sum for which a concern is liable under an insurance contract, in the event of bodily injury under motor vehicle third party insurance.

137. The supervisory authority thus indicates its intention of intervening in the valuation of outstanding liability commitments whenever the amount involved cannot be clearly specified. The same concern is reflected in the legislation of Trinidad and Tobago which states that concern shall provide reserves for meeting outstanding claims arising from accidents which have occurred. Details of the methods used in calculating such reserves will be furnished to the supervisor. The supervisor may disallow any method used for calculation of such reserves if he is satisfied that such a method does not result in the provision of adequate reserves. While this provision is mandatory only in respect of motor vehicle insurance, it is precisely in this class of insurance that prior calculation of claim liability is most difficult

⁵² In the countries of Western Europe, reserves for outstanding claims may be calculated on the basis of individual files, or on the lump-sum basis described in the following paragraphs.

and that major discrepancies occur between the reserves and the actual settlements. This is probably the reason why, in the Republic of Viet-Nam, a special rule, applicable only to motor vehicle insurance, states that the reserves must amount to at least 35 per cent of the average annual amount paid during the five preceding financial years.

138. The few other countries which have special rules for the calculation of outstanding claims include Hong Kong, where 30 per cent of the year's premiums must be reserved, unless a conventional valuation on an individual file basis yields a higher figure, and the Republic of Korea, where the specified proportion is 50 per cent of the net premiums. The basis on which these percentages were chosen is not known, but they were probably fixed empirically in the light of the experience of insurance concerns operating in the local market.

139. Lastly, in a number of countries, the establishment of reserves is unregulated, and their calculation is left entirely to the discretion of the insurance concerns themselves. Some countries maintain that, in adopting this system, they are emulating the very liberal supervisory practices of United Kingdom insurance. It is worth pointing out in this connexion, however, that the Board of Trade in the United Kingdom recently decided to require all insurance concerns to submit to it analyses of claim frequency and claim settlements, precisely with a view to checking the adequacy of reserves for outstanding claims.⁵³ Furthermore, such reserves, when added to the claims already paid and the premium reserve, must be not less than the figure obtained by the application of a formula based on the claims ratio over the last three or four years.⁵⁴ Widespread adoption and improvement of these methods will probably result in more accurate calculation of liabilities and a wider margin of solvency. Countries planning to follow the United Kingdom example should certainly bear this in mind.

140. A small number of countries have provided information on the establishment of a special reserve to cover losses which have occurred but whose amount is not known at the time when the balance sheet is drawn up. In Upper Volta, for example, this reserve is compulsory for insurance concerns which have had to enter, in their accounts for a given financial year, claims in respect of losses which occurred in the preceding financial years but for which no reserve for outstanding claims had been set up. In such cases, the supplementary reserve must be calculated as a proportion of the reserve for outstanding claims, taking into account the ratio "of the total payments made and reserves set up for losses occurring before the preceding financial year but not

⁵³ *Financial Times* (London), No. 24642, 1968, p. 15, cited in *Experiodica*, No. 10 (Zurich, Services économiques, Compagnie Suisse de réassurances) October 1968.

⁵⁴ For further particulars of the new system of supervision recently introduced in the United Kingdom, see the series of articles on "The Companies Act, 1967, Part II; Amendments of law with respect to insurance companies", in *The Review* (London), Vol. 98, Nos. 4325, 4326 and 4327, September-October 1967. See also the article by Dr. B. Carter, Lecturer in Insurance and Economics at Brighton College of Technology, in *Policy Holder Insurance Journal* (London), vol. 86, No. 30, 26 July 1968, p. 1158.

entered in the books for that year to the reserve for claims outstanding from the preceding financial year".⁵⁵

E. Other technical reserves

141. In some of the French-speaking countries of Africa, and in Madagascar, a compulsory supplement to the technical reserves is required. To give one example, in Madagascar the supplement is constituted by "setting aside 1 per cent of the premiums or contributions due in the financial year (net of reinsurance cessions until the amount accumulated equals 5 per cent of the aggregate of the technical reserves and the preferential debts". This provision is expressly intended "to cover any possible inadequacy of the technical reserves" and relates solely to the net commitments of the concern, i.e. the net premiums earned by the concern after deduction of the premiums ceded to reinsurers. Moreover, it applies to domestic concerns only; foreign concerns, which dominate the local market, are exempt from this requirement, which thus loses most of its force for the time being. Similar provisions exist in the other countries mentioned; the authorities say that the exemption enjoyed by foreign concerns is based on the fact that the reserve supplement is assumed to have been already set up in the country where these concerns have their head office.

142. A guarantee reserve, established on much the same basis as the compulsory supplement but applying to both domestic and foreign concerns, exists in some countries. In Morocco there are two different ways in which this form of reserve is constituted, one for life and the other for non-life business. For the former, "the reserve is constituted by setting aside 0.5 per cent on single or periodical premiums or contributions written, without deduction of reinsurance cessions. This levy is compulsory until the sum thus accumulated amounts to 5 per cent of the corresponding technical reserves". For non-life business, the guarantee reserve must amount to 10 per cent of the average premiums written in the five preceding financial years. However, for concerns with their head office in Morocco, the paid-up portion of their share capital plus any legal reserve may be deducted from the guarantee reserve. The importance of this provision lies in the fact that the guarantee reserve is thus treated in the same way as the concern's share capital and free reserves and it may therefore be taken that the supervisory authority assigns it a role similar to that of those funds. Another feature is that it obliges foreign concerns to establish supplementary guarantees in the country which may, by analogy, be compared in both amount and kind to the share capital which the domestic concerns have had to constitute locally.

143. The underlying concept of the guarantee reserve is similar to that of the margin of solvency which was referred to in the paragraphs dealing with legal reserves. This question is mentioned again here because in some countries where the margin of solvency is mandatory it is given a clearly defined rôle which places it without

⁵⁵ Upper Volta, Ministry of Finance, Insurance Department Order No. 207, articles 13 and 14.

any doubt in the category of technical reserves. Some writers, moreover, consider the margin of solvency to be closely linked with the concept of technical reserves.⁵⁶ In any case, its classification is not a purely academic question, since the tax treatment it is given will depend on whether it is counted among the company's own resources or its liabilities. An even more important question, which will be dealt with later, relates to the location of the assets constituting the margin of solvency. In countries which have regulations concerning the investment of technical reserves in local securities, their application to the assets forming the margin of solvency will be contingent on whether the margin is regarded as forming part of the technical reserves.

144. Some countries which neither prescribe mandatory supplements to technical reserves nor margins of solvency sometimes require reserves to be set up for specific commitments. This is true of some of the Latin American countries; in Mexico, for example, there is a reserve to cover market value fluctuations and statistical deviations. In the case of life insurance, it is constituted by setting aside 1 per cent of the net premiums until the sum accumulated has reached a certain proportion of the reserves and premiums, while in non-life business it is constituted by setting aside 3 per cent of the annual net premiums with the reserve amounts to 30 per cent of the premiums, net of reinsurance, or of the minimum share capital. In Brazil, "contingency" reserves must be constituted annually until they amount to half of the reserves for unexpired risks. Other reserves that are required include one to cover fluctuations in the value of securities; this must allow for the difference between the book value of investments and their market value. Another requirement is for a "retrocession guarantee reserve". This consists of 10 per cent of the annual profits from business received by insurance concerns from the IRB. The IRB is entitled to hold on deposit up to half that reserve against payment of interest at a minimum annual rate of 6 per cent. Lastly, concerns issuing policies that include currency adjustment clauses are required to set up special reserves.

145. In Argentina, insurance concerns are required to set up funds under the heading "compulsory reserves for specific purposes". These are intended, *inter alia*, to cover any reduction in the value of the securities forming the assets. They include "reserves for fluctuations in government securities" and other reserves to cover any reduction in the value of shares, bonds or immovable property. The former are constituted by either (a) the profits realized by the sale or redemption of government securities or (b) a certain proportion of the annual net profits, fixed at 10 per cent, or the equivalent of 0.5 per cent of the book value of the government securities, whichever yields the higher figure being chosen. The reserve is built up until it amounts to 10 per cent of the book value of the securities. The other reserves for depreciation of investments are also constituted from the profits realized on the sale of shares, bonds or immovable property.

⁵⁶ Cf. J. E. Aldaz e Isanta, "El margen de solvencia en las empresas de seguros" in *Riesgo y Seguro* (Madrid), Nos. 15-16, third and fourth quarters, 1966, p. 49.

F. Treatment of technical reserves for risks ceded in reinsurance

146. The transfer of part of a risk to a reinsurer against payment of a reinsurance premium has the effect of reducing the technical liabilities of the ceding concern. The technical reserves corresponding to this reinsured part of the risk may be regarded as a claim against the reinsurer which normally becomes due whenever the ceding party is called upon to fulfil its obligations to the policy-holder or beneficiary under the insurance contract whose risk cover has been partly transferred to a reinsurer.

147. As technical reserves for a given policy must be established successively by two or more concerns by the successive transfer of reinsured or retroceded risks, each concern may deduct from its technical reserves whatever part thereof is chargeable to the reinsurers. When such deductions are made, the reserves are known as "technical reserves, net of reinsurance," or simply "net reserves". This is the system normally applied in the United Kingdom and it is accepted in the legislation or administrative practice of most of the Asian countries, the English-speaking countries of Africa and some countries of the Near-East and Latin America (Brazil, Argentina, Barbados, Guyana and Jamaica). However, it is not always an express requirement of the insurance law. Where such laws exist, and in so far as they deal with the matter at all, they generally provide simply that insurers must take "all contingent and prospective liabilities" into account.⁵⁷ Hence in order to find out whether or not a particular country has adopted the system of net reserves, what counts is not so much the letter of the law as the way in which it is enforced in practice.

148. In other countries (in the Americas—particularly Colombia and Venezuela—in the French-speaking countries of Africa and in some countries of the Far East), the law does not recognize the system of net reserves. The contractual commitments of a concern under supervision and its claims on its reinsurers are regarded in these countries as entirely separate concepts which may not be combined. Whatever reinsurance may be taken out by the direct insurer in order to spread some of the risk, he still is fully liable vis-à-vis the policy-holder and any others having claims and must therefore establish technical reserves (gross reserves) and record them fully in his books.

149. In some countries the situation is ambiguous in this regard. Some laws—those of China (Taiwan), for instance—require only the establishment of gross mathematical reserves and have no provisions concerning other types of reserve. In other countries the only reserve for which there is no provision is the reserve for outstanding claims, from which the amounts that may be claimed from reinsurers may therefore be deducted. Others again treat technical reserves in two different ways, depending on whether reinsurance is ceded to

⁵⁷ This formula is to be found in the insurance law of Kenya, for example (and also in that of the United Kingdom).

domestic concerns or to foreign ones. They can be deducted from the gross reserves in the former case, but not in the latter. The laws of many other countries contain no provisions on the subject.

150. The difference between the gross and net reserve systems is important, particularly where the law provides that a sum equivalent to the technical reserves must be invested locally or in specific assets. This aspect will be dealt with more fully in the paragraphs concerning the investment of assets constituting these reserves. It may already be pointed out, however, that such investment will differ greatly, depending on whether the concern uses the net or the gross reserve system. For those adopting the latter, the reserves are represented, as a rule, on the credit side by investments corresponding to the net reserves and a claim on reinsurers for that part of the technical reserves for which they are responsible. If, however, only the premium for the risk actually incurred is paid to the reinsurer, and if the technical reserve for that risk then remains with the ceding party, that reserve may also be invested by him. In that case, the entire amount of the technical reserves may be fully covered by investments. If, on the other hand, the first insurer is required by law to hold certain assets for his entire reserves he must hold funds as reserves for the reinsured risk and may therefore be compelled to request his reinsurers to place those funds at his disposal.⁵⁸

151. This is not possible, as a rule, in the case of concerns using the net reserves system. The technical reserves held by the reinsurers are not reported on the balance sheet or covered by assets held by the first insurer. The adoption of this system therefore appears to imply almost total confidence in the reinsurer's financial capacity and solvency. It also makes it difficult to enforce the rule that technical reserves (and not only those concerning the risks retained by the ceding concern) should be invested in the country where the premium income arises. Some countries, as will be seen later, have remedied this shortcoming by requiring the part of the reserves chargeable to the reinsurer to be withheld

⁵⁸ The experts who met at Geneva in 1966, at the invitation of the Secretary-General of UNCTAD, were referring to the deposit of these funds with the ceding concern when they recommended that "reinsurance treaties... should provide for the participation of the reinsurers in the setting up of technical reserves of the ceding company." (See "Reinsurance policy and operations in developing countries: report of the Expert Group on Reinsurance" (TD/B/C.3/29), para. 13). The various problems arising from the application of this recommendation are considered in the report by the UNCTAD secretariat, "Investment of the technical reserves of insurance concerns in the country where the premium income arises" (TD/B/C.3/87 and Corr.1).

and invested by the ceding company. Some countries have no rule calling for retention in the country of the profits from investment of the entire reserves.⁵⁹

G. Deposit with the ceding company of reserves to be maintained by reinsurers

152. From the preceding paragraphs it will be seen that direct insurance concerns may in practice have to insist that their reinsurers to deposit with them a sum equivalent to the technical reserves corresponding to the reinsurance cessions. This applies when they are compelled by law to invest the whole of their gross reserves in certain assets. When the law includes no such provision, the deposit of reserves by the reinsurer is optional. However, the available information indicates that, for commercial reasons, the ceding concern usually insists on retaining possession of the reserves, because the income from their investment is often of vital importance for its operations. In some countries, the supervisory authority requires reinsurance treaties concluded by the concerns under its supervision to contain a special clause providing that technical reserves must be left at the disposal of the ceding concern. These are usually countries where insurance concerns use the net reserve system and the requirement applies mainly to reinsurance treaties concluded with foreign concerns. The main purpose of this requirement of the supervisory authority is thus to ensure that the whole of the reserves, including those corresponding to the reinsurers' commitments, are invested locally.

153. This is the aim of the supervisory authority in the Philippines in requiring 50 per cent of the reinsurance premiums ceded to foreign concerns to be held on deposit with the ceding concerns. In the case of Bolivia and Colombia, the proportion is 40 per cent. In Kuwait, the Khmer Republic, Tunisia and Egypt there is no fixed percentage, but the concerns are required to keep on deposit themselves the reserves to be maintained by the reinsurers.

154. In Argentina and Brazil, where domestic reinsurance concerns receive the bulk of ceded reinsurance, the reserves need not be deposited unless the reinsurance is ceded abroad. In Brazil, where the IRB is responsible for ceding reinsurance to domestic concerns the IRB retains a deposit in the form described later in the present report (see below chap. VIII, para. 244).

⁵⁹ In Western Europe, the reserves are usually calculated in relation to the concern's gross commitments (without deduction for reinsurance) but may be offset by technical reserves which have to be maintained by the reinsurer.

Chapter VI

INVESTMENT, LOCALIZATION AND DEPOSIT OF THE FUNDS OF INSURANCE CONCERNS

A. Requirements concerning investment, localization and deposit of share capital and free reserves

155. Where the insurance law requires insurance concerns to hold assets adequate to meet any possible insufficiency of their technical reserves, it very rarely specifies the categories of investments in which such assets or funds must be placed. The exceptions include the Republic of Viet-Nam, where 60 per cent of the share capital of domestic concerns must be invested in government securities. In Argentina, the regulations concerning the investment of assets covering technical reserves—which will be considered later in this study—also apply to the investment of the net assets. However, the capital and the legal reserves of the National Re-insurance Institute (known as INDER) are invested exclusively in “immovable property, State, provincial and municipal bonds, and mortgage loans”. Apart from a few specific cases, most countries do not have provisions of this kind.

156. There are few instances of regulations specifying where the share capital and free reserves must be invested. It has already been noted in this connexion that, in countries where the market is dominated by foreign insurance concerns, the authorities are careful to ensure that the regulations concerning the share capital and free reserves do not conflict with those in force in the concern's country of origin. They confine themselves to ensuring that foreign concerns carrying on business in the local market do not infringe the regulations in force in the country in which their registered office is situated. This is particularly true with regard to the share capital and margins of solvency. In other words, the share capital and free reserves are usually invested in the concern's country of origin, rarely elsewhere, and still more rarely in the developing country in which the concern is carrying on business. Thus, if some day the share capital and free reserves must be used to cover an operating deficit in that country, funds can at best simply be transferred from abroad.⁶⁰ However, there are exceptions to this general rule. One of the most characteristic is that of Colombia, where foreign concerns are required by law to invest in the country an amount

equivalent to the share capital required in the case of domestic concerns (ranging from 50,000 to 200,000 pesos for each class of insurance, according to category). Other exceptions are countries which require concerns to provide an initial security but only in so far as this is additional to the technical reserves and does not, therefore, count towards the latter.

157. From the information available it would appear that the authorities in some countries do not avail themselves sufficiently of their power to require guarantees or deposits. It is true that in Ghana, for example, every registered insurer is required to deposit in trust with the Bank of Ghana, Ghana Government securities in the amount of New Cedi 120,000 in the case of a domestic insurer, and New Cedi 240,000 in the case of a non-domestic insurer. But since it is provided that such deposits may be constituted with funds allocated to cover the technical reserves, they do not in fact represent really new funds augmenting the guarantees that are absolutely necessary to cover current commitments. In some countries, these deposits may be gradually withdrawn, as the technical reserves grow and the funds allocated to cover them enable them to be replaced. In some cases, a bank guarantee is accepted for 50 per cent of the required deposit amount. In many countries legal deposits or initial guarantees may consist of either net assets or funds allocated to cover the technical reserves. This is the case in India, Israel, Malaysia, Jordan, Lebanon and several Latin American countries. In Hong Kong, there is a formal obligation to make an initial statutory deposit, but it does not apply to insurance concerns which satisfy the requirements of the United Kingdom Insurance Act, 1958-1967, or which can prove that they maintain fire and marine deposits under any enactment in any part of the Commonwealth. Concerns which do not meet these requirements have to provide an initial deposit; however, the deposit of HK\$200,000 which must be made by concerns carrying on motor vehicle third party insurance may be constituted by funds allocated to cover the technical reserves. Considering that the market is practically dominated by United Kingdom companies and that motor vehicle insurance is undoubtedly the most important class of business transacted, it will be realized that the requirement to make deposits in Hong Kong has no very vital consequences in practice.

158. However, a very small number of countries, namely Tunisia, the Philippines and, in certain circumstances, Morocco and the Republic of Viet-Nam, require deposits only from foreign concerns; others, more numerous, require them only from domestic concerns.

⁶⁰ The European Economic Community has proposed that insurance concerns of non-member countries carrying on business in the Community should maintain in those countries a certain margin of solvency. This margin, which is calculated on the basis of the annual premium income in those countries, would be 18 per cent for the first 10 million and 16 per cent for the balance. The proposed solvency margin would be in addition to the investment required as security for the technical reserves proper (see *The Economist* (London), vol. 238, No. 6655, March 1971, pp. 61-62).

Mention may be made of Ghana (where, however, only the associations of underwriters are subject to this obligation, and only when the authorities deem it necessary, Kenya (where this obligation applies only to mutual societies and to concerns carrying on "long-term business"), Kuwait (where the deposit may be replaced by a bank guarantee), China (Taiwan) (which requires a deposit of 15 per cent of the share capital; no information is available concerning the provisions which apply to foreign concerns), Pakistan, the Republic of Korea, Singapore (where the provision does not apply to concerns registered prior to 1967) and Colombia.

159. Deposits may be required by the supervisory authority in special cases, particularly when the financial situation of the company does not offer all the desired security. However, the insurance laws are not very explicit on this point. Only one such provision is known and that is in the law of Malawi. It applies mainly to life insurance concerns: the supervisory authority may request them to deposit "such approved securities as he may deem sufficient to meet the liabilities of the insurer's life insurance business in Malawi". This provision is applicable to concerns whose management, as a result of particular circumstances specified in the law, has been the subject of an inquiry, and to concerns to which the supervisory authority has given notice of his intention to withdraw their licence to carry on business.

160. As has already been mentioned, some countries require an initial guarantee, which must be constituted with funds other than the share capital and free reserves. The question of deposits thus constituted will be considered in connexion with the investment of funds intended to cover the contractual commitments of concerns, as it is probably these funds, rather than net assets, which will be used for deposits.

161. Little information is available concerning the procedure for the deposit of assets and their release. Usually, it appears, they must be deposited in cash with central banks or specialized public institutions (public trustee offices or similar bodies). In some countries, transferable securities may be deposited, instead of cash. Thus in Kenya every sum deposited with the Registrar has to be invested by him in such securities as are authorized by law for the investment of trust funds as may be approved by the Registrar, as the company by whom the sum was deposited may select, and the interest accruing due thereon is to be paid to the company.

162. The supervisory authority must give its approval before deposits and guarantees can be released. In the Ivory Coast and Upper Volta the release of deposits is effected on the authorization of the Ministry of Finance, when the insurance concern ceases business and after definitive auditing and verifying of its accounts. Thus it is the supervisory authority which assesses, on the basis of the evidence supplied by the concerns, how far deposits may be returned. It may be assumed that, subject to some slight differences, this procedure is adopted in all countries requiring similar deposits.

B. Requirements regarding the investment of funds allocated to cover technical reserves

163. Compulsory coverage of technical commitments by assets specified by the supervisory authority is customary in a great many developing countries. In some of these countries, the different categories of investments prescribed merely reproduce, with slight variations, the relevant rules laid down by the former colonial Power; in others, the rules have been adapted by the supervisory authorities to the specific needs and circumstances of the country concerned. In the latter case, the authorities clearly seek to maintain the solvency of the concerns (e.g. by avoiding too heavy financial commitments in speculative securities) and to ensure that the technical reserves, which are considered a part of the national savings held by insurance concerns, are invested in the country, and sometimes in priority sectors of the economy.

164. It is primarily because of this concern that the developing countries very seldom include in their laws any provision authorizing investment abroad. The few known exceptions are Kuwait, which allows investment in foreign securities of up to 25 per cent of the concern's total investments; Argentina and Mexico, where investment abroad is allowed only in respect of technical reserves for foreign currency commitments; and Lebanon, which allows insurance concerns to purchase foreign shares and bonds quoted on the stock exchange of the issuing country and approved by the Minister for the National Economy, to an amount not exceeding the mathematical reserve for life insurance contracts expressed in foreign currencies, and up to a maximum of 50 per cent of the total mathematical reserves. Apart from these special cases, which are justified by various circumstances, the laws relating to the investment of reserves all favour the national money market. It is undoubtedly this field which offers the greatest likelihood of directly achieving the second objective of insurance laws, i.e. supervision of insurance concerns with a view to orienting the insurance industry for the benefit of the national economy.

165. Before reviewing the legislative provisions on this subject, it is perhaps necessary to explain that these generally apply only to what the supervisory authorities consider to be the minimum technical reserves. This is an important point for, as has already been mentioned, what these authorities regard as minimum financial guarantees in the developing countries are not always sufficient to cover all the reasonably calculated technical commitments. Also, as we have already seen, in many countries the concept of technical reserves is limited to net reserves, i.e. after deduction of reinsurance reserves; consequently, provisions concerning the investment of funds covering technical reserves rarely concern all such funds.

166. In some countries, moreover, certain technical reserves, in particular reserves for outstanding claims, are excluded, expressly or tacitly, from the application of the rules providing for local investment of reserves. These countries take the view that such reserves must,

because of their nature, be covered by assets which are essentially liquid; consequently, the authorities have sought to allow concerns greater flexibility with regard to their investments. The Mexican law, for example, specifies that reserves for commitments under matured policies, for claims payable and for deposited dividends must be invested in securities which, in the view of the Department of Finance and Public Credit, can readily be sold. Such examples should demonstrate the need for caution in interpreting the situation of countries which, in theory, require assets allocated as technical reserves to be invested locally.⁶¹

C. Types of investment prescribed by the supervisory authority

167. It would take too long to give details and to comment, country by country, on the different types of investment available to insurance concerns. Between Sierra Leone, for instance, which openly grants insurance concerns absolute freedom in the investment of their assets and in most cases allows investment in the concern's country of origin, and Argentina and Brazil, which leave concerns little freedom to choose between the different types of investment in national securities, there is a whole gamut of systems, all of which have more or less the same objective.

168. As was mentioned earlier, some countries have no investment regulations at all. These include most of the English-speaking countries of Africa and the countries of the Caribbean area and the Near East, where United Kingdom insurers predominate and where United Kingdom administrative practices in this field are still widely followed. Among these countries, however, Ghana and Nigeria may be considered to be, in part, exceptions. In Ghana, it is provided that 50 per cent of the assets covering life insurance commitments and half of the 40 per cent of premium income (without deduction for reinsurance) for non-life insurance must be invested in Ghanaian Government securities. The remainder, i.e. 50 per cent of the life fund and 20 per cent of the gross premium income in non-life business may be invested in assets of the concern's choice, although officially the supervisory authority reserves the right to regulate such investment.

169. It will be noticed that these particular provisions, which do not really seem to adhere to the concept of technical reserves, nevertheless do so implicitly by regulating certain investments. Those investments, which constitute an asset of the concern, must necessarily be

balanced by a liability, which in practice must correspond to the technical reserves. However, this life insurance fund does not correspond exactly to the mathematical reserves of life business, nor do the 40 per cent of non-life premiums necessarily correspond to the reserves for unexpired risks and for outstanding claims, the valuation of which is left to the discretion of the concerns themselves. The result is a very pragmatic attitude basically aimed at ensuring that a certain part of the funds accumulated by insurers are invested locally. But this part of the funds is not directly related to the domestic commitments, which appear to be far greater.

170. The Nigerian regulations are similar to those of Ghana: 40 per cent of net premium income (after deduction of reinsurance premiums) must be invested locally. In life insurance, this obligation extends to all the accumulated reserves. The same principle applies in Jordan, in Kuwait and in other Asian countries: whereas the methods of calculating the technical reserves are left more or less to the discretion of the concerns, a percentage of the premiums written must be invested locally. This percentage is probably very small in relation to the funds which the concerns have to accumulate to cover their commitments (including life insurance commitments and claims outstanding). It is generally between 30 and 40 per cent of the net premium income (after deduction of reinsurance), except in marine insurance, where the percentage is very much lower, and in life business, where there is no obligation of this kind. In Cyprus, the percentage of gross premium income to be invested is 60 per cent, except for premiums in respect of reinsurance contracted with local concerns. It is 40 per cent for premiums in the marine and aviation insurance branches. Long-term business (essentially life insurance) is not subject to any special requirements.

171. The liberal treatment accorded to life insurance business in these countries contrasts with the regulations of countries such as India and Pakistan, where the investment rules apply only to funds allocated to cover the mathematical reserves. In the case of the other reserves, the choice of investment is left to the concern. However, in India, investment of these reserves abroad is curbed, in part, by the exchange control office, which authorizes the transfer of the balances of foreign concerns only on condition that 40 per cent of the net premium income is invested in the country (50 per cent in the case of marine business). Similar rules have apparently been established in Pakistan by the State Bank of Pakistan.

172. Stricter regulations obtain in the French-speaking countries of Africa and in North Africa, the Latin American countries, the Khmer Republic, Lebanon and the Philippines. Firstly, the connexion in these countries between the funds to be invested and the sums arising from technical commitments is expressly established by the insurance laws; the obligation for concerns to invest a part of their assets in specific securities derives directly from the need to cover their technical commitments—even though, in certain cases, as already explained, the law does not take some of these commitments into account. Secondly, the complexity of certain provisions appears to stem from the different goals that the supervisory authority has set itself, namely, to

⁶¹ The regulations of the countries of Western Europe are complex, especially as regards the provision of financial guarantees to cover technical reserves. They are not, as a rule, concerned with the free assets of insurance concerns. As in many other fields, they represent two extremes: elaborate controls, as in France, and almost complete freedom, as practised in the United Kingdom. In the majority of countries, the system varies with the class of insurance; the regulations applying to life insurance are usually more strict than those applying to non-life business. Moreover, they are not always identical for domestic concerns and foreign concerns. Localization of the technical reserves is a generally accepted principle (see OECD, *op. cit.*, paras. 98-115).

guarantee the solvency of concerns and cover the investment needs of the national economy, and to leave concerns a certain margin of freedom in the choice of investments. Thirdly, in some countries the existing provisions are subject to frequent change, to provide a possibility of including among the list of authorized securities newly-created securities which may at some time be regarded as having priority over other types of investment.

173. The insurance laws of the French-speaking countries of Africa members of CICA broadly follow the relevant French legislation. Thus, they stipulate that in general bank deposits and premiums due may not exceed 40 per cent of the reserves (since the concerns in question are mostly foreign ones, it is usually accepted that these are the reserves arising directly from insurance underwritten locally). The following investments are acceptable without any limitation as to the percentage:

(a) Government securities or government-guaranteed bonds. These include, in the Ivory Coast, securities issued by the Caisse autonome d'amortissement and the Société nationale de financement; in Madagascar, medium-term advances to the Malagasy National Development Bank (this investment may be made mandatory for up to 10 per cent of the technical reserves); in Mauritania and Chad, loan certificates issued or guaranteed by a group of States, or by a banking institution on behalf of a group of States to which these countries belong; in the Central African Republic, securities issued by the National Development Bank and the Société nationale d'habitat;

(b) Immovable property situated in the national territory (Ivory Coast, Madagascar low-rent housing only), Chad, Central African Republic (excluding completed buildings acquired after 1962), Mauritania;

(c) Shares or stock of real estate companies operating in the country (Central African Republic, Chad, Ivory Coast, Madagascar, Mauritania);

(d) Advances on life insurance contracts and birth and marriage insurance contracts. A second category of investments is acceptable up to a maximum proportion of 50 per cent of total investments. It includes:

(e) First-mortgage loans on buildings, completed or otherwise, with certain limitations as regards the estimated value of the property (Central African Republic, Chad, Ivory Coast, Dahomey, Madagascar, Mauritania);

(f) Securities officially quoted by a stock exchange in the franc zone and issued by concerns carrying on business in the country (Chad, Ivory Coast, Madagascar, Mauritania). In Madagascar, the business of the concerns in question must be carried on mainly in the country; a list of these concerns is drawn up annually by the Minister for Economic Affairs;

(g) Other investments authorized by the supervisory authorities. These include, in Dahomey, loan certificates issued by the Société dahoméenne d'équipement touristique et hôtelier; in Madagascar, immovable property other than low-rent housing (already included in the investments which are acceptable without limitation) and shares or stock of real estate companies; and in

the Central African Republic, the shares of companies established on the initiative of the State.

174. However, in some of the countries of this group the regulations differ from the provisions just indicated. In Upper Volta, for instance, 60 per cent of the gross amount of the technical reserves must be invested in the Savings Bank. In Niger, immovable property situated in the national territory and the loans or shares of real estate companies carrying on business in the national territory are accepted without any limitation as to percentage. In Senegal, the only negotiable securities accepted are equipment and Treasury bonds.

175. Among the Latin American countries, Argentina, Brazil and Mexico have issued a list of categories of securities which do not differ substantially from those adopted by most of the French-speaking countries of Africa. They reflect a marked preference for Government securities or at any rate for local investment.

176. For example, the following general rules have been laid down in Argentina:

"The assets in which sums covering commitments to policy-holders (after deduction of cash, bank deposits, policy loans, life premiums due and payable and premium instalments not yet due and guarantee deposits retained by ceding concerns) are required to be invested are as follows:

"Government securities or government-guaranteed securities, State, provincial or municipal;

"Foreign Government securities, up to the amount of the mathematical reserves for policies issued in the currency of the foreign country, and provided that country grants reciprocity in respect of Argentine securities;

"Special first mortgage or floating debentures, provided the assets concerned are situated in Argentina;

"First-mortgage loans on immovable property situated in the country;

"Immovable property situated in the country;

"Shares of Argentine, or foreign, joint stock companies, whose main object is the organization of public services in the country;

"Loans secured by the above-mentioned securities, bonds and shares."

177. The Argentine supervisory authority has established upper and lower limits for each category of investment. It is interesting to note that the limits for life business differ from those for non-life business. Whereas for life business, concerns are required to invest a minimum of 10 per cent in Government securities, in the non-life business they are required to invest 25 per cent. Eighty per cent of the assets may be invested in immovable property and 60 per cent in mortgage loans. The corresponding maximum percentages for other investments are 20 and 15 respectively. The supervisory authority has therefore taken account of the fact that owing to the nature of the respective commitments in life insurance and in non-life insurance, a different

cover is required; this difference is due, primarily, to liquidity needs, which are greater in non-life business than in life business.

178. At least 60 per cent of the investments of INDER must be in Government securities; immovable property and mortgage loans may not account for more than 40 per cent of total investments. All investments must be made in property situated in the country, with the one exception, already mentioned, of investment of mathematical reserves for policies expressed in foreign currencies.

179. In Mexico, the provisions are substantially the same as those just described, although they do not apply to reserves for outstanding claims. The supervisory authority's social concern is reflected by the provision that 5 per cent of the reserves (including the technical reserves, as well as the capital and capital reserves) must be invested in public low-cost housing bonds issued by national credit institutions. A similar percentage must be placed directly, or through mortgage loans, in the construction of dwellings of this type. Foreign investment is permitted up to the amount of commitments contracted in foreign currencies. It is limited, however, to 25 per cent of the total reserves.

180. In the other Latin American countries the regulations are sometimes less strict, particularly as regards the allowed percentage of each category of investment. In some countries, such as Paraguay, the supervisory authority reserves the right to modify the investment proportions. In general, investment in shares and other speculative assets is not acceptable, or only to a limited extent, and with considerable safeguards.

181. However, these restrictions, combined with the preference of the authorities for government securities, bonds and other fixed-income investments, create some problems for insurance concerns, especially for those which have had to face the immediate consequences of inflation. Insurers claim that if assets must cover commitments, and if the latter increase in monetary terms as a result of inflation, it should be possible to invest assets in such a way that they are subject to monetary movements similar to those which have affected the commitments.

182. The fundamental options of the supervisory authority are thus sometimes affected by the commercial constraints to which the concerns declare themselves subject. Sometimes they claim that too much rigidity in the choice of investments may increase the cost of insurance: "As a result of the erosion [of the real value] of assets, these might, after one or two years or more, prove insufficient to cover the payment of claims. In practice, therefore, insurance concerns are obliged to include in their tariffs the cost of monetary depreciation".⁶² One might add that, should they not always be able to do this, their financial stability might be endangered.

183. In connexion with additional legislative measures designed to ensure better investment of reserves, might

be mentioned the provisions of Brazilian law which require premiums to be paid through banks. This procedure has eliminated considerable delays in the collection of premiums and thus helped to expedite investment operations. Moreover, 8 per cent interest is charged on outstanding premiums, whereas a 10 per cent rebate is granted on premiums paid when due, except in the case of life insurance. In Mexico, policy-holders are granted a thirty-day grace period in which to pay premiums due. Failure to pay within this period automatically results in cancellation of the policy without notice to the policy-holder.

D. Special requirements applicable to nationalized or State-controlled concerns

184. The foregoing paragraphs apply in general to all the developing countries, regardless of the structure of their insurance market. State-controlled concerns were not specially mentioned as they are usually governed by the same rules as private concerns. However, in countries where private concerns are not allowed to operate, and where insurance business is in the hands of State concerns, investment is nevertheless subject to certain rules, likewise aimed at ensuring that assets are invested in such a way as to satisfy both the technical requirements of the concerns and the needs of the national capital market. Because in these countries the objectives pursued may be achieved to some extent by more direct State action, the laws may be much less explicit with regard to investment, and the investment policies of the concerns can be continually adapted in a much more flexible manner to the needs of the moment.

185. In this connexion, the example of India is significant. In that country, life insurance is underwritten exclusively by the Life Insurance Corporation, which was granted a State monopoly in 1956. The relevant law then enacted laid down that the Corporation "would be an autonomous body and should be run on business principles"; accordingly, the Insurance Act, which applied to the former private life insurance companies, was extended to the new Corporation. However, under the Life Insurance Corporation Act, 1956, the Government is entitled to "provide guidance on matters of policy, particularly on the investment policy".⁶³

186. When, as in India, the State controls the whole market or a large sector of it, the investment policy of domestic insurance concerns will nevertheless differ, depending on whether or not, like the insurance business, the other means of production are nationalized. If they are, the choice of categories of investments will naturally be more limited and the investment policy of the nationalized insurance concerns will have to be adapted accordingly. The extreme case appears to be that of the Syrian Arab Republic, where the assets of the sole concern authorized to operate are deposited with Government-approved banks. The insurance concern's traditional role of investor may thus be said to be performed entirely through an intermediary. However,

⁶² See F. Gentile, "Présentation économique de l'assurance française", in *L'Argus* (Paris), 13 October 1968.

⁶³ See A. Rajogopalan, *op. cit.*, para. 165.

this situation is likely to be only temporary, for more elaborate regulations now being studied may give the insurance concern a more active role in this sphere.

187. The measures taken in Iraq and Ceylon are at any rate more flexible. In Ceylon, the Insurance Corporation of Ceylon pursues an investment policy based on directives given by the competent Minister, in agreement with the Minister of Finance. It may also make loans secured by the policies written. In Iraq, these functions devolve on the State Insurance Organization, which is a holding concern.

188. Whereas the cases just mentioned relate rather to current administrative practices than to statutory regulations, in Costa Rica it is the law which expressly requires the National Insurance Institute to carry out its investments in such a manner as to ensure the greatest possible security and profitability. It also provides that not more than 25 per cent of the free reserves may be invested in public debt securities. Loans made to the Government, municipal authorities and other public or private institutions must be covered by real security. In contrast to the other countries mentioned, Costa Rica appears to have sought by this means to stress the independence of the management of the nationalized insurance concern vis-à-vis the State machinery and governmental financial policy.

189. In Egypt there is a fairly wide choice of categories of investment, which appears to be exercised in accordance with general guidelines laid down by the EGIO, the holding concern. Acceptable investments include the usual items, in particular, immovable property, mortgage loans, securities and policy loans.

E. Rules concerning the valuation of investments

190. The correct valuation of assets may be regarded as the corollary of the correct valuation of commitments. For this reason, most developing countries which require supervised concerns to observe certain rules in calculating their technical reserves also require that the property or claims allocated as cover for these reserves are entered in the balance sheet at values determined in accordance with rules more strict than those laid down in the provisions of the general law.

191. There does not appear to be any difference between the system for determining the value of assets specially allocated to cover the reserves and that for valuing the other assets; moreover, as will be seen later, the special allocation of certain assets is not often required. Only a few African countries, whose rules are based on French legislation, and a few South American countries, require the technical reserves to be expressly covered by specific assets and such allocation to be clearly shown in the concern's balance sheet and accounts. But even in these cases the rules for the valuation of assets do not differ according to allocation and the example of the regulations in force in this regard in some Western European countries⁶⁴ is very rarely

followed. Certain exceptions are to be found, however, in Mexico and Venezuela.

192. It is important to note, moreover, that many of the developing countries mentioned in paragraph 191 above have no domestic insurance companies; the only assets available for investment are those corresponding to the technical reserves of foreign concerns; there would therefore be no point in having two sets of regulations.

193. The value of certain assets and claims may be determined immediately without any difficulty; this applies to policy loans, liquid assets or short-term claims which are normally treated as having their nominal value. In the case of negotiable securities and immovable property, on the other hand, at least two valuations are possible: one based on the purchase price and the other on the market value. The market value of negotiable securities may be determined directly if the securities are quoted on the stock market, in which case the value which will be taken into consideration is the quoted market price unless the purchase price is lower. This is the system adopted in Cameroon, the Central African Republic, Chad, the Ivory Coast, Dahomey, and Madagascar. In these countries, unquoted securities are estimated at their nominal value; immovable property is valued at its purchase or cost price, less annual depreciation, the rate of which may vary from country to country but which lies between 2 and 3 per cent. In certain contentious cases its value may also be determined by arbitration. The shares of real estate companies are valued according to rules which are not in many cases laid down by the supervisory authority.

194. Similar regulations are also widely applied in the countries of North Africa. In the Middle East, the insurance law of Jordan empowers the supervisory authority to issue rules concerning the valuation of funds allocated to cover mathematical reserves, while the systems in force in Lebanon are not confined to insurance concerns—they are laid down by the general law, which requires the valuation of assets to be supervised by auditors, one of whom must be appointed by the commercial court.

195. In Asian countries valuation is subject to certain rules but they do not appear to be very stringent on the whole: in some countries, the purchase price alone is taken into account, without considering the market price at the time of the valuation. However, allowance must be made for any depreciation (Pakistan). In India, where the concerns are allowed considerable discretion in valuing their assets, it is nevertheless provided that the values shown in the balance sheet shall not exceed the market values on the date of the balance sheet. Unfortunately, the regulations do not specify the method of valuing securities for which there is no market giving them an immediate sale value.

196. The rules applicable in the Philippines are much more strict. They distinguish, for example, between directly owned real estate, which must be valued at the purchase price, and real estate acquired as a result of the non-repayment of mortgage loans covered by insurance concerns. The latter assets may not be shown in

⁶⁴ See OECD, *op. cit.*, paras. 104-106.

the balance sheet at a value higher than the outstanding balance required to cover the amount of the mortgage. Shares and bonds must be accepted at their nominal value ("amortized or redemption value on fully secured bonds"), or at their negotiable value ("market value") or, in the case of shares issued by other insurance concerns, at the value assigned to them by the latter in their accounts. Mortgage loans may be shown at no more than 60 per cent of the market value of the property on which they are made in the case of urban property and 40 per cent in the case of rural property. Furthermore, loans against a transferable security may also not be valued at more than "75 per cent of the actual market value of pledged shares of stock, common or preferred, of solvent corporations or institutions created or existing under the laws of the Philippines".

197. These laws reveal a constant concern to ensure that assets are valued in a conservative manner, so that when they have to be realized, they are at least equal to the commitments they are supposed to cover. This same concern is found mainly in the laws of some Latin American countries; Argentine law is particularly detailed on this point. It broadly follows the Philippine rules described above, but is more specific. With regard to buildings, for example, 82.5 per cent must be written off within thirty years of the date of construction and 100 per cent written off within fifty years. Furthermore, the valuation of immovable property must take account of a capitalized income of at least 4.5 per cent; if the income actually earned is lower than this percentage, the book value of the property must be reduced proportionally. It may be considered surprising that this rule should apply to immovable property only, in view of the fact that life insurance premiums are calculated on the basis of a specific yield from the mathematical reserves accumulated by the concern; if this yield were not generally obtained, the premiums would be insufficient and the concern's financial equilibrium would be endangered. A special feature of the Argentine system is the existence, mentioned earlier, of different reserves to offset depreciation in the value of investments. These reserves, constituted mainly by profits from the sale of assets, play a characteristic stabilizing role.

198. The Mexican regulations are substantially the same as those of Argentina. Those of the other Latin American countries are less strict. Those of Paraguay, for example, are very liberal; in principle, insurance concerns must observe the general rule that both the assets and the liabilities shown shall reflect real values and that the profit-and-loss account shall show the true results of operations. The law of Paraguay, however, empowers the supervisory authority to establish specific rules and uniform criteria for valuation. But, until relevant administrative regulations are made, only general principles will apply, and experience has shown that the application of such principles may give rise to subjective interpretations leading to divergent results. It is worth mentioning that the principle referred to above is, explicitly or implicitly, the basic criterion applied by many countries whose insurance law is based on the United Kingdom system.

F. Rules concerning the deposit of securities or cash allocated to cover technical reserves

199. Reference was made early in this chapter to the deposits which insurance concerns in some countries are required to make as security for their contractual commitments. Some of these deposits may be constituted, wholly or in part, by assets specifically allocated to cover the technical reserves. In practice, when deposits are required, the insurance law does not as a rule allocate them to any particular liability. As the Philippines points out, ("all assets of the insurance concern are answerable for all commitments indiscriminately—that is without benefit of earmaking a particular asset for a particular commitment"). It may therefore be assumed that the funds deposited are drawn preferably from funds set aside as technical reserves and that the share capital and free reserves which may also be used are at best only a supplement intended to satisfy the legal requirements when the technical reserves have not yet resulted in the formation of sufficient assets. This appears to be true particularly in the case of foreign concerns which do not wish to invest more than is legally necessary in the country in question.

200. In some countries, however, the law requires concerns to deposit with a bank or with a particular financial institution assets which are specifically earmarked to cover technical commitments, regardless of any other requirement to deposit part of the concern's property. Thus in Colombia, the assets in question must be deposited in an account in the Bank of the Republic in the name of the Superintendente Bancario (Banking Superintendent). The securities deposited may be replaced by other guarantees approved by the supervisory authority, and the interest and other income from these securities may be withdrawn periodically. A similar regulation exists in Guatemala.

201. In some countries, the deposit only of assets covering a certain category of reserves is required. Thus in Peru assets covering the mathematical reserves and reserves for employers' liability insurance must be deposited. In other countries, such as Guatemala, only Government securities are subject to deposit. In Brazil, only registered securities are required to be deposited with banks. They must be registered with the issuing institution as being allocated to cover the concern's commitment; such allocation must also be recorded by the supervisory authority.

202. Outside Latin America, the obligation to make a special deposit in respect of technical reserves is fairly rare. Morocco and Egypt are apparently the only African countries requiring this. In Morocco, the assets are deposited with banks; they may be released only with the authorization of the Ministry of Finance. In the Egypt, this authorization is given by the EGIO. In Kuwait, the assets which must be retained in the country are also required to be deposited with a local bank, in the name of the concern, and to the order of the Minister of Trade and Industry. Investments in immovable property must be covered by a mortgage in the name of the same Minister (as already pointed out, however, these assets may be replaced by a bank guarantee).

203. As already explained, the deposit requirement usually relates to assets which are not allocated to cover particular commitments. Such deposits are generally of fixed amounts, unrelated to the concern's volume of business; consequently, they may not suffice to cover the technical reserves. India, for example, requires a deposit of Rs.150,000, 250,000 or 350,000 depending on whether the concern's business covers one, two or three of the main classes of insurance. In Hong Kong, the deposit required for motor vehicle third party liability insurance is HK\$200,000 (in cash or securities authorized by the Accountant General; this deposit must be maintained until the authorities consider that the concern has achieved sufficient financial stability or until it has ceased writing the particular class of insurance and has met all its commitments). In Jordan, and Lebanon, and in Laos, Malaysia, Pakistan and other Asian countries, similar rules exist which differ in substance only as regards the size of the deposit required. In the Republic of Korea, the deposit requirement for domestic concerns is applicable only when the Finance Minister deems it necessary, whereas in the case of foreign concerns deposit of the sum of 20 million won is compulsory. A requirement applying especially to foreign concerns exists also in the Philippines, where domestic concerns appear to be practically exempt from any deposit requirement.

204. In the Latin American countries, the deposit

requirement is important mainly in the Caribbean area, where United Kingdom practices are closely followed. Deposits are required of concerns underwriting motor vehicle insurance in particular. In Barbados, the deposit amounts to \$48,000 East Caribbean Currency, in Jamaica to \$20,000, and in Guyana to \$50,000; these deposits may be made in the form of securities or cash; in some countries, they may be replaced by a bank guarantee. In other Latin American countries, the regulations usually call for smaller deposits. In Argentina the deposit requirement is rather theoretical; in Bolivia, the amount required is 30,000 pesos, which must be deposited with the Central Bank of Bolivia. In the other Latin American countries there appears to be no deposit requirement or else the deposit required is relatively small. As regards the African countries, the case of Ghana and of the countries members of CICA has already been mentioned and calls for no further comment.

205. To sum up, therefore, the obligation to deposit assets is rarely related to the amount of the concern's commitments, i.e. the technical reserves. In most countries, when deposits are required, they are constituted by a set sum consisting of assets covering the technical reserves. When the latter are insufficient, they are supplemented by the share capital and free reserves. As the technical reserves increase, they are exempted from the deposit requirement to the extent that they exceed the total amount which has to be deposited.

Chapter VII

TECHNICAL, COMMERCIAL AND FINANCIAL MANAGEMENT OF INSURANCE CONCERNS

A. General remarks on portfolio management

206. It is generally acknowledged that correct rating of the risks insured is the basis of any insurance concern's financial equilibrium. The principal aim of insurance legislation is to ensure such equilibrium. It is therefore important to consider what measures are adopted in developing countries to see that the premium rates are adequate to cover the risks insured. It also appears useful to recall that the reserves are built up from a given proportion of the premiums, and that if the reserves are to be adequate to meet future contractual liabilities the premiums must be adequate also.

207. Some insurance laws expressly recognize that correct rating of risks is the cornerstone of an insurance concern's solvency. The Argentine law, for example, requires the supervisory authority to inspect company tariffs and lay down uniform minimum rates so that the stability of the market and the solvency of insurers is not impaired, adding that objection will be made to "inadequate" tariffs, as well as to any that appear abusive or arbitrarily discriminatory.

208. Other laws seek to attain similar objectives by limiting the amount spent by supervised concerns on the acquisition of new business. Others restrict the freedom of insurers to offer rebates or discounts to the insured in the form of a share in the agent's commission, for instance. Colombia's law, for example, prohibits any benefits or terms not specified in the policy and rebates or concessions of whatever nature, other than recognized fees or commissions paid to companies' authorized agents. These provisions indicate the authority's intention to enforce a degree of discipline on the market and to restrain possible unfair competition by very powerful or unscrupulous concerns.

209. The capacity of supervised concerns to retain business, in other words the share of the risks that they can effectively bear themselves and that which they cede to reinsurers, raises similar problems. There is obviously a connexion between keeping risk amounts in a given insurance portfolio to a uniform level and reducing the statistical deviation of that portfolio. At first sight, however, the relationship between these deviations and the price the insured is asked to pay for coverage of a given risk is less apparent. Nevertheless, when the circumstances of a given portfolio make it impossible to apply satisfactorily the law of large numbers, losses due to statistical deviations can be eliminated, not only by ceding to a reinsurer a share of the larger risks, but also by adding

to the premiums a loading for contingencies which will necessarily affect the cost of the insurance.

210. Concerns do not, however, fix their premiums on the basis of the portfolio balance they wish to achieve and the reinsurance treaties they intend to conclude. They adopt rather the reverse process, in other words they retain or reinsure more or less depending on whether the conditions of the insurance market permit loading the premiums beyond the price which is adjusted to the risk. This is reflected by the fact that insurance concerns seek to retain business in those classes of insurance which are most profitable and to cede to reinsurers, whenever possible, the less economic risks. However, reinsurance possibilities are not unlimited and placing some risks with reinsurers may in certain cases prove very difficult. One cannot lay down any general principles in this regard. The nature of a given market (competition or monopoly), its elasticity and the measures taken by the supervisory authorities with regard to tariffs play a determining role in the policies adopted by insurance concerns as regards maximization of profits and stabilization of results.

211. In some countries insurance companies are less concerned to adjust their premium rates than to balance the portfolio results with investment income. "The most successful property insurance companies in the past ten years have not been those who distinguished themselves by selective underwriting and control of losses, but those whose investment departments fully appreciated what was happening and governed the investment of their securities accordingly."⁶⁵

B. Control of premium rates by the supervisory authority

212. Premium rates are controlled in a fairly large number of countries. In principle, the insurance concerns take the first step, by submitting their proposals to the supervisory authority, which approves them or requests such changes as it considers necessary. In practice, however, tariffs for several classes of business including some of the most important ones are not drawn up separately by the individual concerns but by national associations of insurers or "tariff committees"; in this case, a concern adopting the common tariff has the tacit approval of the supervisory authority.

⁶⁵ See A. B. Kelly, "The Effect of Inflation on Insurance" in *International Insurance Monitor* (New York), vol. XXII, No. 12, December 1968, p. 343.

213. Any revision of the tariffs or their adaptation to new risks is usually dealt with by the insurers' associations and the supervisory authority. Since the determination of premium rates calls for the utilization of the largest possible amount of statistical data, it is probably felt that an association of insurers will possess a broader statistical experience than any single insurer. Even the experience of a whole country may sometimes be inadequate, or difficult to obtain; mortality tables, for example, which are the basis of life assurance tariffs, are rarely drawn up in developing countries and the companies therefore rely on tables prepared in other countries on a broader statistical basis; these may subsequently be adjusted to take account of local conditions. The same method is applied to the tariffs for other classes of insurance, which may be based on French, United Kingdom or other data. In some cases, reinsurers or groups of reinsurers, usually foreign, may more or less openly insist on a particular tariff. This applies fairly commonly in covering substantial risks in industry and in the case of war risks in marine insurance, where the London market may be said to dictate terms.

214. Whatever the technical basis or the origin of the tariff, the national associations of insurers are often required to submit them to the supervisory authority. This is the case, for instance, in Asia: in Pakistan, the Philippines and China (Taiwan) (where, however, life insurance rates are submitted separately by the companies to the Minister of Finance); in Africa: in Madagascar, Cameroon, the Ivory Coast (where, however, the drawing up of tariffs is left to the French professional associations and the role of the Ivory Coast authority is confined to supervising their application); in Latin America: in Argentina, Bolivia, Colombia, Guatemala and Brazil (where the National IRB appears to play an important role in drawing up the tariffs). Other countries, such as Mexico and Venezuela, appear to have similar arrangements, but the information available only mentions the powers of the State with regard to the approval of tariffs, without specifying the role of the associations of insurers.

215. In some countries, the supervisory authority refrains from interfering in the tariff structure except in connexion with compulsory types of insurance. The following are examples of this situation as regards the motor vehicle insurance tariff: Israel, Kuwait (where the Ministry of the Interior, not the insurance supervisory authority, is responsible for the implementation of the traffic law), Laos, the Central African Republic, Dahomey (where the 1958 French colonial tariff has been retained), Madagascar (where "agreements between insurance companies relating to tariffs" must also be submitted to the responsible Ministry for prior approval), Mauritania, Senegal, Tunisia, Egypt (where tariffs for the compulsory third-party motor vehicle insurance were established by a 1955 Act) and Upper Volta.

216. Generally speaking, countries whose insurance law is based on the United Kingdom system refrain from interfering in tariff matters and the concerns are free to decide these matters. However, while in principle

this may be the case, in India, for example, the tariffs are in fact drawn up by the Tariff Advisory Committee officially established under the Insurance Act of 1938, on which both the insurers and the supervisory authorities are represented. The latter are therefore able to give their views on any proposed tariff structure. The supervisory authorities participate perhaps more actively in drawing up the tariffs than in the case in other countries where direct State intervention is more formal than effective. It has already been pointed out in this connexion that "the Controller, as the Chairman of the Tariff Advisory Committee (rate-making body) has ample powers to ensure that the rates are fair to the consumer as a whole and fair *inter se*".⁶⁶

217. The Indian Insurance (Amendment) Act, 1968 thus expressly stipulated that "the premium rates should be fair". This requirement is to some extent fulfilled in some countries (including India and Pakistan) by the obligation placed on insurers to distribute a part of their profits to the insured. In practice, in the case of life insurance, the operating profits (surplus) must be returned to the insured in the proportion of 90 per cent; only 10 per cent can be allocated to the company's general profits account.

218. Apart from these provisions, it is important to consider the criteria on which the supervisory authority bases its tariff policy, and the information at its disposal for determining whether the tariff is adequate. An adequate tariff structure should reflect "the projection of past and current claims experience",⁶⁷ a projection which would take into account "adverse random variations and... fluctuations from changes in economic, social and technical circumstances."⁶⁸ These are rules that have even had to be recalled to underwriters of great experience at Lloyd's, whose Chairman emphasized the need to establish rates on the basis of "potential hazards rather than... past experience in a situation which was constantly changing".⁶⁹ What is involved here is in fact the whole problem of rating; neither the supervisory authority nor the insurance concerns themselves are always able to assess its full complexity. This lack of criteria explains why, irrespective of the powers conferred on them by the law, many supervisory authorities leave companies considerable liberty in tariff matters and only ask to be informed of the rates or the technical bases used for rating (as reported by Niger).

219. An important point to note is that the existing legislation is not always concerned solely to avoid too low a rating structure. In several French-speaking countries of Africa, when tariff agreements between insurers must be approved by the authority, the latter takes care to see that these agreements do not result in excessively

⁶⁶ See A. Rajagopalan, *op. cit.*, para. 167.

⁶⁷ See "A revolution in insurance accounting", in *Policy Holder Insurance Journal* (London), vol. 86, No. 39, 27 September 1968, p. 1491.

⁶⁸ See "Board of Trade policy formula; master-key or fallacy?" (*ibid.*, p. 1485).

⁶⁹ See H. S. Mance, Chairman of Lloyd's, London, "Lloyd's results: slow climb back", in *Policy Holder Insurance Journal* (London), vol. 89, No. 38, 19 September 1969, p. 1629.

high premiums, the consequences of which would have to be borne by the economy as a whole. It must also be borne in mind that the role of national associations of insurers in drawing up common tariffs may come into conflict with any anti-trust laws which may be in force (Mexico). Even in countries where there are no such laws, this purpose is evident in the supervision sometimes exercised over tariffs for compulsory classes of insurance, such as motor vehicle third-party or employer's liability, where the free play of competition, so far as it exists and results in a reduction of the real cost of insurance, may be distorted. This point is stressed in the Colombian law, which regards the insurance industry as "a basic sector in the economy and social welfare" and includes it in the list of industries in which "agreements or conventions limiting free competition are subject to discretionary authorization".⁷⁰ Article 23 of this Decree states that the Government intervention in price control for articles of primary necessity may extend to the price of services such as insurance.

220. Similarly, in Ghana, where the supervisory authority is not officially empowered to control tariffs, insurance concerns must nevertheless seek authorization before applying any general rate increase. In other African countries, the authority reserves the right not only to intervene if the rates are too low, but also, in the general interest, to set maximum rates.

221. In countries where insurance is nationalized, rate-fixing is rarely left exclusively to the insurance concerns, although this is the case in Costa Rica and Ceylon. Elsewhere, the body supervising the nationalized concerns usually draws up or controls the tariffs in force. In Egypt, this role is performed by the EGIO except as regards motor vehicle insurance rates, which are fixed by an Act of 1955 and in Iraq it is performed by the State Insurance Organization and its Technical Committees; in the Syrian Arab Republic, the approval of the Ministry of Economic Affairs and Foreign Trade has to be obtained.

C. Supervision of management expenses and acquisition costs

222. Commission rates or other payments to producers of business are limited only in a small number of cases. The strictest regulations in this field are to be found, as might be expected, in the countries where the tariffs are controlled. Except in a few special cases in life insurance, where the commission is fixed as a proportion of the sum insured, commissions are usually related to the premium income brought in, and may take a quarter, a third or more of the premium. After claims, commissions paid are the most important item in the running expenses of an insurance concern, and it is not surprising that in some countries the law should seek to limit them.

223. Among the countries with regulations on this subject are Tunisia, the Syrian Arab Republic and

Argentina. In Argentina, the rates of commission payable to intermediaries are fixed by the supervisory authority for each class of insurance except life insurance, where commissions are not regulated. In Dahomey, there are no detailed regulations, but the concerns are required not to exceed an over-all rate of commission of 30 per cent of premium income. In a few countries, only motor vehicle business is regulated in this respect. In Morocco, the supervisory authority allows a maximum of only 18 per cent for agents and 15 per cent for brokers. In Tunisia, commissions on motor vehicle business are subject to an upper limit. In a few Asian countries, there are more or less strict and more or less far-reaching regulations; this is the case in China (Taiwan), Israel, the Republic of Korea, Pakistan, Thailand and India (where the commission for marine insurance was recently increased from 10 to 15 per cent). The matter is under consideration in Mauritania and in other African countries where the law empowers the supervisory authority to issue regulations on the subject.

224. The requirements laid down by the supervisory authority in Argentina have already been mentioned. Among the other Latin American countries, in Paraguay commissions in the principal non-life branches (fire, motor vehicle, transport) are covered by regulations. Other countries only require to be informed of the terms of contracts between concerns and their agents; this is the situation in Bolivia, Brazil, Mexico (where the supervisory authority's prior approval of the terms must be obtained) and Panama (where a detailed list of commissions paid must be submitted every year). In Brazil, the new Act of 1966 recognizes the need to control commission rates since the claims ratio has become consistently favourable to the insurers, who tend to offer commissions which are sometimes excessively high and in turn lead to substantial premium rebates being offered to the insured.

225. It does not appear that any similar control is exercised in these countries over the management expenses of the concerns subject to supervision. The difficulty in applying such control, and the rigidity that regulations of this nature might entail in the administration of the concerns, were no doubt factors in the exclusion of such measures from the legislation. Morocco, however, is an exception: a Ministerial Order of 1967 imposed a management expense ceiling of 27 per cent of the premium income for insurance companies in the motor vehicle branch, which they may not exceed under penalty of withdrawal of their licence. There is no information available on the exact nature of the expenses covered by this limitation. In India, under the 1950 Amendment Act, the management expenses of insurance concerns are subject to a limit based on the volume of premiums and the classes of insurance handled. In fire and miscellaneous insurance, for example, management expenses on the first million rupees of premiums may be 35 per cent; this percentage goes down progressively to 20 per cent for a premium income exceeding 4.5 million rupees. In marine insurance, the scale of management expenses starts at 25 per cent for the first half million rupees of premium income and goes down to 15 per cent for an amount over 2.5 million rupees.

⁷⁰ Decree No. 3236, 1962.

226. There are other restrictions in some countries when branches or agencies of foreign concerns are charged or debited for part of the management or administration expenses of the head office. In Morocco, for example, this procedure must be specially authorized. In Tunisia, the concern must produce a certificate issued by the Direct Taxation Department, as well as accounting vouchers. In Israel and Pakistan, these expenses must not exceed 5 per cent of gross premiums. In Brazil and Guatemala expenses of foreign head offices may not be borne by local agencies. Although the laws of the other countries are silent on the subject, tax authorities may object to the procedure.

227. Other limitations may concern the initial organization and installation expenses of newly-established insurance concerns. In Brazil, these expenses may not exceed 10 per cent of the paid-up share capital.

D. Supervision of retention limits and reinsurance cessions

228. Little information is available on the terms the supervisory authorities may impose with regard to fixing of retention limits. There would seem to be few countries having restrictions of this nature; in other words, in most countries, when a concern accepts a particular risk, it is free to carry the whole of that risk itself or to share a freely-decided proportion of it with a reinsurer.

229. The proportion retained by the concern and the excess reinsured are normally a function of the size of the risk and the standing agreements the company may have with its reinsurers; in theory at least, the sharing of risks should be determined according to the number and size of the risks making up the company's portfolio, the safety margin added to the pure premium and the accumulated free reserves, in such a way as to dispose of those commitments which do not allow the law of large numbers scope to operate most effectively.⁷¹ The difficulties of this problem are such that most concerns rely on more or less satisfactory empirical methods. Doubtless for the same reasons, the supervisory authorities refrain from any interference in this question, although it is extremely important and mistakes may affect not only the stability of a concern but even a country's balance of payments in the event of excessive recourse to reinsurance abroad.

230. Apart from the difficulty of determining the most suitable retention limit, there may be other problems in reinsuring; it may happen that no reinsurance concern is willing to accept the terms of the policy issued by the ceding concern, or the international reinsurance market

⁷¹ It has been shown that for the application of the law of large numbers to give fully-balanced results in present market conditions and on the normal scale of risks underwritten, the number of contracts must reach a figure of several million. (See for instance J. Sousselier, "Some technical aspects of reinsurance-balance of results", in *The Review* (London), Vol. 99, No. 4625, 15 November 1968, p. 1337. The author of that article takes the precaution of pointing out that "the law of large numbers does not give us the certitude—but only a probability—that the relative (not absolute) deviations will not exceed a certain limit".

may not have the necessary capacity to absorb certain risks. Such difficulties would tend to inflate retentions. Conversely, reinsurance concerns might be so eager for good risks that they might use professional, technical or even financial arguments to hinder the insurance concern's utilizing its full retention capacity.

231. These numerous problems no doubt explain why the insurance laws have not attempted to settle these difficult and important questions. Brazil, however, has made certain regulations in the matter, through the supervisory authority (Superintendencia de Seguros Privados) one of whose functions is precisely "to approve limits for the operations of insurance concerns, in accordance with criteria laid down by the National Private Insurance Board".⁷² The main purpose of this body is "to set guidelines and general principles for private insurance";⁷³ it therefore has to develop criteria for "determining the legal and technical limits of insurance operations".⁷⁴

232. The IRB has a predominant role in this sphere. One of its functions is "to promote the full utilization of the capacity of the national insurance market".⁷⁵ It therefore has to deal with the question of retentions, as well as Brazilian reinsurance as a whole; it reinsures practically all risks which exceed the capacity of the direct insurance concerns operating in Brazil. The two operations are therefore complementary and it is therefore natural that the authorities should ensure that they are carried out with regard to the interests of the country's insurance industry as a whole. Article 79 of the legislation referred to forbids concerns

"to retain commitments exceeding the technical limits prescribed by the supervisory authority in accordance with the criteria approved by the National Private Insurance Board, which shall take into account: (a) the economic and financial situation of insurance concerns, (b) the technical conditions of their respective portfolios, (c) the results of their transactions with the Reinsurance Institute of Brazil".

233. In a few countries, the structure of the reinsurance market resembles in some respects that of Brazil; this is the case in Argentina, for example and, to some extent, in countries where insurance is entirely nationalized. In Colombia, insurance concerns may reinsure abroad only up to 40 per cent of their premium income. These restrictions lead to larger individual retentions by the concerns and a better utilization of their true capacity. The same effects are probably achieved by the concentration measures adopted in Morocco (see above, paras. 49-50). It has already been pointed out that from the standpoint of risks insured a concern's retention capacity usually grows more rapidly than the premiums written. It is also with a view to stimulating an increase in company retentions, that Honduras levies a charge

⁷² Decree No. 73 of 21 November 1966, on the National Private Insurance System, article 36 (d).

⁷³ *Ibid.*, article 32 (5).

⁷⁴ *Ibid.*, article 32 (xi).

⁷⁵ "Promover o pleno aproveitamento da capacidade e do mercado nacional de seguros". *Ibid.*, article 44, I, (j).

of 10 per cent on all premiums for reinsurance ceded abroad. Lastly, in Mexico, article 37 of the General Law on Insurance Institutions imposes very strict limits on ceding to non-approved foreign reinsurers: the amount of the premiums ceded to such concerns may not normally exceed the amount ceded to approved concerns.⁷⁶

E. Requirements concerning the preparation of balance sheets, accounts and official reports

234. The special laws relating to insurance deal at best only in a subsidiary fashion with the accounting methods of insurance concerns. The manner in which accounts and balance sheets must be drawn up is generally covered by commercial codes and legislation which apply to commercial and financial enterprises of all kinds, including insurance concerns. The accounts of an insurance concern differ, however, from those of other financial enterprises in that most of its liabilities are of a more aleatory nature, because the technical reserves become a true liability only if and when claims arise. This transition from uncertainty to certainty comes about virtually as a matter of course when the number of risks has become sufficient to diminish the importance of each one in relation to the total number. Accordingly, there is no reason why the accounts of an insurance concern should be excepted from the usual standards laid down.

235. In most of the countries under consideration, insurance concerns must keep up-to-date accounting records (journals, ledgers, etc.) and must periodically draw up a balance sheet and profit and loss account. They have to follow the general principles of accounting, the purpose being "to show the assets and liabilities and determine the over-all result of operations over the accounting period... and the final net result..."⁷⁷

⁷⁶ The regulations concerning the technical and commercial management of insurance concerns in force in the countries of Western Europe may be summarized as follows: in most countries, the concern is required to submit to the supervisory authority—in some cases for information, in others for prior approval—some or all of the following: premium rates, technical bases, reinsurance arrangements and any modifications thereof (See OECD, *op.cit.*, paras. 67-69 and 130-131). In some countries special returns must be made periodically to enable the calculation of the technical reserve to be verified. In most countries there are associations of insurance concerns whose purposes include collecting statistics, determining agreed premium rates for certain risks and establishing standard policy conditions. Although freely established, such bodies may in some countries be required to exercise official functions under the government (*ibid.*, paras. 257-258).

Some countries require the premiums to be "equitable". Sometimes the Minister or supervisory authority is empowered to fix the rate of remuneration of agents and brokers. In most countries, apart from general measures designed to prevent unfair competition, there are no legal restrictions on competition between insurance concerns. In some cases, however, the law may prohibit any inducement to clients to cancel a policy in order to take out another, offering any special benefits to the applicant for an insurance policy or any attempt to discredit rival concerns. There is not usually any provision for supervising the management costs of the concerns; in some countries, however, the supervisory authority has power to take action in case of need (*ibid.*, paras. 132-134 and 255-256).

⁷⁷ See M. Montador, Paris: "Réflexions sur la comptabilité des sociétés de réassurance", in *La Réassurance* (Paris), No. 620, October 1969, p. 345.

236. In many countries, the law does not go beyond these requirements, and they may be formulated in such a way that the concerns are free to arrange their accounting system in the manner which suits them best. In Sierra Leone, for example, the law refers only to the need to keep the "books of accounts necessary for the conduct of business", without specifying what books. In certain cases, in markets where foreign concerns operating through local agencies are still predominant, no accounts relating to local operations have to be kept or are required by the supervisory authorities. This was the situation in Nigeria, for example, until recently. The commercial codes generally require, however, that a certain minimum of records be kept and sometimes include also a special requirement that insurance concerns keep a certified record of premiums underwritten or cancelled, claims submitted, settled or outstanding and a statement of assets representing the technical reserves. Such provisions are found, in particular, in those African countries whose laws are based on those of France.

237. A question arises, however, with regard to the suitability of the rules laid down by the supervisory authority in these countries for achieving the stated purposes of the law. While this is a question rather of the working methods of the supervisory authority than of accountancy, it seems necessary to draw attention to the discrepancies which may exist in countries such as the Ivory Coast, among others, between a statutory provision requiring concerns carrying on business in the Ivory Coast... to produce... all such documents as will permit supervision of their financial situation and their operations⁷⁸ and the implementing legislation; which merely requires the production of a balance sheet, a general profit and loss account and a statement of assets.⁷⁹ In other words, the question is how far those documents alone permit "supervision of the financial situation" of insurance concerns.

238. Study of this problem leads not only to consideration of the methods of control practised by insurance management but also to an examination of the factors that might enable this control to be more effective. It is generally recognized that control can only be exercised on the basis of an analytical accounting system which, as distinct from a general accounting system, should:

"(1) reveal any factors which can help to determine or improve the technical conditions...; (2) make possible analysis of the operating results, observation of any changes therein, comparison of the results with forecasts or pre-established norms and analysis of variations and investigation of their causes; (3) furnish the concern with bases for the evaluation of particular items in its balance sheet (e.g. technical reserves)"⁸⁰

239. The trend of regulations would seem to be in this direction in such countries as Israel, Kuwait

⁸⁰ Ivory Coast, Ministry of Economic and Financial Affairs, Directorate of Insurance, *Législation sur l'assurance en Côte d'Ivoire*, Act No. 62-232, 23 June 1962, p. 18.

⁷⁹ Order No. 2210 of 19 October 1962.

⁸⁰ M. Montador *op. cit.*, p. 346.

and Pakistan (in Asia) and Argentina, Brazil, Costa Rica and Mexico (in Latin America), which require concerns to keep accounts of a more or less detailed analytical character and place them at the disposal of the supervisory authority. For purposes of illustration; the following are the statistical and accounting documents which must be drawn up by insurance concerns and supplied to the supervisory authority in Israel every year:

(1) Life-revenue Account (showing operational profit or loss, gross and net of reinsurance).

(2) Non-life (except marine and air) (showing operational profit or loss, gross and net of reinsurance).

(3) Marine and air (showing operational profit or loss, gross and net of reinsurance).

(4) Statistical business profit and loss account (covering revenue and expenditure not included in underwriting accounts as under 1-3).

(5) Reconciliation sheet covering discrepancies, if any, as compared to balance sheet.

(6) Life-amount of business in force, new policies issued, policies paid, lapsed, cancelled—separately for each category.

(7) Life-mathematical reserves, specifying factors and formulae used—for each category.

(8) Specification of income from investments (interest, dividends, capital gains and losses, etc.).

(9) Specification of expenditure (salaries, office expenses, auditing, legal advice, local taxes, head office expenses in case of foreign companies, etc.).

(10) Assets in Israel (to be completed by foreign companies only).

(11) Specification of bonds (date of purchase, interest, nominal and market value, etc.).

(12) Specification of mortgages (debtor, amount, interest, terms of payment, etc.).

(13) Specification of loans (except loans against Life policies and mortgages)—(particulars as under 12).

(14) Specification of real estate investments (description, date of purchase, original value, present value, etc.).

(15) Specification of shares and loans owed by subsidiary companies.

(16) Specification of bank balances and cash in hand at end of each month.

(17) Specification of assets held against (a) life funds, (b) unearned premiums—general business and (c) share capital and free reserves.

(18) Principal terms of reinsurance treaties.

240. Other countries require only "revenue accounts" to be drawn up and submitted to the supervisory authority. These accounts are usually kept separately for each main class of insurance handled by the company. In Ceylon, for example, the operating accounts have to be drawn up for life, fire, transport, and accident insurance and accepted reinsurance. The laws of India, Nepal, Jamaica, Cameroon and Egypt contain similar requirements. In other countries the supervisory authority can demand certain statistics; in Colombia, for instance, it asks for a half-yearly statistical report. In other countries concerns have to keep their accounts and draw up statistics in conformity with an accounting scheme established by the supervisory authority. Differences between countries in this regard are often more apparent than real and sometimes are only a matter of terminology.

241. Although not a matter of statistics or accounting, it is necessary to mention various legislative measures which make the advertising material of insurance concerns subject to State control. Mexico has instituted such a form of supervision, and also prohibits any reference in the literature of foreign concerns to their share capital or over-all reserves; only the figures relating to business carried on in Mexico may be published.

Chapter VIII

REGULATIONS REGARDING INCOMING REINSURANCE BUSINESS (ACCEPTANCES)

A. Introduction

242. Some information was given in earlier chapters concerning reinsurance business carried on by insurance concerns subject to government supervision. In paragraphs 81-83, it was indicated that contractual relations with reinsurance concerns were sometimes subject to restrictions and that the contract under which an insurance concern unburdened itself of part of the risk might have to be approved by the supervisory authority. In paragraphs 152-154 it was pointed out that some laws explicitly or tacitly required the ceding concern to maintain on deposit the technical reserves corresponding to the reinsurers' commitments. Chapter VII referred to regulations designed to limit the amount of business underwritten by direct insurers and fix the proportion to be ceded to reinsurers.

243. Almost all the questions dealt with earlier relate to the cession of risks, or what are commonly known as passive reinsurance transactions. The present chapter will examine the laws and regulations of developing countries concerning active reinsurance, i.e. operations aimed at the acceptance of all or part of the insurance commitments underwritten by another insurance concern. These provisions apply in particular to concerns carrying on reinsurance business exclusively and therefore known as specialized reinsurers. However, some of them apply also to concerns which, although their main business is direct insurance, also accept risks ceded to them by other concerns. Many concerns operate in this way, concluding reciprocal reinsurance agreements among themselves. As a result of these exchanges, each of them is both a passive and an active reinsurer.

B. Specialized reinsurers (or professional reinsurers)

244. In considering the laws and regulations applicable to specialized reinsurers, a distinction must be made between those applying to concerns in the public sector, which in practice or in law enjoy a total or partial monopoly of the reinsurance business in their respective countries, and those governing concerns in the private sector. Among those in the first category is the Reinsurance Fund in China (Taiwan); this is a government institution forming part of the Central Trust and operating under the direct supervision of the Ministry of Finance. Its operations are governed both by the laws and regulations applicable to all insurance concerns and by the Reinsurance Regulations, which define its functions. In the Republic of Korea, the Korean Reinsurance Corporation operates under a special law, the Korean Reinsurance Corporation Act. While Korean insurance

concerns may exchange excess risks among themselves, only the Corporation is allowed to do business with foreign reinsurers. In Chile, reinsurance activities are governed by similar principles; Act No. 4228, of 21 December 1927, and Decree No. 251, of 20 May 1931, give the monopoly to and specify the manner of operation of the (Caja Reaseguradora de Chile) Chilean Reinsurance Fund. In Argentina and Brazil, the reinsurance monopoly established by the State is much broader; insurance concerns are required to reserve all surplus in almost all the classes of insurance business carried on for the designated reinsurance concerns; consequently the exchange of business between companies within the country is not allowed. In Iraq and in Egypt the nationalization of direct insurance has had as its corollary the nationalization of reinsurance, which is carried on by institutions governed by special regulations, very similar to those applying to direct insurance concerns.

245. In other countries, institutions or "funds" in the public sector have only a partial monopoly of reinsurance; insurance concerns enjoy a free choice of reinsurers for that portion of risk which is not ceded compulsorily. This is the case in Cameroon, India, Iran, Mali, Morocco, Nigeria, Pakistan, Tunisia and Turkey. When activities in the same market are carried on simultaneously by the public and private sectors, this often leads to the establishment of uniform rules for the conduct of business applicable to both sectors. The only difference lies in the fact that the concerns are obliged to cede part of their business to public institutions whose management methods are quite often similar to those of private reinsurance undertakings.

246. Reinsurance institutions or funds in the public sector are generally based on special legislation which specifies both their purpose and the broad lines of their activity. Private reinsurance, on the other hand, is usually governed by laws applying to direct insurance concerns. The nature of reinsurance is regarded as comparable with that of direct insurance; in both cases there is compensation for risks within a given portfolio and part of the premiums is set aside to match the commitments underwritten. The fact that risks are in the one case underwritten directly for the consumer and in the other ceded by the insurer to a reinsurer is of no great importance. In this connexion, the Colombian authorities reported that reinsurance was governed in Colombia by rules which applied to direct insurance concerns, the insurance law applying by analogy, thus making it quite clear that in their opinion there is no essential difference between reinsurance and direct insurance, and that it is logical to apply the same laws and regulations and

the same government supervision to both. There are similar regulations in Morocco, Nigeria, Sierra Leone, India, Israel, Kuwait, Bolivia the Dominican Republic and Mexico.

247. Some of the provisions in these countries, however, cannot be applied in the same way by insurers and reinsurers; these include the rules relating to the establishment or investment of technical reserves. The reinsurer must obviously include in his liabilities the amount of his potential future commitments vis-à-vis the ceding concern, just as the latter deducts from its technical commitments the portion relating to the ceded risks. However, these commitments cannot be covered by investment by both the insurer and the reinsurer at the same time. The reinsurer is in fact exempt from any investment obligation if the ceding concern is required to make investments covering his total commitments and holds funds representing the technical reserves for the reinsurer's liability.

248. Thus, in Mexico, the approved reinsurance undertakings are required to establish technical reserves according to methods applying to insurance concerns generally, but the law does not oblige them to make corresponding investments, for that is the responsibility of the ceding concerns. In Cameroon, the ceding concern is required by the supervisory authorities to set aside the full amount of the technical reserves for its commitments vis-à-vis the insured, whereas the accepting concern (i.e. the reinsurer) is not subject to this obligation. However, as far as guarantees additional to the technical reserves are concerned, the above-mentioned countries do not usually make any distinction between reinsurance undertakings and direct insurance concerns. Mexico nevertheless makes an exception to this rule with regard to the *reserva de previsión* which must be set aside in non-life business and amount to 3 per cent of the net reinsurance premiums. This percentage must be set aside annually until the total reserve is equivalent to the minimum share capital or 30 per cent of the net premiums retained. Reinsurance undertakings are required to satisfy this requirement, except where in any financial year it would result in a loss.

249. A number of countries accept the principle of applying similar rules to reinsurance and direct insurance concerns, but recognize the impossibility of compelling reinsurers not situated in the country concerned to comply with the provisions normally applicable. Such reinsurers wholly or partly escape government supervision once market prospectation by mere agents or brokers on behalf of their principal has been allowed or—as is usually the case—once business is carried on between one country and another by correspondence or through periodic visits by head office representatives. Lebanon, however, imposes a number of obligations on foreign reinsurance concerns even when they are represented in that country only by an agent. These concerns must provide a bank guarantee of 200,000 Lebanese pounds and, like direct insurance concerns, they must obtain a licence, which is, however, adapted to the special conditions of reinsurance. This example shows that even countries which regard reinsurance as a specific

form of general insurance recognize that the rules applicable to direct insurance concerns cannot simply be applied automatically to reinsurers as well. Thus the Mexican law does not allow reinsurers to accept cessions from institutions or concerns on which they are financially dependent. Therefore a reinsurance concern which is a subsidiary or branch of a direct insurance concern could not accept reinsurance from the latter.

250. Many developing countries consider that reinsurance lacks the essential characteristics of direct insurance or that the justification for the adoption of special regulations for insurance concerns does not exist in the case of reinsurance undertakings. The basic purpose of such regulations being to protect the insured against poor management by the insurers, these countries have felt that such protection was unnecessary for the reinsurer as the latter has no direct relationship with the consumer but only with the direct insurer who, vis-à-vis the reinsurer, is the insured party, and who, in view of his experience of insurance matters, unlike the consumer does not need protection. Such protection is all the more unnecessary since, very often, technical reserves relating to business ceded remains in the hands of the ceding concern as long as the corresponding risks continue. Consequently, any possible financial failure on the part of the reinsurer would not have the effect that the insolvency of a direct insurer might have.

251. Most of the developing countries have adopted this approach to the activity of reinsurance concerns. This is due mainly to the fact that several countries of Western Europe—France in particular—which were the source of many of the laws of the developing countries, decided not to make reinsurance concerns subject to government supervision.⁸¹ This probably explains why almost all French-speaking countries of Africa have taken this position. Moreover, hardly any of the countries which regard their insurance laws as being inapplicable to reinsurance have a domestic reinsurance concern. For them this is a theoretical, rather than a practical problem. This probably explains why the replies of some countries to the question on this point in the 1967 questionnaire revealed some degree of uncertainty. Some supervisory authorities do not consider the problem definitively resolved. It will be necessary to await the establishment of domestic reinsurance concerns in order to see what orientation the national laws take.

C. Concerns carrying on both direct insurance and reinsurance

252. The supervision of reinsurance business accepted by direct insurance concerns is mainly governed by regulations applying to the concern in its role as direct insurer. In other words, reinsurance acceptances are regarded as part of the concern's normal business; from the legal point of view, they are treated in the same way as direct business. In Madagascar, for example, only those concerns authorized to underwrite life insurance

⁸¹ See OECD, op. cit., para. 20.

can accept reinsurance in that branch. In Israel, it is expressly provided that "reinsurance business accepted by direct insurance concerns operating in this country is treated as if it were direct business". The solvency of the concerns may in fact be affected either by the results of both direct business and accepted reinsurance; in recent years, reinsurance acceptances have contributed rather more to the deterioration in the results of many concerns in developing countries. Supervision of business as a whole is therefore amply justified.

253. Such supervision clearly does not apply in countries where insurance in general is not subject to any special laws or regulations, or in countries where reinsurance business is reserved for institutions in the public sector that are governed by special laws, even when they also do some direct insurance business as a sideline. It does not apply in countries which have no domestic concerns. Branches or agencies of a foreign concern operating in these countries usually confine their activities to direct insurance, while active or passive reinsurance

operations are handled by their head office. It will thus be seen that there are relatively few developing countries where reinsurance business is carried on by direct insurance concerns or is subject to supervision.

254. As was stated earlier, when such business is subject to direct supervision, this supervision, as in the case of direct business, involves certain requirements regarding the investment of reserves.⁸² Finally, in some countries there are laws which prohibit certain types of enterprises from accepting reinsurance business. In the Ivory Coast, for example, mutual societies may not accept reinsurance risks.⁸³ The Minister of Finance, however, may waive this rule.

⁸² In several countries of Western Europe, specialized reinsurance concerns are not subject to supervision; in others only domestic concerns are supervised; in others again, all concerns are supervised irrespective of nationality. When undertaken with direct business, reinsurance is generally subject to some supervision as the direct insurance. There are, however, exceptions to this rule (see OECD, *op. cit.*, paras. 19-21).

⁸³ Act No. 62-232, article 2.

Chapter IX

ORGANIZATION OF INSURANCE SUPERVISORY SERVICES IN DEVELOPING COUNTRIES

A. General

255. The laws and regulations on the formation, operation and winding up of insurance concerns have usually made it necessary to establish an administrative service to supervise their enforcement. These services generally come under a Minister with higher supervisory functions, i.e. the Minister responsible for the enforcement of the laws on insurance concerns. They are directed by a senior official, who is called the Directeur des Assurances, Insurance Supervisor, Insurance Commissioner, Superintendente de Seguros, and so on, according to the country. "The Controller of Insurance", the Indian Insurance Act states, "is the statutory authority to administer the Insurance Act". In Pakistan it is specified that he is "the officer through whom the Government exercises all powers vested in him by the [Insurance] Act". With certain differences in wording, this principle applies in most of the countries under consideration.⁸⁴

B. Legal basis of the insurance supervisory service

256. Provision is usually made for the establishment of a supervisory service and its operation in the insurance law itself. Article 114 of the Mexican General Insurance Institutions Act (*Ley general de instituciones de seguros*) for example, states that a specified Government department (actually the Secretaría de Hacienda y Crédito Público) shall be responsible for the inspection and supervision of insurance institutions; that holding an office in this department is incompatible with service as director, employee or agent of a supervised undertaking (article 115); and that a scrupulous inspection of insurance institutes shall be carried out not less than once a year unless special circumstances call for stricter measures (article 116). Article 118 defines the functions of the supervisory authorities, which are to ensure that all the provisions of the Act are strictly enforced; to audit the accounts of supervised concerns; to supervise the assets and their investment; to verify that the concerns' business transactions conform to the Act; to intervene in the winding up of concerns; to enforce the penalties

prescribed in the Act; to regulate the activities of agents; to compile and publish statistics on the organization and conduct of insurance operations in Mexico; to establish the necessary criteria for the calculation of technical reserves; to establish standard general conditions for certain contracts; and, lastly, to interpret the Act administratively, to exercise strict supervision (either directly or through an intermediate body) and to take all steps deemed necessary to ensure the stability of insurance concerns in Mexico" (article 118).

257. Legislation of this sort reflects the wish not only to regulate the insurance business but to do so efficiently. When one considers the range of difficulties which can arise in insurance concerns, due especially to the great diversity of the concerns, each of which has its own dimension and structure and management methods, the internal disputes liable to occur within a concern and the difficulty of precisely assessing all the factors which the supervisor must take into consideration, it is readily apparent that there is no easy solution to the problem of making the supervisory services really efficient. It is, in fact, these very difficulties which make supervision necessary.

258. In Latin America, some countries (Argentina, Brazil, Chile and Venezuela) have a conception of the role of the supervisory services similar to that held in Mexico, and their legislation thereon is couched in similar terms. Other countries, such as Colombia and Paraguay, entrust the supervisory functions to an administrative body which supervises other economic sectors (in those two countries, the banks) as well. The principle of supervision, however, remains the same. The powers of these services differ from one country to another only in so far as the legal provisions which they have to apply or enforce themselves differ.

259. All the insurance laws of the French-speaking countries of Africa and of the North Africa countries contain a section on the establishment of an insurance supervisory service. Following the French example, it is often called the Direction des Assurances and administratively comes under the Minister responsible for enforcement of the insurance laws. This is also the case in Madagascar; Ordinance No. 62-034, regulating insurance undertakings of all kinds and insurance operations, states that the insurance supervisory services shall ensure that insurance companies fulfil the requirements laid down in the law add that the conduct of insurance business is in conformity with the provisions of the regulations in force concerning

⁸⁴ Insurance supervision exists in all countries members of OECD. In most of these countries supervision in its present form was the result of gradual growth. In some of them it covered from the outset all classes of insurances. In others it originally concerned certain classes of insurance only and was later extended to all classes (see OECD, op. cit., paras. 6-8 and 259-261).

solvency. A later Decree (No. 62-668) specifies the powers of the supervisory service in greater-detail. As compared with similar services in other countries, the service in Madagascar has a special feature in that, jointly with the services of the Ministry of Finance, it deals with matters relating to investment and use of technical reserves. The supervisory service is also required to deal with questions and problems relating to prevention of and protection against accidents of all kinds. This reference to a role which is not directly related to the immediate objectives of the insurance law is evidence of the desire of the authorities concerned to reconcile the general national interest with the interest of the supervised concerns.

260. Among the countries mentioned above, the African and Malagasy countries members of CICA (see above, para. 21) have a special feature inasmuch as some or all of the powers traditionally vested in the national supervisory authorities are vested, not in those authorities, but in the Conference itself. This applies in particular to the licensing of new concerns. Reference was made in paragraph 43 to article 4 of the Convention, which states that "whenever an application is made for a licence . . . the technical study of the documents submitted by the undertaking in support of its application is carried out on behalf of all the signatory States, jointly, by the competent national authorities of the signatory State in which the undertaking has its registered office".

261. The CICA also plays a leading role in the supervision properly so called of concerns operating in at least four member States. The Convention sought to reconcile the requirements of over-all financial supervision, i.e. the supervision of all operations of the undertakings concerned and the supervision of the operations carried on in each country. The former type of supervision is vested in "the competent national authority of the signatory State in which the registered offices or headquarters of the insurance undertaking are located", whereas the latter is carried out by the national authorities of each signatory country.

262. The laws and regulations of the English-speaking countries of Africa also attach great importance to insurance supervisory services. In the Ghana Insurance Act, 1965, for example, the first of seven parts is wholly devoted to the competence and functions of the Commissioner. His functions include the following:

"(a) The registration of insurers which transact business in Ghana;

"(b) The formulation of standards in the conduct of the business of insurance with which insurers so registered must comply;

"(c) The recommendation to the Minister of regulations for the carrying out of Government policies relating to insurance;

"(d) The inspection of insurers as provided for in this Act;

"(e) The approval of standard conditions to apply to policies of insurance;

"(f) The superintendence of the conduct of insurance agents, insurance brokers and agencies which specialize in the handling of insurance claims;

"(g) The determination, with the prior approval of the Minister, of the rates of insurance in respect of all classes or any class of insurance; and

"(h) Such other functions as are assigned to the Commissioner by this Act or by regulations made thereunder."

263. In Ghana, as in all countries in which a directorate of insurance is established by law, the person designated to direct the service is nominated directly by the Minister responsible for the application of the law. This is usually the Minister of Economic Affairs or the Minister of Finance. This rule is not, however, universal. In Colombia, for example, the Superintendencia Bancaria is directly responsible to the President of the Republic and is attached to the Ministry of Finance only for budgetary matters. In most countries a complaint of action *ultra vires* against decisions of the supervisory services may be lodged with the administrative courts or the Supreme Court.

264. In the Asian countries formerly under British influence the competence of the insurance supervisory service and the promotion of the Commissioner to the rank of an institution are very similar to the African examples quoted above. Thus, at the time the insurance laws were enacted administrative government services were set up with various titles, such as Director of Insurance in Indonesia, Controller of Insurance in Pakistan and India, and so on. In most of the countries the connexions between the supervision and the law are so close that it is hardly conceivable that the law could be enforced if there were no supervision.

C. Supervision systems and methods

265. The differences observable between the supervision systems of the developing countries are due mainly to differences between the existing laws, and relate not so much to the objectives as to the means of attaining them. Insurance supervision and the administrative services exercising it are the instruments for the enforcement of the law, and it is therefore the law which largely dictates the form of the supervision system employed.

266. On the other hand, the differences in the manner of exercising supervision derive both from the principles of the insurance law and from the style of administration, which is generally inherited from the former colonial Power. In countries which have inherited British administrative structures, the very liberal attitude towards insurance concerns tends to be combined with very flexible powers vested in the supervisory services. The ideal in these countries seems to be: "While the regulatory officer (whether designated controller or otherwise) should have ample powers, mandatory rules and regulations should be kept to the minimum. Detailed laws and regulations may be available for countries which have a highly developed insurance industry, but in the

case of developing countries any rigidity would hamper the growth of indigenous companies and run counter to recommendation A.IV.23 of the United Nations Conference on Trade and Development. An infant insurance industry will need time and help to grow, and while the officer should ensure that the companies are well managed and do not fritter away their resources, they get time to build up strength. The insurers, particularly indigenous insurers, should be encouraged to look to him more as a friend, philosopher and guide than as a mere keeper of law and order. To inspire such an attitude the officer must have, in addition to technical competence of a high order, vision and judgment and, above all, sympathy with the aspirations of the local industry".⁸⁵

267. This, however, is an ideal situation which hardly ever exists. Whenever the supervisory system becomes exceedingly liberal, the specific obligations of insurance concerns derive solely from the conditions for their registration; otherwise, these concerns are under no obligation in carrying on their business other than to comply with the policy of the supervisory system based on the principle known as the "publicity principle" or the "freedom with publicity" principle. Insurers are then allowed almost complete freedom. Their activities are limited only by the insurance law—the provisions of which are usually reduced to their simplest terms when the principle is applied. In fact, the State does not in such cases exercise any supervision in the strict sense, but simply requires the concerns' statistical and accounting documents to be established in accordance with the prescribed rules, which are frequently derived from the accounting systems established by the trade itself and are considered as reflecting the concerns' financial situation fairly accurately. Publication of these documents and publicity for them are held to be the basic elements of the supervisory system, on the assumption that it is for the policyholders and the general public formally to exercise the supervision. All that the supervisory authority has to do is to see that the public is correctly informed. In the Dominican Republic, for example, where this system appears to be applied, the decisions of the insurance supervisor may relate solely to the accounting system with which insurers must comply. In Jamaica the returns and balance sheets are reviewed to ensure that they are fulfilling the conditions of registration (if any). The solvency of companies is also examined in relation to the criterion of an excess of £20,000 and some insurers are given time within which to effect the same. Some insurers are also asked to submit evidence of reinsurance arrangements pertaining to their motor vehicle insurance portfolio. In Hong Kong, where the authority has a similar function, the existing laws (Fire and Marine Insurance Companies Deposit Ordinance and Life Insurance Companies Ordinance) do not provide for supervision or control in the general acceptance of these terms.

268. Reference to this system of supervision was made at the beginning of this study, and some views of develop-

ing countries on its adoption were quoted (see above paras. 21-24). There is no need, therefore, to revert to it. It should, however, be added that the countries which have adopted this system seem to be progressively discarding it with the increase in the volume of insurance business and as the national concerns become capable of competing with the older foreign groups. This seems to confirm the argument that a liberal supervisory system such as that based on the "freedom with publicity" principle is incompatible with the requirements of a harmonious growth of insurance. It is noteworthy, in fact, that this system is used almost exclusively by the least developed countries.

269. Since the developing countries are moving progressively towards a more detailed supervision of the operations of insurance concerns, the administrative services responsible for this supervision are becoming better equipped to cope with their increasingly complex tasks. "Experience in India has amply demonstrated the need for a technically equipped regulating authority in developing countries. The need for such an authority is not affected even if the whole or a part of the industry is nationalized".⁸⁶ Even countries which have come out openly in favour of the principle of freedom with publicity are tending to apply increasingly tight controls. In Pakistan, for example, "It has been provided that every insurance company shall *undergo a special audit by an auditor appointed by the controller of insurance*".⁸⁷ This audit would be connected with the contravention or otherwise of the provisions laid down in the Insurance Act".⁸⁸

270. To a varying extent, a more vigorous and detailed supervision is carried out in most of the South American countries, in Mexico, in the North African countries and in some Asian countries, notably the Philippines. Venezuela specifies that this supervision is not solely restricted to the supervision of proposals, policies, receipts and in general the documents which the concerns wish to use, but ranges from authorizations to commence insurance business to the maximum supervision of all its transactions. It is precisely in these countries that the laws on insurance are most detailed, so that the supervision organized in a form dictated by the laws.

271. In the countries in which supervision is fairly developed the administrative service which exercises it is divided into specialized departments or sections dealing specifically with administrative matters, legal matters (claims, studies on the legal position of concerns, the supervision of publicity, the supervision of middlemen and, generally, matters relating to the legal aspects of the business and the proper enforcement of the law); accounting (inspection of balance sheets and, more generally, the accounting systems employed by the concerns); actuarial matters (supervision of rates and policies and technical consultations); and statistics and

⁸⁵ A. Rajagopalan, *op. cit.*, para. 171.

⁸⁶ *Ibid.*, para. 169.

⁸⁷ Italics added by the author of the present report.

⁸⁸ A. M. Khalife (Controller of Insurance), "Insurance Industry Regulation in Pakistan" in *Pakistan Insurance Times*, 16 April 1970.

investments (Venezuela). In Israel a special department has been set up to receive complaints and claims by the public against concerns. The supervisory authority is also formally responsible for co-ordinating the activities of insurance concerns with national economic requirements.

272. To sum up, the *raison d'être* of supervisory services is to see that the law is applied, and their structure depends on the complexity of that law. They may also be shaped by a given colonial inheritance and especially by market conditions. The converse is equally true. Foreign concerns dominate the insurance market in the developing countries in inverse ratio to the supervision exercised by the State, so that the structure of the insurance market is likely to be modified by the relative strictness of the supervision. Apart from institutional factors, the efficiency of the supervision exercised by the State depends on the professional qualifications of the personnel staffing the supervisory service and their ability to perform the tasks entrusted to them by the State. Insurance directors and experts of developing countries noted, in countries, that "some of these difficulties arose from lack of experience and from the insufficiency of qualified personnel... which made it impossible for the supervisory services to discharge their duties efficiently".⁸⁹

273. Where the supervisory services are for one reason or another unable to carry out the tasks for which they were set up, the resulting distortions are likely to render the law inoperative and the purposes of the legislation are then frustrated.⁹⁰ The supervisory services are in many cases incapable of making the legal studies required for the amendment of the existing provisions and are consequently reduced to following the thinking of professional insurers, whose approach is based on what will profit the concerns, in some cases to the detriment of the general interest. Many developing countries suffer from this defect. On the other hand if the supervisory personnel is highly qualified both personally and professionally, it can usefully fill gaps in the legislation and become, especially in developing countries, one of the main instruments available to the State for promoting the rational development of insurance concerns.⁹¹

⁸⁹ See A. Rajagopalan, *op. cit.*, para. 175.

⁹⁰ "A superficial control is completely useless" (see Professor A. Donati, (President of A.I.D.A.), "*Problemas y Perspectivas del Derecho de Seguros y Actividades de la A.I.D.A.*" in *Riesgo y Seguro* (Madrid), No. 17, first quarter, 1967, p. 118.)

⁹¹ This problem does not affect the developing countries alone. It has been dealt with by Dr. H. S. Denenberg in an article on insurance supervision in the United States of America, in which he warns against the danger of the supervisory services being captured by private industry, a danger increased by the lack of adequate personnel, professional advice and research capacity. The author points out that "this lack of resources has another deadly effect. The commissioner is kept busy with brush-fires and day-to-day encounters. He lacks the time and resources to take the long look. His staff often lacks the imagination and initiative to come forward with new ideas and new programs. He is channelled into programs and dialogues the industry is interested in pursuing". (See "The Search for Countervailing Power" in *International Insurance Monitor* (New York), vol. XXIII, Nos. 7-8, July-August 1969, p. 166.) These comments also apply to very many developing countries.

D. Advisory bodies

274. In addition to the administrative supervisory services mentioned above, the law in a number of countries has provided for consultative bodies in which the branches of the administration concerned and professional representatives of the insurance industry both participate. The Conseils nationaux des assurances or Insurance Councils play a decisive rôle in determining a country's policy with regard to insurance; their membership is usually representative of all the interests concerned. In Lebanon the National Insurance Council examines all cases transmitted by the Ministry of Economic Affairs relating to questions of insurance and reinsurance. The Council may on its own initiative submit to the Minister for Economic Affairs any suggestion directly related to insurance and reinsurance concerns and operations (article 35 of the Insurance Concerns Supervision Act). In that country the Minister for Economic Affairs presides over the National Insurance Council, which is composed of one representative each from the Ministries of Justice, Finance and Economic Affairs, a university professor specialising in insurance matters, two representatives of the Lebanese insurance concerns and two representatives of foreign concerns licensed to work in Lebanon.

275. In Asia, bodies similar in purpose and composition exist in India (where the insurance industry is represented by 13 of the 16 members of the Executive Committee of the General Insurance Council), in Israel (where licences may not be withdrawn by the State unless the measure is "recommended" by the Insurance Council), in Kuwait, Pakistan (where field workers, the Chamber of Commerce and Industry and the State Bank of Pakistan are represented) and, the Republic of Korea, in the Syrian Arab Republic (which has a Supreme Insurance Council responsible in particular for instituting a general insurance policy in the country, even though the market is nationalized), in Turkey (where besides an Insurance Council there are rates committees for each of the main classes) and in the Republic of Viet-Nam; in Africa, in the Central African Republic, Ghana, the Ivory Coast, Madagascar, Morocco, Nigeria, Sudan and Upper Volta; and in Latin America; in Argentina (which has an advisory council and an advisory committee of co-operative and mutual societies), in Brazil (where the National Council for Private Insurance Concerns has broad powers in many fields, including the establishment of accounting and statistical schemes for supervised concerns, fixing at least every two years the minimum capital which concerns must possess and adjusting the monetary values expressed in the insurance law, prescribing the criteria for the establishment of new concerns and fixing their legal and technical limits, and, in general, determining the guidelines and criteria for a policy of private insurance) and in Colombia, Mexico and Venezuela.

276. This list is not exhaustive. It does not include the countries in which the advisory bodies are not institutionalized as such, but where the supervisory authority may call on various bodies when matters of special interest to them are being dealt with. For instance, in China

(Taiwan) the supervisory services may obtain the opinion of the Association of Insurance Undertakings or of the Reinsurance Fund, especially on the compilation and use of statistical data, general conditions and rates. In other countries economic and social councils, the chambers of commerce and the central banks may be invited by the supervisory authority to give their opinion on any particular matter within their competence. Lastly, the nationalized reinsurance concerns or central reinsurance institutions seem to play a very important role in this connexion. Their knowledge of the insurance market, acquired from their participation in the entire

range of transactions, is very useful to the supervisory authority when decisions are to be taken concerning the insurance industry as a whole.⁹²

⁹² In all the countries of Western Europe supervision is the responsibility of a government agency, generally coming under a government department and subordinate to a Minister. It may obtain the opinion of an advisory body or rely on assistance from independent experts. Advisory bodies are usually composed of persons chosen by reason of the interest they represent (trade or profession) or for their personal qualifications. Consultation of these bodies may be compulsory or optional. The independent experts who may be called in by the supervisory authorities are members of other government services or private persons.

Chapter X

LAWS AND REGULATIONS ON THE NATIONALIZATION OF THE INSURANCE INDUSTRY

A. Introduction

277. It was explained in paragraph 8 of the present study that a special chapter would be devoted to the legislation of countries in which the insurance industry has been nationalized. Nationalization has, in fact, created in those countries a situation necessitating legislation different from that for the supervision of private concerns. The principle of nationalization is usually enunciated in a law while the operation of the nationalized institutions is governed by other kinds of legal instruments.⁹³

278. Before reviewing the legislation in question, it is necessary to point out that in a number of countries markets have been only partly nationalized and that State-owned concerns are competing in those markets with private concerns. In this case, some countries have considered it desirable to lay down the same solvency and management requirements for public as for private concerns.

B. Nationalization of the direct insurance market

279. The nationalization measures taken in some developing countries are generally of two kinds, some introducing the principle of nationalization, while the others, as a corollary to this, lay down the method of operation of the new concerns. In the latter case, it has often been thought sufficient—as we have seen—simply to extend the application of the laws governing private insurance before the date of nationalization to the new nationalized concerns. Other countries have combined in the same legislative text the decision to nationalize and the regulations for operation.

280. Act No. 37, nationalizing insurance in the People's Republic of Southern Yemen, which was passed on 27 November 1969, was drawn up on these lines. It is by no means an exception and several of its provisions were taken from similar laws. Some significant extracts are given below.⁹⁴

281. The Act sets up an "Economic Agency for the Public Sector and National Planning" entrusted with the task of freeing, encouraging and developing all national economic activities in both the public and private sectors. The implementation of this principle involves the nationalization of key concerns: banks;

⁹³ The rules governing investment of the assets of State-owned concerns were examined above in paragraphs 184-189. Rate-fixing and supervision of tariffs were dealt with in paragraph 221.

⁹⁴ The complete text of the law was published in *L'économie et les finances des pays arabes* (Beirut and Damascus), No. 20/146, February 1970, pp. 115-136.

large foreign companies; insurance and reinsurance concerns, including branches and agencies of foreign concerns; harbour concerns and distributors of petroleum products. In the case of insurance, a Board of Directors of the Insurance Authority is established and made directly answerable to the "economic agency for the public sector and national planning".

282. The Insurance Authority is responsible for "uniting all insurance and reinsurance companies and their branches in a single company . . . which shall have legal personality . . .". The liability of this company is limited to its share capital, which is covered by a State guarantee of 500,000 dinars, while the fully paid-up capital of 100,000 dinars includes the capital of the nationalized companies and their branches (article 39, paras. 2 and 3). All the agencies of non-nationalized companies are wound up (article 39, para. 4). Nationalization in this case involves payment of compensation to the owners (shareholders and contributors of capital), calculated "on the basis of the net assets on the date of nationalization" (article 62). The compensation is paid in the form of "registered government bonds with a maturity of twenty years and yielding interest at an annual rate of 2 per cent. These bonds shall be negotiable" (article 63 (a)). The Insurance Authority "is responsible for insurance and reinsurance business in the People's Republic of Southern Yemen, including the formulation and execution of a national insurance and reinsurance policy" (article 40). This policy should be based essentially on the following principles: first, "all insurance and reinsurance business in the People's Republic of Southern Yemen shall be carried on exclusively by the public sector; as of the date of nationalization the private sector may not carry on business of this kind without the express authorization of the National Insurance and Reinsurance Company (article 40, para. 1), nor may insurance policies covering risks and liabilities in the People's Republic of Southern Yemen be taken out abroad" (article 40, para. 2).

283. The Insurance Authority is "administered by a Board of Directors composed of a Chairman of the Board, who is also the General Manager of the National Insurance and Reinsurance Company of the People's Republic of Southern Yemen, four regular members, three of whom are chosen from among experts in the fields of insurance and reinsurance, economics or trade, and two alternate members" (article 41). The principle of financial supervision of the national concern is established and it is stipulated that the accounts must be audited. The Council of the Economic Agency for the Public Sector and National Planning is required to appoint auditors for this purpose. The national concern

is required to submit an annual report to the Council on the results of the audit (article 59).

284. The nationalization of insurance concerns in Algeria, in Egypt, the United Republic of Tanzania, and Zaire has followed much the same lines as in the People's Republic of Southern Yemen.⁹⁵ In Algeria,⁹⁶ a State insurance monopoly was established by an ordinance of 27 November 1966; from that date only the Caisse algérienne d'assurance, which became a State concern after the nationalization of the foreign-owned portion of its capital, was authorized to carry on insurance business. Algeria also has a Central Reinsurance Fund for agricultural mutual insurance societies and a teacher's mutual insurance society, both of which are limited in scope. In Egypt, three direct insurance concerns and one reinsurance concern share the market. They are owned by the EGIO, which is directly responsible to the Ministry of Economic Affairs.

285. The situation is similar in Asia in the following countries: In Iraq, the State exercises direct control over a general insurance concern, a life insurance concern and a reinsurance concern through the State Insurance Organization; in the Syrian Arab Republic there is only the Société d'assurance syrienne and in Ceylon a Nationalization Act was passed in 1964. In the Khmer Republic, there is a State monopoly which was established in 1964 (Act No. 173 of February 1964) for the National Insurance Society, whose articles of association were promulgated by decree in July 1964. In Burma the monopoly is exercised by the Union Insurance Board.

286. In Latin America the nationalization of insurance concerns dates back even further. The relevant legislation was enacted in Costa Rica on 30 October 1924 and in Uruguay in the year 1911. These laws have since been amended to meet changing circumstances. In Costa Rica, the 1924 Act establishing the National Insurance Institute was amended in 1936 and again in 1964 in order to spell out more clearly the manner in which the Institute was to operate. In Uruguay the Act of 1911, which defined the structure of the State Insurance Bank, was amended in 1926 and also in 1929.

287. These two examples from Latin America should not be confused with the cases of nationalization recorded elsewhere. In the other countries, nationalization of insurance took place in the broader framework of nationalization of the key sectors of the economy as a result of a political or social decision of the State, whereas in Costa Rica and Uruguay, the nationalization of the insurance concerns was an isolated phenomenon. It

⁹⁵ In the case of Zambia, the President of that country recently announced that "no insurance companies are to be allowed to write new business in Zambia. Our own State insurance company must be enlarged to become the only insurance company in the country and, with effect from December 31 1971, the existing insurance companies will not be allowed to renew existing policies. See "Zambia Uncertainties" in *Policy Holder Insurance Journal* (London), vol. 88, No. 47, 20 November 1970, p. 2093.

⁹⁶ Unfortunately there is no first-hand information obtainable on Algeria. That given in this paragraph is taken from the article by Moukhtan Nazzal "L'industrie des assurances en Algérie", in *General Arab Insurance Federation Magazine* (Cairo) No. 1, April 1969.

was introduced and has subsisted in what are basically free market economies, and was no doubt inspired by the need to eliminate distortions that existed in the insurance market in particular. The reason for establishing a State monopoly in that situation was to put an end to the monopoly created by foreign concerns, which operated in those markets purely in their own interests. When the new insurance bill came before Parliament in Uruguay, where the foreign monopoly particularly affected life and fire insurance, "one of the arguments put forward to justify a State monopoly was that the State should sometimes take over a monopoly exercised by private enterprise, in order to eliminate the profit-making and exploitation motivating private interests when they have complete control over a branch of the economy".⁹⁷

288. In Costa Rica it was mainly the abuses and dubious trade practices of foreign companies or of concerns controlled by foreign groups which led to the enactment of legislation entrusting insurance business to a single enterprise designed to constitute a public service. Both Costa Rica and Uruguay turned to nationalization as a last resort after the failure of conventional measures to encourage or strengthen the national insurance industry. These examples make it clearer why private concerns favour real supervision by the State and accept the exercise of such supervision with good grace. As one of them pointed out recently, private insurers realize that "Much of the nationalization or State control of service industries derives from the emergence of a monopoly structure or the need to support an ailing service suffering from excessive competition".⁹⁸ Faced with the choice between strict supervision by the State—which ensures market discipline and prevents abuses—and nationalization, it is not surprising that private insurers themselves encourage the State to adopt a policy of effective supervision of private concerns.

289. Nationalization has in some cases involved only those sectors of the insurance market which are considered more important. This is the case in India, where the Life Insurance Corporation Act, 1956, nationalized life insurance and established the Life Insurance Corporation of India. This Act is particularly interesting in that it deals with the thorny problem of the different roles of the State as market regulator and supervisor and as the owner of an insurance institution. It laid down "that the Corporation would be an autonomous body and should be run on business principles. Government would appoint the Board and also provide guidance on matters of policy, particularly on the investment policy but would not interfere in the day-to-day management. The Government could give directions to the Corporation but such directions should be confined to matters involving the public interest and should be in writing. . . To underline the approach that it should be run on business principles, the Insurance Act, which applied

⁹⁷ See Dr. Luis E. Dotta, "Evolución histórica del seguro en el Uruguay", in *Seguros: Revista del Banco de Seguros del Estado* (Montevideo), vol. IV, Nos. 13-14, December 1961, p. 18.

⁹⁸ See "Restructuring: Tycroid sums up", in *Policy Holder Insurance Journal* (London) vol. 88, No. 44, 30 October 1970; p. 195.

to the erstwhile life insurance companies, was made applicable to the Corporation and the Corporation is required to submit returns to the Controller of Insurance."⁹⁹ The Pakistan Insurance Corporation, which was established under the Pakistan Insurance Corporation Act 1952, seems to have been conceived in some respects in a slightly different light. The main object of this act, "Apart from conserving currency, . . . was to provide internal reinsurance facilities and at the same time to promote and assist new domestic companies. It had other provisions which were considered beneficial for the progress of the insurance business such as the organization of training facilities of insurance personnel . . . The Pakistan Insurance Corporation has the responsibility of managing the export credit guarantee scheme. It also takes an active part in the work of the Regional Co-operation for Development (RCD) which provides a reinsurance pool for the reinsurance bodies in Iran, Turkey and Pakistan".¹⁰⁰

290. In the Republic of Korea, motor vehicle and transport insurance, as well as reinsurance, are a State monopoly. In Mexico, agricultural insurance can be written only by the Aseguradora Nacional Agrícola y Ganadera, a concern established by the Act of 30 December 1961 which specified the manner in which contracts in this class of business should be concluded. The Mexican authorities, it is true, regard agricultural insurance more as a social than a private form of insurance. Consequently, this concern is not strictly a State-owned one vested with a monopoly. The same problem is to be found in all countries where classes of insurance such as that against accidents at work are reserved for public institutions managed directly or indirectly by the State. In some countries, there is no clear line of demarcation between private and social insurance for certain types of risk, and it is not always easy to decide with any certainty whether a particular legal provision relates to commercial or private insurance or comes within the purview of social security.

291. Some States have special legislation on export credit insurance. In Argentina, for example, a special law enacted in 1967 establishes regulations for this type of insurance: political or exceptional risks (war, revolution, confiscation, etc.) are insured on behalf of the State by concerns operating in Argentina and by a nationalized concern set up for this purpose. The normal risks of insolvency of foreign buyers are covered by these companies themselves in the usual way. In Brazil, the system in force enables the IRB to play a very active role in this field.

C. Nationalization of the reinsurance market

292. In some countries, the State's main concern has been to modify the structure of the reinsurance market. When direct insurance has been fully nationalized, reinsurance is often nationalized as well. It has already been pointed out that Iraq and Egypt have reinsurance

concerns which are answerable to the Government, and whose main task is to co-operate with the direct insurance concerns in order to increase their capacity, in particular, their underwriting capacity. It has also been pointed out that, in the Republic of Korea, the State has established a monopoly over two major classes of insurance, as well as over reinsurance, which is entirely in the hands of the Korean Reinsurance Corporation. It is mainly in Latin America that nationalized reinsurance institutions are most active. Although they exist only in Argentina, Brazil and Chile, these countries are so important that the transactions of reinsurance institutions there account for more than two thirds of all reinsurance business in the region.

293. A fourth country which must be mentioned here is Peru, which recently promulgated a decree (No. 18, 425 of 6 October 1970) requiring all reinsurance business to be handled by the Central Bank (Banco de la Nación). The purpose of this provision, as stated by the Government, is to gain complete control over insurance operations involving money transfers abroad and commissions paid by reinsurers to primary companies. Insurance supervisory authorities are of the opinion that the latter control would lead to a reduction in cost of foreign reinsurance.¹⁰¹

294. In Argentina, Act No. 14152 of 20 October 1952 created the National Reinsurance Institute known as INDER, whose articles of association were approved by Decree No. 10073 of 9 July 1953. These articles provide that INDER shall perform the functions of a public enterprise; it is responsible to the Ministry of Finance, although the Ministry of Economic Affairs is responsible for the supervision of insurance concerns and its object is "the organization, supervision and distribution of Argentine reinsurance" (article 1). To achieve these objectives, it has the monopoly of all reinsurance business: "Argentine insurance concerns are required to cede to the National Reinsurance Institute business in excess of their own retention capacity, which they themselves shall determine at such times as may be specified by the Institute and in accordance with rules which it shall lay down" (article 4). Foreign concerns must reinsure with INDER at least 30 per cent of all risks covered in the country, less a percentage for commission and new business costs (article 5). INDER offers any business in excess of its retention capacity to Argentine concerns and is not authorized to approach foreign reinsurers until the national capacity has been exhausted (article 6). The legislation provides that all INDER's activity should be inspired by a concern to "protect the public insurance interest and to ensure equitable redistribution among the Argentine insurance concerns, taking due account of the position of the ceding and accepting concerns. The Institute may not use its mandate to act as a costly intermediary and must pay, for the surpluses and cessions which it receives as a reinsurer, commission and remuneration equivalent to the sums it obtains from placing them in a foreign market. In this regard, it may only reserve for itself

⁹⁹ See A. Rajagopalan, *op. cit.*, para. 165.

¹⁰⁰ *The Review* (London), vol. 101, No. 4313, 18 September 1970, p. 1087.

¹⁰¹ See *International Insurance Monitor* (New York), vol. XXIV, No. 12, December 1970, p. 318.

a reasonable margin for the performance of its specific functions as manager and distributor of Argentine reinsurance (article 7).

295. The organization of reinsurance in Brazil is very similar. The principle of the reinsurance monopoly is established by a decree of 7 March 1940. The monopoly is exercised by IRB, set up on 3 April 1939 and modified on 4 September 1946 and 21 November 1966 (Decree No. 73). The decree defines IRB as "a semi-public corporation enjoying legal personality in private law and administrative and financial autonomy" (article 41). Its nature as a mixed institution is expressed by the equal participation in its share capital of the Federal social security agencies and the insurance companies, which are represented on the Board of Directors (article 45). Its main purpose is to regulate questions of co-insurance, reinsurance and retrocession, and to promote and expand insurance business (article 42). Insurance companies are obliged "to reinsure with the IRB all commitments exceeding their technical limit (which is fixed by the supervisory authority)" (article 79) and IRB must accept the said excess (article 44). It may take out insurance and reinsurance abroad (article 81), when the risks involved are such "that their acceptance is not in the national interest or they cannot be covered locally" (article 44). Any risks exceeding IRB's retention capacity must be retroceded preferentially to local insurance companies, which thus recover a large proportion of the premiums for risks reinsured with the Institute and also diversify their portfolios. The insurance companies are obliged to accept such retrocessions, which the Institute distributes among them "with due regard to the volume and results of the reinsurance ceded to it by each company and to the technical orientation and economic and financial situation of each one" (article 60). The institute must be consulted in connexion with the settlement of claims for reinsured risks; if it has not authorized payment it cannot be held liable (articles 65 and 66). As the corollary of these prerogatives, the Institute is required "to promote full utilization of the capacity of the national insurance market".

296. In Chile, the Chilean Reinsurance Fund has similar powers. It was founded in 1927 by Act No. 4228, with a share capital subscribed by the State, insurance concerns and the general public. It has subsequently been reorganized a number of times, in particular by Decree No. 251 of 20 May 1931. The State's participation in its share capital is at present somewhat symbolic, while that of the insurance companies has increased as that of the State decreased. However, the State maintains direct control over the Fund and appoints its Managing Director. The share-holding concerns are, however, fully represented on the Board of Directors; they hold three seats out of six and the Chairman of the Board is elected from among their three representatives.

297. The Fund's functions are basically those of similar institutes in Argentina and Brazil to which reference has already been made. But, while the latter have a full monopoly of reinsurance, the Chilean Fund has a monopoly over foreign reinsurance business only. The insurance concerns may therefore conclude re-

insurance contracts among themselves within the country. Domestic concerns are not obliged to cede a specific proportion of their business to the Fund, and the only restriction to which they are subject is the prohibition of reinsurance cessions abroad. Foreign concerns must reinsure 20 per cent of their business in Chile with the Fund but are not bound to accept retrocessions offered by it. This differentiates the Chilean system from those of Argentina and Brazil.¹⁰²

298. The activity of these Latin American reinsurance institutions has radically altered the flow of reinsurance abroad. About half of all the business written in Chile used to be placed abroad but nowadays the fraction is very much smaller. In Brazil it is 6 per cent except in fire insurance where the domestic retention is 95 to 97 per cent. IRB reinsures approximately 30 per cent of its underwriting; it holds 3 per cent itself and distributes 20 to 25 per cent to domestic companies. Only the balance is placed abroad. These placements are partly offset by the reinsurance which foreign companies take out with IRB on a reciprocal basis.¹⁰³ The results achieved by the other institutes are apparently less spectacular than those obtained in Brazil but have nevertheless reduced the flow of reinsurance business abroad and have played a very significant role in the development of the national insurance industries.

299. Some reinsurance concerns set up in other developing countries have similar objectives, but their results are less impressive than those obtained in Latin America, as they usually operate in smaller markets and do not enjoy a complete monopoly of reinsurance. In most of the countries only a fraction of the business written has to be ceded to them. In Morocco and Tunisia, what are known as "legal" cessions must be made to the respective central reinsurance institutes. In Turkey the Milli Reasürans company has the State monopoly of reinsurance, except for life business. In Nigeria, this monopoly is vested in the National Insurance Corporation of Nigeria. Similar institutions appear to have been set up in Cameroon and Mali. This type of reinsurance is effected on a quota basis, in other words the premiums, costs and losses are divided among the ceding companies and the reinsurers in fixed proportions. The reinsured portion is currently 5 per cent in Morocco, 10 per cent in Tunisia, 25 per cent in Turkey and 10 per cent in Nigeria.

300. In India, too, a compulsory reinsurance system has been in force since 1955. The India Reinsurance Corporation was set up in that year for the express purpose of lessening the pressure of reinsurance transactions with foreign concerns on the balance of payments. The Corporation's shareholders are domestic and foreign

¹⁰² On the role of the Chilean reinsurance institute, see J. Bande, "Survey of reinsurance in Chile with reference to Latin-American aspirations", in *The Review* (London), vol. 98, No. 4217, 13 January 1967, p. 152.

¹⁰³ The percentages given here are estimated by the UNCTAD secretariat and are subject to the usual reservations. The proportions may vary considerably from one year to the next, and they are quoted here only on an indicative basis.

insurance concerns, the State refraining from participating financially. In 1961, Indian Guarantee, also controlled by the Government, began to write reinsurance business. In the meantime the insurance law was amended to give these two concerns 20 per cent of all insurance contracts written in India. The result of these measures appears to have been highly encouraging, but it was not sufficient to reduce the volume of business ceded abroad to a level compatible with the domestic retention capacity. The premiums for cessions abroad currently amount to about £12 million per year, to which reinsurance premiums of about £8 million must be added. More drastic legislative measures are therefore being considered and there is even a possibility that the whole insurance sector will be nationalized.¹⁰⁴

301. Iran and Pakistan have also enacted legislation to make reinsurance cessions to nationalized institutions compulsory. The proportion to be ceded ranges from 25 to 30 per cent. The reinsurance institutions handle both State insurance and the business of semi-public insurance concerns. They undoubtedly play an important role in developing the national insurance market.

D. Organization of the supervision of nationalized concerns

302. Most of the meagre information that exists on this subject has already been given. The following is an attempt to summarize it. In countries where insurance is in the hands of a single nationalized concern, administrative and technical supervision differs from the type of supervision exercised in countries where insurance is in private hands. This point has already been noted in the case of the People's Republic of Southern Yemen (see above, paras. 280-282), whose legislation requires the Council of the Economic Agency for the Public Sector and National Planning to appoint auditors to examine the financial situation of the national concern. There are therefore more methods of financial supervision applied to concerns of any kind in the public sector, than methods adopted by a service for the supervision of insurance in particular. In the former case, the aim is to protect the interests of the State and of the nation, whereas in the latter the emphasis is on protection of the policy holders and the beneficiaries of insurance contracts, a protection which, in the case of a nationalized market, is regarded as ensured by the very structure of the market and by the security given it by the State.

303. In Ceylon, the insurance supervisory authority does not have authority to supervise the nationalized concern. This authority was set up before insurance was nationalized and, although an exclusive monopoly was later given to the Insurance Corporation of Ceylon, it continues to exist in theory, and still appears to play a part in supervising the activity of insurance brokers and agents. Much the same may be said of the situation

¹⁰⁴ "India: insurance faces State takeover" in *The Times* (London), 15 January 1970. The measures expected were taken on 13 May 1971, at which date the Indian Government nationalized all non-life insurance business underwritten by national and foreign companies, subject to conditions similar to those governing the nationalization of life insurance in 1969.

in the Syrian Arab Republic. In Iraq and in Egypt, the situation is identical, but the fact that between the Government and the insurance concerns there is a body which holds the shares of the concerns and determines their policy introduces a new element into the supervision.

304. The two Latin American countries which have nationalized insurance business—Costa Rica and Uruguay—have not provided for any supervisory authority in their insurance law. Unlike the laws of the countries mentioned in paragraph 303 above, those of Costa Rica and Uruguay were drafted in the light of the nationalization of the market. However, the accounts and transactions of the nationalized concerns are examined and supervised by an independent body in the same way as government agencies or other public bodies. Unfortunately no detailed information on this supervision is available.

305. In those countries where nationalization affects only one class or sector of insurance, the nationalized concern is subject to the same supervision as the other concerns. Such is the case, for instance, with the Life Insurance Corporation of India, which must submit its accounts to the insurance supervisory authority in the same manner as concerns in the private sector. This also applies to the Pakistan Insurance Corporation. In some countries, however, the system of surveillance of nationalized concerns has not been clearly defined. In Mexico, the law establishing the Aseguradora nacional agrícola y ganadera also specifies the manner in which it is to be financially supervised; the supervisory authorities appoint an external auditor (article 13) and may also establish other supervision measures and require the establishment of such reserves as they deem necessary to strengthen the financial situation of the concern (article 20). In this respect, it would seem not to be subject to the supervision regulations laid down in the general insurance law. In the case of some African countries, such as Ghana and Nigeria, it is not known whether or to what extent the recently created State concerns are subject to the same supervision as the private sector.

306. It is necessary also to mention the supervision of reinsurance monopolies and central reinsurance institutions. Unfortunately, the information available on this subject is incomplete, and it is difficult to outline this supervision as the relationships between these institutions and the supervisory authorities are rarely defined. It would appear that these institutions are not, as a rule, subject to control by the insurance supervisory services, as they are governed by special laws which define their functions and powers. The State nevertheless has the necessary machinery for guiding and supervising them. This is the case in Brazil, where IRB follows the directives given to it by the National Council for Private Insurance (article 56 of Decree No. 73). The supervision exercised by the Superintendencia de seguros privados is confined to direct insurance concerns and does not affect the activities of IRB. The case of the Pakistan Insurance Corporation, which, as indicated earlier, absorbs a large proportion of the reinsurance placed in Pakistan, is fairly similar. In Argentina, on the other hand, the Superintendencia de seguros de la nación

exercises direct control over the activities of the National Reinsurance Institute, especially with regard to investment, reserves, accounts, valuation and amortization of assets, and general solvency.¹⁰⁵

¹⁰⁵ In some countries of Western Europe, other incorporated enterprises also carry on insurance business in competition with

private insurance concerns. They may be subject to the same supervision as the latter. In a number of countries, compulsory forms of insurance must be taken out with such enterprises or with State institutions which enjoy a real monopoly. As regards re-insurance, there are in some countries restrictions on the choice of insurer, or it may be compulsory to cede a certain proportion of the risk to State concerns or public institutions (see OECD, *op. cit.*, paras. 213 and 225-228).

COMPARATIVE TABLES

NOTE A dash (—) indicates that no information is available.

TABLE 1
Legislation governing insurance operations

| Country | Basic legislation governing all insurance operations 1 | Legislation concerning the Insurance Control Authority and its activity 2 | Specific legislation concerning the investment of technical reserves 3 | Laws concerning the establishment of State insurance institutions 4 |
|------------------------------------|---|--|---|---|
| ARGENTINA | Act No. 11672, art. 150 (t.o. 1962): <i>Régimen legal de la superintendencia de seguros de la nación</i> (Legal régime for supervision of national insurance) <i>Decreto reglamentario</i> No. 23350/39. | | Included in the basic legislation | Instituto Nacional de Reaseguros (National Reinsurance Institute) (Act No. 14152 and Decree No. 10073 of 9 July 1953) Seguro Aeronautico Empresa del Estado (State Aeronautical Insurance Undertaking) Caja Nacional de Ahorro Postal (National Postal Savings Fund) |
| BARBADOS | Insurance Act, 1965 | — | — | — |
| BOLIVIA | Law of 27 September 1904 | Decree of 30 June 1942 | — | — |
| BRAZIL | Decree No. 73, of 21 November 1966 Decree No. 60459, of 13 March 1967 | Which establish a national system of private insurance and regulate in insurance and reinsurance operations | Included in the basic legislation | Act No. 1186, 3 April 1939 (Creating the Instituto de Resseguros do Brazil (Reinsurance Institute of Brazil)) |
| CAMEROUN | Ordinance No. 62/OF/36, 31 March 1963 | | Decree No. 62/DF/437 of 18 December 1962 | Act No. 65/LF/10 of 25 May 1965 (Caisse Nationale de Réassurances) (National Reinsurance Fund) |
| CENTRAL AFRICAN REPUBLIC | Act No. 62/296, of 8 May 1962 Decree 63/272, 18 October 1963 | Decree No. 62/234, 12 December 1962 Decree No. 63/272, 18 October 1963 | None | None |
| CEYLON | Finance Bill of 1963, Sec. 50 (Establishing Insurance Monopoly since 1964) Insurance Corporation (Amendment) Act No. 6 of 1966 | Control of Insurance Act No. 25, 1962. (This act does not apply to the Corporation which enjoys the Insurance Monopoly in the country) | — | Insurance Corporation Act No. 2 of 1961 (Amended by the Finance Bill of 1963) |
| CHINA (TAIWAN) | Insurance Act (The date is not mentioned. Insurance business is regulated by the Government) | — | — | — |

TABLE 1 (continued)
Legislation governing insurance operations

| | 1 | 2 | 3 | 4 |
|---------------------------|---|--|--|---|
| COLOMBIA | Act No. 105 of 1927 Decree No. 1403 of 1940 | — | Decree No. 1691 of 1960 | Decree No. 2222 of 1962 (Sociedad de Seguros "La Pre- visora") (La Pre- visora Insurance Company) by which public property must be insured |
| COSTA RICA ... | Act No. 12 of 30 October 1924 (Ley de Monopolios y del Instituto Nacional de Seguros). (Monopolies and National Insurance Institute Act) Act No. 33 of 23 December 1936 (Ley de reorganización del Insti- tuto Nacional de Seguros). (Na- tional Insurance Institute (Re- organization) Act) Decree No. 29 of 24 June 1963, (Reglamento general del I.N.S.). (National Insurance Institute— General Regulations) | — | — | See Column 1 "Basic legislation..." |
| CYPRUS | The Insurance Companies Law No. 27 of 1967 (Not yet in force pending the drafting of the rele- vant Regulation. The latter will soon receive consideration) The Companies Law, para. 113 | | | |
| DAHOMEY | Law No. 62/24, of 17 July 1962 | — | Decree No. 63/72 PRMFT of 20 Fe- bruary 1963 | — |
| DOMINICAN REPUBLIC ... | Law No. 3788, 19 March 1954 Regulation No. 136, September 1954 | See Column 1 "Basic legislation..." | See Column 1 "Basic legislation..." | None |
| EGYPT | Insurance Institutions Act, No. 195, 1959 | — | — | Decree No. 117 of 1961 (nationalization of all insurance under takings) |
| GHANA | Insurance Act 1965 (Act 288) Insurance Regulations 1966 (L I 497) Insurance Amendment Regulations 1967 (L I 538) | Provided in the basic legislation | Insurance (investment of funds) Instrument L I 498 | None |
| GUATEMALA ... | Decree No. 473, 4 May 1966 | Decree No. 403, 30 May 1947 | Decree No. 854, 23 November 1958 | None |
| GUYANA | Life Assurance Companies Ordi- nance, 19 April 1930 with sub- sequent amendments | — | Not regulated | None |
| INDIA | The Insurance Act, 1938 The Insurance (Amendment) Act, 1965 The Insurance Rules, 1939 | Included in the basic legislation | Included in the basic legislation | The Life Insurance Corporation Act, 1956, (modified by G.S.R. 734 pub- lished in the <i>Gazette of India</i> the 23 Au- gust 1958 |

TABLE 1 (continued)

Legislation governing insurance operations

| | 1 | 2 | 3 | 4 |
|--------------------|---|---|--|--|
| INDONESIA | Insurance is not governed by specific laws. Regulations included in the Indonesian Civil Code and Commercial Code | None | None | |
| IRAQ | Insurance companies' agents, Act No. 49 of 1960 Nationalization Act, No. 99 of 1964 | — | — | Act No. 56 of 1950 (Establishing the National Insurance Company) Act No. 21 of 1960 (Establishing the Iraq Reinsurance Company) |
| ISRAEL | Law on Insurance Supervision (SL) of 1951 as amended in 1963 and other regulations | Included in the basic legislation | Included in the basic legislation | — |
| IVORY COAST | Law No. 62-232, of 29 June 1962. Decree No. 62-372, 17 October 1962. (" <i>Réglementation des organismes d'assurance</i> "). (Regulations governing insurance concerns) | — | Decree No. 1255, of 1 June 1963 | — |
| JAMAICA | (There are no specific regulations on insurance, with the exception of those embodied in the "Motor vehicles insurance (Third party risks) law", Cap. 257, as amended by "The Motor vehicles insurance (Third party risks) (Amendments) Act, 1964 and the subsequent regulations) | Not regulated | Not regulated | Not regulated |
| KHMER REPUBLIC | Act No. 13, of 14 June 1955 Decree No. 69, of 8 February 1969 Act No. 73, of 8 February 1956 (This legislation was enacted before nationalization of insurance. Therefore, certain provisions included in it are no longer applicable) | — | — | Act No. 173, 23 February 1964 (Insurance is a State monopoly vested in the Société nationale d'assurances) |
| KOREA, REPUBLIC OF | Insurance Business law. Law on Foreign Insurance firms. National Life Insurance Law | Insurance Solicitation Control Law (Regulations) | Included in the basic legislation | Korean Reinsurance Corporation law |
| KUWAIT | Insurance Companies and Agencies Law No. 24 of 1961 (as amended by Law No. 13 of 1962) | Supervision and Control Fees, Ministerial Order No. 7 of 1962 | Ministerial Order No. 27 of 1966 (funds to be retained by insurance companies in Kuwait) | — |
| LAOS | Royal Ordinance No. 133 - 25 May 1958 (" <i>sur les assurances et entreprises analogues</i> "). (Insurance and similar concerns) Royal Ordinance No. 182 - 1.6.59 (<i>règlement d'application</i>) (enforcement regulations) | Included in the basic legislation | | None |
| LEBANON | Loi relative au contrôle des sociétés d'assurance. (Insurance Companies Supervision Act) Decree No. 9812, 4 May 1968 | Included in the basic legislation | | None |

TABLE 1 (continued)

Legislation governing insurance operations

| | 1 | 2 | 3 | 4 |
|----------------|---|-------------------------------------|--|--|
| LESOTHO | No insurance legislation has been laid down (with the exception of a short "Insurance Proclamation" of 1956 and the "Motor Vehicle Insurance Proclamation" of 1946, which deals with the registration of concerns which sell insurance for motor vehicles) | | | |
| MADAGASCAR .. | Ordinance No. 62/034, 19 September 1962 (<i>Réglementation des organismes d'assurance et des opérations d'assurance</i>). (Regulations governing insurance concerns and operations) Decree No. 63/526, 5 September 1963 Decree No. 66/345, 9 August 1966 | Decree No. 62-668, 27 December 1962 | Decree No. 63/527, 5 December 1963 Decree No. 66/050, 21 January 1966 | None |
| MALAWI | Malawi Insurance Ordinance, 1956 | — | — | — |
| MALAYSIA | Insurance Act, 1963 Insurance companies registration Regulations, 1963 Insurance Regulations, 1963 | Included in the basic legislation | Insurance companies (funds and deposits), 1963 | None |
| MAURITANIA ... | Act No. 63.112, 27 June 1963 (<i>Contrôle de l'Etat sur les organismes et opérations d'assurance</i>). (Regulations governing insurance concerns and operations) Decree No. 63.026, of 25 November 1963 (<i>portant application de la loi sur les assurances</i>). (On application of Insurance Act) | — | Decree No. 10.064 26.10.65 Decree No. 10.074 16.2.66 | None |
| MEXICO | General Law on Insurance Institutions. (<i>Ley General sobre las Instituciones de Seguros</i>) 31 August 1935 | Included in the basic legislation | | <i>Ley del Seguro Agrícola Integral y Ganadero</i> |
| MOROCCO | Decree "Vizirel", of 6 September 1941. Orders of 19 December 1941 and 3 December 41 on the operation of insurance concerns | Included in the basic legislation | | Act of 20 April 1960 (Laying down the basis for the creation of the Société centrale de réassurances) |
| NEPAL | Insurance Act 2025, 1968 Insurance Rules 2026 Insurance (First Amendment) Rules 2026 | — | — | — |
| NIGER | Law No. 62-27, 28 July 1962 (<i>Réglementation des organismes et des opérations d'assurance</i>) (regulations governing insurance concerns and operations) Decree No. 64104 MFAE, 8 June 1964 | Decree No. 62-064 MF, 1 March 1962 | Decree No. 62-173 MF, 8 August 1962 | None |
| NIGERIA | Insurance Companies Act, 1961 Insurance Companies Regulations 1968 | | Insurance (Miscellaneous Provisions) Act, 1964 | Decree No. 22, 30 June 1969 (creation of the National Insurance Corporation) |
| PAKISTAN | The Insurance Act, 1938 The Insurance Rules, 1958 | Included in the basic legislation | | Pakistan Insurance Corporation Act of 1952 (as amended up to 13 July 1967) The Pakistan Insurance Corporation Rules, 1953 |

TABLE 1 (continued)
Legislation governing insurance operations

| | 1 | 2 | 3 | 4 |
|-----------------------------------|---|---|---|---|
| PAKISTAN (continued) | | | | The Pakistan Insurance Corporation (Compulsory Reinsurance) Regulations, 1956 |
| PANAMA | Decree No. 17, 22 August 1956 | Included in the basic legislation | | None |
| PARAGUAY | Decree No. 17840, 10 February 1947 | Included in the basic legislation | | None |
| PERU | Law of 21 December 1895 Decree of 9 June 1943 | Decree of 23 June 1897 | Decree of 25 September 1934 | None |
| PHILIPPINES | The Insurance Law (Act 2427) as amended | Included in the basic legislation | | None |
| SENEGAL | Act No. 63-38, 10 June 1963 (<i>Règlement des organisations et des opérations d'assurance</i>) (Regulations governing insurance concerns and operations) Decree 64336 - 13 May 1964 | — | Decree No. 63/724 - 8 October 1963 | None |
| SIERRA LEONE | There is no law or regulation regulating specifically the activities of insurance companies | | | |
| SINGAPORE | The Insurance Act, 1966 The Insurance Regulations, 1967 The Insurance Companies Registration Regulations, 1967 | — | — | — |
| SUDAN | The Insurers Control Act 1960 — The Insurers Control Regulations, 1962 | | | None |
| SYRIAN ARAB REPUBLIC | Act No. 195 of 1959 (<i>Réglementation des assurances</i>) (Insurance regulations). Order No. 505, of 16 February 1964 (in application of Act No. 195) | | Included in the basic legislation | Decree No. 117/61 (Nationalization of all insurance companies) |
| THAILAND | The Life Insurance Act, 1967; Non-life Insurance Act, 1967 | Included in the basic legislation | | None |
| TOGO | Ordinance No. 36 of 12 August 1968. <i>Réglementation des organismes et des opérations d'assurance</i> (Regulations governing insurance concerns and operations) Decree No. 69-119 of 1 June 1969. <i>Application de la réglementation sur les assurances</i> (Application of the insurance regulations) | Decree No. 68-151 of 12 August 1968 (establishing an insurance supervisory service) | Decree No. 68-150 of 12 August 1968: investment of technical reserves | None |
| TUNISIA | Decree of 15 August 1956 modified by Act 59-78 of 27 July 1959 | Included in the basic legislation | | None |
| UPPER VOLTA | Act No. 37/63 AN, 24 July 1963 (<i>Réglementation applicable aux organismes et aux opérations d'assurances</i>) (Regulations governing insurance concerns and operations) | Decree No. 497, 25 September 1963 | Decree No. 124, 20 March 1964 | None |
| URUGUAY | Law No. 3935, 27 December 1911 (modified in 1926 and 1929): <i>Ley Orgánica del Banco de Seguros del Estado</i> (Act organizing the State Insurance Bank) (The main purpose of the Act is to give the State the monopoly of insurance transactions) | | | |
| VENEZUELA | Insurance and Reinsurance Enterprises Act of 28 June 1965; Decree No. 446 (<i>Reglamento Parcial</i>) of 2 July 1965 | Included in the basic legislation | | None |

TABLE 1 (continued)
Legislation governing insurance operations

| | 1 | 2 | 3 | 4 |
|--------------------------|--|-----------------------------------|--|------|
| VIET-NAM, REPUBLIC OF | Decree No. 015/65, of 17 September 1965 (<i>sur les sociétés d'assurances, le contrat d'assurance et le contrôle de l'Etat sur les sociétés d'assurances</i>) (concerning insurance companies, insurance contracts and State a supervision of insurance Companies) | Included in the basic legislation | Decree No. 399 - BTC/BHTH/PL of 24 February 1966 Decree No. 1856 - BTC/BHTH/PL of 12 October 1965 | None |

TABLE 2
Structure of national insurance markets

| Country | Classes of insurance reserved to State institutions 1 | Classes open to the activity of foreign concerns 2 | Classes in which insurance can be taken out directly abroad 3 | Classes in which insurance is compulsory (other than social insurance) 4 |
|--|--|---|---|---|
| ARGENTINA | Group-life insurance for civil servants and rural workers and fishing crews. <i>Garantia del Personal del Estado</i> | All classes other than those mentioned in column 1 | None | All classes mentioned in column 1. In addition: " <i>Seguros de Accidentes a pasajeros</i> " ("Passenger accident insurance") and " <i>Lineas Aereas de Jurisdicción Nacional</i> " ("Air lines under national jurisdiction") |
| BARBADOS | None | All | No regulations | None |
| BOLIVIA | None | All classes | None | Fire against mortgaged property |
| BRAZIL | None | Property owned by the Government is insured only with national concerns | Risks that the local market is unable to cover or that may be detrimental to the interests of the country | Motor-vehicles (third party). Liability for carriage of goods. Fire and marine (property owned by legal persons). Other classes are declared compulsory by law, but the corresponding regulations have not yet been laid down |
| CAMEROON | None | All classes | As a matter of principle, none. However, certain risks may be placed abroad at the discretion of the Minister | Third party (Motor vehicles) Workmen's compensation |
| CENTRAL AFRICAN REPUBLIC | Workmen's Compensation | All classes except workmen's compensation | <i>idem</i> | Third party (Motor vehicles) |

TABLE 2 (continued)
Structure of national insurance markets

| | 1 | 2 | 3 | 4 |
|------------------------|---|--|--|--|
| CEYLON | All classes | None | Marine. Other classes would not be permitted by exchange control authorities | Third party (Motor vehicles) |
| CHAD | — | — | — | — |
| CHINA | None | All | No restrictions (provided what foreign exchange regulations are complied with) | Third party (Motor vehicles) |
| COLOMBIA | None | All classes | None, except risks which cannot be covered locally | None |
| COSTA RICA ... | All classes | None | None | Third party (Motor vehicles) only public transport |
| CYPRUS | No State institution | Foreign and domestic concerns treated alike | There are no restrictions on insuring abroad, apart in some cases (life) from exchange control restriction | Motor-car third party liability |
| DAHOMY | None | All classes | Marine (imports) under certain conditions | Third party (Motor vehicles) |
| DOMINICAN REPUBLIC ... | None | All classes | None | Third party (Motor vehicles) |
| EGYPT | All classes | None | No restrictions | Third party (Motor vehicles) Workmen's compensation) |
| GHANA | None | Non-life | Life (but the policyholder has to provide his own foreign exchange) | Third party (Motor vehicles) |
| GUATEMALA ... | None | None. Foreign concerns are not allowed to operate since 1967 | Risks which cannot be covered locally | None |
| GUYANA | None | All | All | Third party (Motor vehicles) |
| INDIA | Life (the "Life Insurance Corporation of India has the exclusive privilege of carrying on life insurance business") | Non-life | Risks which cannot be covered in the country. Imports are required to be insured locally | Third party (Motor vehicles) |
| INDONESIA | Third party (Motor-vehicles) | All classes except motor | Life, marine if stipulated in trade agreement | Third party (Motor vehicles) workmen's compensation, contractors all risks |
| IRAQ | All classes | None | None | Third party (Motor vehicles) Contractors all risks |

TABLE 2 (continued)
Structure of national insurance markets

| | | 1 | 2 | 3 | 4 |
|----------------------|--------------------------------------|---|--|---|---|
| ISRAEL | None | | All classes | All risks unaccepted locally; imports; life if residents have a privileged foreign account | Third party (Motor vehicles) |
| IVORY COAST | .. None | | All classes | None. Special authorizations can be granted at the discretion of the Minister | Third party (Motor vehicles) |
| JAMAICA | None | | All classes | Not regulated | Third party (Motor vehicles) |
| JORDAN | None | | All classes | None | Third party (Motor vehicles) Marine |
| KHMER REPUBLIC | ... All classes | | None | — | Third party (Motor vehicles) |
| KOREA REPUBLIC OF | Third party (Motor vehicles), Marine | | All. In practice, however, no foreign concern has been licensed so far | Any import risk stipulated in trade agreement | Third party (Motor vehicles), Workmen's compensation |
| KUWAIT | None | | All classes | Life and Marine | Third party (Motor vehicles) |
| LAOS | None | | All classes | Life and Marine (imports) | Third party (for public transport), Aviation |
| LEBANON | None | | All classes | Marine | None |
| MADAGASCAR | .. None | | All classes | Marine (import risks, provided that the trade contract so stipulates) | Third party (Motor vehicles) |
| MALAWI | None | | All classes | No restrictions | Third party (Motor vehicles) during test-runs and sport races |
| MALAYSIA | None | | All classes | Imports, life (provided that the insurance is not transacted through an intermediary in the country) Special risks subject to the permission of the Insurance Commissioner | Third party (Motor vehicles), Workmen's compensation for timber industry |
| MAURITANIA | ... None | | All classes | Life when agreed to by the Government | Public transport (third party) |
| MEXICO | None | | All classes | None, except risks which cannot be covered in Mexico, subject to authorization | Agricultural; Fire insurance for mortgaged property; Public transport (third party) |
| MOROCCO | None | | All classes | Not known | Third party (Motor vehicles) |
| NEPAL | None | | All classes | No restriction | None |

TABLE 2 (continued)
Structure of national insurance markets

| | 1 | 2 | 3 | 4 |
|----------------------------|-------------|-------------------------|--|---|
| NIGER | None | All classes | Risks related to international trade. Co-insurance of special risks | Third party (Motor vehicles) |
| NIGERIA | None | All classes | No restrictions | Third party (Motor vehicles) |
| PAKISTAN | None | All classes | Risks unaccepted locally, subject to permission of the authorities | Third party (Motor vehicles) |
| PANAMA | None | All classes except Fire | Risks unaccepted locally | None |
| PARAGUAY | None | All classes | No formal restrictions. But the taking out of insurance abroad is penalized with the payment of a fine | Third party (public transport) |
| PERU | None | All classes | No restrictions, provided that a special tax is paid by the policy-holder for insurances taken out abroad | Life for employees, workmen's compensation |
| PHILIPPINES | None | All classes | All classes, provided that the policy-holder does not make use of intermediaries in the Philippines and pays a tax of 1.5 per cent of the premium paid | Workmen's compensation and Government employees |
| SENEGAL | None | All classes | None | Third party (motor vehicles) Workmen's compensation |
| SIERRA LEONE | None | All classes | All classes except Third party (Motor vehicles) | Third party (Motor vehicles) |
| SINGAPORE | None | All classes | Not known | Third party (Motor vehicles) |
| SUDAN | None | All classes | Marine and risks stipulated in trade agreements | Third party (Motor vehicles) |
| SYRIAN ARAB REPUBLIC | All classes | None | None | Third party (Motor vehicles) Mortgaged property |
| THAILAND | None | All classes | No restrictions | None |
| TOGO | None | All classes | Special risks which cannot be covered locally, under the approval of the authorities. Imports | None |

TABLE 2 (concluded)
Structure of national insurance markets

| | 1 | 2 | 3 | 4 |
|--------------------------|---|---|--|---|
| TUNISIA | None | All classes | Marine | Third party (Motor vehicles) Workmen's compensation |
| UPPER VOLTA . | None | All classes | Marine | Third party (Motor vehicles) Workmen's compensation |
| URUGUAY | All classes (Life, fire and marine insurances can be transacted by private concerns which were already operating in the country in 1911, when the insurance monopoly was laid down) | Life, fire and marine under the conditions stated in column 1 | None | Workmen's compensation. Aviation |
| VENEZUELA | None | None | None, except risks which cannot be covered locally | — |
| VIET-NAM, REPUBLIC OF | None | All classes, except third party liability (public transport) | No restrictions. But "No one may act as an intermediary for the insurance of risks in Viet-Nam with a foreign insurance undertaking not authorized to operate in Viet-Nam" | Public transport |

TABLE 3
The granting of authorization to operate (licence)

| Country | Authority which grants the licence 1 | Are economic criteria (in particular the market situation) considered for the granting of a new licence? 2 | Authority to appeal to in case of refusal of the licence 3 | Is the accumulation of licences for life and non-life insurance possible? 4 |
|----------------|---|---|---|--|
| ARGENTINA | Superintendency of Insurance | Yes, the National Re-insurance Institute and the Supervisory Authorities are requested to advise as to whether the market situation justifies the granting of a new licence | Unknown | No principle of specialization |
| BARBADOS | Registrar of Insurance | No | Unknown | Yes |
| BOLIVIA | Superintendent of Banks | Yes | Ministry of Finance | No principle of specialization |
| BRAZIL | Minister of Industry and Commerce | Yes | Ministry of Industry and Commerce, or the Court | No principle of specialization |
| CAMEROON | Ministry of Finance | Yes | "Before the local administrative author- | No principle of specialization |

TABLE 3 (continued)
The granting of authorization to operate (licence)

| | 1 | 2 | 3 | 4 |
|------------------------------------|--|--|---|--|
| CAMEROUN (continued) | | | ities in the form and within the periods prescribed by law " | |
| CENTRAL AFRICAN REPUBLIC ... | Ministry of Finance | Not known | Ministry of Finance | No principle of specialization |
| CEYLON | (Insurance Corporation of Ceylon is the sole insurer permitted) | Not applicable | Not applicable | Not applicable |
| COLOMBIA | Superintendent of Banks | Yes | "Recurso de reposición" (appeal) against any decision | Yes |
| COSTA RICA ... | (Instituto Nacional de Seguros is the sole insurer permitted) | Not applicable | Not applicable | Not applicable |
| CHINA (TAIWAN) | Ministry of Finance | Yes | Right to appeal Authority not mentioned | Principle of specialization |
| CYPRUS | Superintendent of Insurance | — | Ministry of Finance | No principle of specialization |
| DAHOMY | Ministry of Finance | Yes | No right to appeal | No principle of specialization |
| DOMINICAN REPUBLIC ... | The Government | No | No right to appeal | Principle of specialization |
| EGYPT | Not applicable: insurance is wholly nationalized and carried out by state-owned concerns | | | No principle of specialization |
| GAMBIA | The Registrar of Companies | No | Nothing mentioned | No principle of specialization |
| GHANA | Commissioner of Insurance | Unknown | Minister responsible for insurance supervision | No principle of specialization. Life business restricted to domestic insurers |
| GUATEMALA ... | The Government through the Ministry of Economy | The Supervisory authorities have discretionary powers to reject any application if the market situation so justifies | Against resolution of Minister of Economy "caben los recursos que establece la ley en lo Contencioso Administrativo " | No principle of specialization |
| GUYANA | Registrar of joint stock companies | They are not considered | The ordinary court | No principle of specialization |
| INDIA | Certificate of registration granted by the Controller of Insurance | The Controller must be satisfied that the interests of the general public will be served if the licence is granted | Government of India | No principle of specialization. However the carrying on of general (non-life) insurance business only is permitted. Life insurance is a State monopoly |
| INDONESIA | Minister of Finance | Yes | No right to appeal | Principle of specialization |

TABLE 3 (continued)
The granting of authorization to operate (licence)

| | 1 | 2 | 3 | 4 |
|-----------------------|---|--|--|---|
| IRAQ | Insurance is wholly nationalized. The Board of Directors of the State Insurance Organization would decide the creation of a new State-owned concern | Not applicable | Not applicable | The National Insurance Co. transacts all classes excluding life. The Iraqi Life Insurance Co. specializes in life |
| ISRAEL | Superintendent of Insurance | Yes | No right to appeal to a high administrative authority; appeal to the High Court is possible, however | No principle of specialization for concerns already established. But new licences are only issued for either life or general insurance business |
| IVORY COAST .. | Minister of Finance, Economic Affairs and Planning | Yes | Right to appeal, not mentioned to which authority | No principle of specialization |
| JAMAICA | Specific authorization is only required for insurance concerns transacting motor vehicles insurance (third party risks). This authorization is granted by the Minister of Finance | | | |
| JORDAN | The Minister of National Economy | (No new licences are granted to foreign concerns for a period of three years according to the provisions of the insurance law) | No right to appeal | No principle of specialization |
| KHMER REPUBLIC ... | Not applicable | Not applicable | Not applicable | Not applicable |
| KOREA, REPUBLIC OF | Minister of Finance | Yes | Right to appeal. Authority not mentioned | Principle of specialization |
| KUWAIT | Minister of Commerce and Industry | Yes. No more licences are granted for the time being to foreign insurance companies | Minister of Commerce and Industry through the Insurance Controller | No principle of specialization |
| LAOS | Ministry of Finance | Yes | No right to appeal | No principle of specialization |
| LEBANON | Ministry of National Economy | Yes | Council of Ministers | No principle of specialization |
| MADAGASCAR .. | Minister of Finance and Commerce | The market situation is taken into account | No rights of appeal. If market situation demands it, Minister may suspend or refuse licences | Principle of specialization |
| MALAWI | Registrar of Insurance (actually the Secretary of the Treasury) | No. The only requirement is that the concern shall be registered with the authorities | The Minister | No principle of specialization |
| MALAYSIA | The Insurance Commissioner | Yes | No right of appeal after Minister's decision | No principle of specialization |
| MAURITANIA ... | The Minister of Finance and Commerce | | Not known | No principle of specialization |

TABLE 3 (continued)

The granting of authorization to operate (licence)

| | 1 | 2 | 3 | 4 |
|----------------------------|---|--|---|---|
| MEXICO | Secretary of Finance and Public Credit and National Insurance Committee | Yes. The authorities concerned have ample discretionary powers | No right to appeal | No principle of specialization |
| MOROCCO | Minister of Finance | Yes | Supreme Court | No principle of specialization |
| NEPAL | Insurance Board | No | Right to appeal. Authority not mentioned | No principle of specialization |
| NIGER | Minister of Finance | Yes | Right to appeal in case of suspension or of withdrawal of the licence | No principle of specialization |
| NIGERIA | The Registrar of Companies and the Registrar of Insurance | No | The Minister | No principle of specialization |
| PAKISTAN | Controller of insurance | Not necessarily | The Court | No principle of specialization |
| PANAMA | The Government | No | The Minister of Agriculture, Commerce and Industry | No principle of specialization |
| PARAGUAY | The Directory of the Central Bank of Paraguay | No. The licence is granted to all applicants complying with the existing regulations | Tribunal de Cuentas | No principle of specialization |
| PERU | Superintendent of Banks | Yes | No right to appeal | No principle of specialization |
| PHILIPPINES | Insurance Commissioner | Yes | The Secretary of Finance | Principle of specialization |
| SENEGAL | Minister of Finance | Yes | " Before the Competent authorities " | No principle of specialization |
| SIERRA LEONE | Department of Immigration | No | The Prime Minister | No principle of specialization |
| SINGAPORE | Insurance Commissioner | No | Minister of Finance | No principle of specialization |
| SUDAN | Minister of Finance and Economics | Yes | Minister of Finance and Economics | No principle of specialization |
| SYRIAN ARAB REPUBLIC | Not applicable: insurance is wholly nationalized and carried out by a State-owned concern | | | |
| THAILAND | The Minister for Economic Affairs | Yes | No right to appeal | It depends whether the concern is a composite one (and registered as such) or not |
| TOGO | Council of Ministers, upon recommendation of the Minister of Finance | No | No right to appeal | No principle of specialization |
| TUNISIA | State Secretary of Planning and National Economy | Yes | No information available | Principle of specialization |
| UPPER VOLTA | Minister of Finance | Yes | No right to appeal | No principle of specialization |

TABLE 3 (concluded)
The granting of authorization to operate (licence)

| | 1 | 2 | 3 | 4 |
|-----------------------|--|--|--|--|
| URUGUAY | Not applicable | Not applicable | Not applicable | Not applicable |
| VENEZUELA | Minister for Development (Ministro de Fomento) | Yes. The President of the Republic may refuse the granting of new licences | Right to appeal to the Tribunal en lo contencioso administrativo or to the Supreme Court | No principle of specialization. However, life insurance cannot be operated in conjunction with financial guarantee insurance |
| VIET-NAM, REPUBLIC OF | State Secretary of Finance. Foreign concerns are subject to the authorization of the President of the Government | Yes | Not considered by law | Principle of specialization |

TABLE 4
Legal forms of concerns: Control of insurance contracts and tariffs

| Country | Permitted legal forms of national concerns 1 | Criteria defining the nationality of the concerns 2 | Classes where the general conditions of insurance contracts are controlled 3 | Classes in which tariffs are controlled 4 |
|---------------------|---|--|---|--|
| ARGENTINA | Joint-stock company | Place of incorporation. Domicile | All classes | Tariffs are submitted by insurance associations, tariffs committees or by individual companies to the authorities concerned for approval |
| BARBADOS | Companies with limited liability, mutual companies, associations of underwriters | Unknown | None | None |
| BOLIVIA | Joint-stock company or Mutual and Co-operatives | Place of incorporation | All classes | Tariffs are worked out by the Insurers Association and approved by the Supervisory offices. Compulsory tariffs for fire and motor vehicle insurances |
| BRAZIL | Joint-stock companies or Co-operatives | Established under the requirements of the Brazilian laws and possessing the head office in the country | All classes | All classes |
| CAMEROUN | No specific requirements, but insurance policies "a base de capitalisation" (long-term life insurance) can only be taken out by joint-stock companies | Place of establishment of the Head Office | All classes | Tariffs are regulated by the State and the decisions in this respect, especially for motor vehicles and workmen's compensation, are taken in agreement with the insurance associations |

TABLE 4 (continued)

Legal forms of concerns: Control of insurance contracts and tariffs

| | 1 | 2 | 3 | 4 |
|------------------------------------|--|---|---|--|
| CENTRAL AFRICAN REPUBLIC ... | "Sociétés en commandite par actions". Mutual (only stock Companies are allowed to engage in "opérations de capitalization" (transactions involving accumulation) | According to the number of shares held by nationals | All classes | To be applicable the tariff for motor vehicles must be previously submitted to the Minister of Finance for agreement. In a general way all changes in tariffs are to be submitted to the Minister |
| CEYLON | Not applicable. The Insurance Corporation of Ceylon is the sole insurer permitted | Not applicable | It does not exist. It is not necessary to submit any document to the authorities for control or examination | The Government does not regulate the tariffs applicable to any class of insurance |
| CHINA (TAIWAN) | Limited liability (joint-stock or co-operatives) | Concern having established its head office in the country, in accordance with the provisions of the Insurance Act and the Corporation Act | An insurance concern must submit its fundamental documents such as the general policy conditions and perform policies to the competent authority (the Ministry of Finance) for approval | The Government follows the approved rate system as regards the premiums applicable to all classes of insurance except marine insurance (incl. hull insurance and marine cargo insurance). Under this system the insurance premium rates are fixed by the Association of Insurance Concerns and approved by the Ministry of Finance before they are put into effect. However the premium. Rates for life insurance and personal and travelling insurance are fixed by individual life insurance concerns and submitted directly to the Ministry of Finance for approval |
| COLOMBIA | No formal requirements. (But only Joint-stock companies (<i>Sociedades Anonimas</i>) are in practice authorized) | Place of establishment of Head Office | All classes | Insurance companies must work out and submit for approval to the Superintendency of Banks technical notes and statistics for tariffs applicable to each branch |
| COSTA RICA ... | No legal provisions. Insurance industry is a State monopoly carried out by the Instituto Nacional de Seguros | Not applicable | The National Insurance Institute is not submitted to any requirements | As an "autonomous State body", the Instituto Nacional de Seguros establishes its own tariffs |

TABLE 4 (continued)

Legal forms of concerns: Control of insurance contracts and tariffs

| | 1 | 2 | 3 | 4 |
|------------------------|--|--|---|--|
| CYPRUS | Companies registered under the Companies Law (Joint stock and mutual associations) and associations) and associations of individual underwriters (Lloyd's) | Country of constitution and where the head office is located | None | Only in the classes of insurance which are made compulsory by law, i.e. motor vehicle |
| DAHOMY | Not stated | Place of constitution of Head Office | The general insurance conditions must be submitted for approval to the Minister of Finance | Motor vehicle only |
| DOMINICAN REPUBLIC ... | Stock companies (" <i>Compañías por acciones</i> ") | The country under the laws of which the concern was incorporated | It is not necessary to submit the general insurance conditions to approval | The State regulates only tariffs for compulsory insurance (motor-car) |
| EGYPT | Joint-stock Companies of limited liability | Not applicable | It is a legal requirement that conditions, terms and stipulations governing any type of insurance contract should be presented to the Supervisory authorities for examination and approval. | In general insurance tariffs are regulated by the EGIO and the Insurance Federation with the exception of compulsory third party motor insurance which is stipulated by Act No. 652 of 1955 |
| GAMBIA | No specific requirements | No specific requirements | No specific requirements | No specific requirements |
| GHANA | Stock companies or Mutual Associations of individual underwriters (Lloyd's) | Situation of Head Office | The general conditions have to be approved by the Insurance Supervisor | Tariffs are regulated by the Government and "a registered insurer shall not, except with the prior approval in writing of the commissioner increase the rates of the premiums for the time being charged by him" |
| GUATEMALA ... | Joint-stock Companies (" <i>sociedades anonimas</i> ") | The national laws under which the concern is incorporated | General conditions must be approved by the authorities. Other documents must be submitted to them for information | Authorized concerns must submit to the Superintendency of Banks the corresponding tariffs for registration. Registered tariffs are compulsory |
| GUYANA | Established as a company | Location of the Head Office | None | None |
| INDIA | A public company, or a society registered under the Co-operative Societies Act, 1912; or under any law for the time being in force in any time regulating to Co-operative Societies, or a body corporate incorporated under the law, of any country outside India not being of the nature of a private company | Country of incorporation | General insurance conditions are not formally controlled by the supervisory authorities. However, they are to be approved by a Tariff Committee set up by the insurance law | The Government does not regulate the tariffs. But non-life tariffs are regulated by a Tariffs Committee set up by the insurance law |

TABLE 4 (continued)

Legal forms of concerns: Control of insurance contracts and tariffs

| | 1 | 2 | 3 | 4 |
|-----------------------|---|---|--|--|
| INDONESIA | Companies with limited liability | Place of incorporation | None | Not controlled by the authorities. They are regulated by the Insurance Association of Indonesia |
| IRAQ | A special type of Company (not specified which). Insurance and reinsurance concerns are State-owned | not applicable | General insurance conditions are worked out by each insurance concern | Tariffs for fire, motor vehicle and workmen's compensation in Iraq have been established by the Iraqi Insurance Association. The duties and activities of this association are now vested in the Technical Department of the State Insurance Organization and the technical committees attached thereto. The marine cargo tariff is laid down by the State Insurance Organization. The motor vehicle third party liability insurance tariff is embodied in Act 205/64. Special ratings and other tariff problems are referred to the technical committees attached to the State Insurance Organization |
| ISRAEL | No legal requirements, but in practice are either companies with limited liability or cooperatives | Domicile of Head Office | Policy forms have to be registered with the Superintendent. The Minister of Finance is authorized to regulate the form of the policy and its condition | Only tariffs for motor vehicle insurance have been regulated specifically by the Government |
| IVORY COAST | Joint-stock and mutual concerns. Mutual cannot operate in life business nor accept reinsurance business without prior authorization | Usual criteria, as considered in the French law | Formal approval by the supervisory authority is required | Tariffs applicable to all branches are fixed by the "French Technical Groups" (i.e., tariffs committees established by associations of insurance Companies) and regulated by the Control authorities |
| JAMAICA | Not regulated | Country of incorporation | Motor vehicle insurance contracts must be submitted for information only | Not controlled |
| JORDAN | "Public shareholding Companies". i.e. Companies with limited liability | Domicile of the Head Office | None | The Government does not regulate the tariffs |

TABLE 4 (continued)

Legal forms of concerns: Control of insurance contracts and tariffs

| | 1 | 2 | 3 | 4 |
|-------------------------------|---|--|---|---|
| KHMER REPUBLIC ... | Not applicable | Not applicable | — | Tariffs are established by the National Insurance Enterprise. They are sometimes guided by French tariffs, especially in what is referred to international trade |
| KOREA, REPUB- LIC OF | Joint-stock companies or mutual | Country which enacted the laws and regulations under which the insurance concern was established | The Minister of Finance has to approve the general insurance conditions | The Government does not directly regulate it but has the authority to approve tariffs which are submitted or calculated by non-life rating-committee and actuary of respective life company |
| KUWAIT | Incorporated companies | Place of incorporation | None However, in practice, such documents are forwarded to the Insurance Controller for notice | The compulsory motor vehicle insurance tariff regulated by the Minister of Interior who is responsible for the execution of the traffic law |
| LAOS | Joint-stock Companies, mutual or <i>Sociétés en commandite par actions</i> | According to the number of national shareholders | In all classes of insurance, documents must be previously submitted to the competent authority | The Government regulates only tariffs on motor vehicles |
| LEBANON | Joint-stock Companies, or Mutual (the latter can only operate in life and health insurances) | Country of Head Office | In all classes of insurance, documents must be submitted to the Control authority | Tariffs are not regulated |
| MADAGASCAR .. | Joint-stock Companies, mutual or <i>Sociétés en commandite par actions, à forme mutuelle</i> . Mutual are not allowed to operate in life business | Country of Head Office | In all classes of insurance, the documents must be previously submitted to the Control authority | The Control authority may, after the advice of the Consultant Committee, fix the maximum and minimum tariffs. Only for tariffs concerning compulsory insurance and tariffs agreements among insurance concerns is prior by the Minister necessary |
| MALAWI | No special requirements | Country in which the insurer's Head Office is situated | None | Tariffs are not regulated by the Government |
| MALAYSIA | No specific requirements | Country of incorporation | None | Tariffs are not regulated |

TABLE 4 (continued)

Legal forms of concerns: Control of insurance contracts and tariffs

| | 1 | 2 | 3 | 4 |
|----------------|--|--|--|--|
| MAURITANIA ... | Joint-stock ^T companies, mutual or <i>Sociétés en commandite par actions à forme mutuelle</i> | Country of incorporation | Submission of documents in all classes of insurance to the supervisory authorities is required | Tariffs applicable to all branches are fixed by the "French Tech. Groups" (that means tariffs committees established by assoc. of ins. cos.) and are regulated by the Control authorities |
| MEXICO | Joint-stock companies or mutual | Legal domicile and the legislation under which the ^T concern is incorporated | Submission and approval by the supervisory authority is required in all classes | Tariffs are regulated by the State through the National Commission of Ins. except for Military Life Ins. workers of the Federation and Federal District and for Agricultural and Livestock Insurance |
| MOROCCO | No specific requirements | Country of the Head Office | All classes, except standard policy forms already approved by the authorities | Motor-car |
| NEPAL | "Corporate bodies" only | The location of the Head Office | Specimen policies should be sent to the appropriate authority for examination and approval | Tariffs are not regulated |
| NIGER | Joint-stock Companies, Mutual or <i>Sociétés en commandite par actions</i> | "Number of underwriters and amount of capital in the country" | Submission of documents to the authority is required | Tariffs are submitted for information to the authorities |
| NIGERIA | Joint-stock companies (however the Act of 1961 admits an association of underwriters as well) | No criteria | The Registrar may require submission such documents for examination only | The Government does not regulate tariffs in any class of insurance |
| PAKISTAN | Mutual, co-operative or joint-stock companies | Country of incorporation | In all branches, documents are required to be submitted to the authorities | Government does not regulate tariffs. The Insurance Association of Pakistan prescribes the tariffs subject to approval of Controller of Insurance |
| PANAMA | Joint-stock Companies | Nationality of the shareholders. More than 50 per cent of the shareholders of national concerns must be Panamenian | Not regulated | Tariffs are not regulated |
| PARAGUAY | Joint-stock companies | To be considered as national; concerns must be incorporated in the country according to the existing laws | Documents must be submitted to the Superintendent of Banks | Tariffs for certain classes, especially for motor vehicles and travellers liability are fixed by the Superintendent of Banks |

TABLE 4 (continued)

Legal forms of concerns: Control of insurance contracts and tariffs

| | 1 | 2 | 3 | 4 |
|------------------------------|---|--|---|---|
| PERU | Joint-stock companies | National concerns are those owned by a majority of national shareholders and are managed by a majority of national Directors. They are organized according to the laws and domiciled in Peru | All documents must be submitted to the competent authorities for examination and approval | The Government regulates tariffs for Life ins. For the other branches, the Ins. Assoc. through the Superintendency of Banks submits to the Minister of Finance and Commerce the tariffs for approval. For ins. on State Properties, tariffs are directly approved by the Superintendency of Banks |
| PHILIPPINES | "A Corporation with liability limited to its corporate assets" | Place of incorporation as insurance corporation (or nationality of the laws under which it has been incorporated) | All insurance policies must be submitted for examination and approval to the Insurance Commissioner | Government regulates all tariffs |
| SENEGAL | No particular form | "Raison sociale"; Style of Company, membership of Board of Directors and management; head office | All insurance documents must be submitted for information and approval | Motor insurance |
| SIERRA LEONE | — | — | Documents need not be submitted | Tariffs are not regulated by the Government |
| SINGAPORE | A corporation; a Co-operative society; an incorporated Company established in the United Kingdom before 1862 provided it has been carrying on business in Singapore since before the coming into operation of the Insurance Act | Place of incorporation | The documents are not required to be submitted either for examination or approval | The Government does not regulate insurance tariffs |
| SUDAN | No particular form prescribed | — | Documents need not be submitted | Tariffs are not regulated |
| SYRIAN ARAB REPUBLIC | Not applicable | Not applicable | The documents are required to be submitted to the competent authority for examination and approval | Tariffs are submitted to the Minister of Economy and Foreign Trade |
| THAILAND | Joint-stock Companies | Country of registration of the Head Office | The documents are required to be submitted to the authorities. Policy forms must be in the form prescribed by the Authorities | Tariffs must be approved by the Controller of Insurance |
| TOGO | No legal requirements | Location of the head office or country of registration | Submission of the documents to the authorities is prescribed | Tariffs are to be submitted to the authorities and approved by them |

TABLE 4 (concluded)

Legal forms of concerns: Control of insurance contracts and tariffs

| | 1 | 2 | 3 | 4 |
|--------------------------|---|--|--|---|
| TUNISIA | Joint-stock Companies, Mutual and <i>Sociétés à forme mutuelle</i> . Co-operatives and associations of underwriters can also be admitted under special financial conditions | Criteria of the country of origin | The documents are required to be submitted to the authority for examination and approval | Though the authorities are empowered to impose specific tariffs, they generally let the concerns to put into practice tariffs of their own choice |
| URUGUAY | Not applicable. Insurance is wholly transacted by a State-owned concern | Not applicable | No specific requirements | |
| UPPER VOLTA . | Joint-stock Companies, Mutual, (<i>Société en commandite par actions</i>), (<i>Société à forme mutuelle</i>). Associations of Underwriters are subject to special regulations | Place where statutes were deposited and registered | The documents must be submitted to the competent authority for examination and approval | The Government regulates only tariffs on motor vehicles. Tariffs proposed by the Technical Group must be approved by the Minister of Finance |
| VENEZUELA | Joint-stock companies | All concerns must be national. Only concerns with at least, 51 per cent of the share-capital owned by nationals are considered as national | Documents must be submitted for examination and approval to the supervisory authorities | Tariffs must be submitted for examination and approval to the supervisory authorities |
| VIET-NAM, REPUBLIC OF | Joint-stock companies and mutual | Concerns incorporated according to national law and having their head office in Viet-Nam are considered as national | All documents must be submitted for previous approval to the supervisory authorities | Tariffs must be submitted for approval to the supervisory authorities |

TABLE 5

Rules concerning technical reserves

| Country | Mathematical reserves and their evaluation 1 | Reserves for unexpired risks and their evaluation 2 | Reserves for outstanding claims and their evaluation 3 | Reserves gross or net of reinsurance? 4 |
|----------------|--|--|--|--|
| ARGENTINA | The technical factors are those utilized for the setting-up of tariffs | 40 per cent of premium (net) Marine (voyage): Total net premium issued during the last 2 months of preceding year — Fidelity 40 per cent + 15 per cent of the annual average of the last three years | Total estimated claims (Calculated separately for each claim). More detailed rules are laid down for specific classes (workmen's compensation and motor vehicle) | Net |
| BARBADOS | Normal business practices, as certified by an actuary | | Not regulated | Not regulated |

TABLE 5 (continued)

Rules concerning technical reserves

| | 1 | 2 | 3 | 4 |
|------------------------------|--|---|--|--|
| BOLIVIA | As in Argentina. However the rate of interest will not be higher than 5 per cent | 40 per cent of the annual premiums | Total estimated claims | Net. (Foreign concerns are requested to adopt the gross system. Mathematical reserves must also be established on gross basis) |
| BRAZIL | Actuarial methods. Acquisition costs can be deducted up to a certain amount, during the first five years of an individual policy. Mortality table and rate of interest regulated. In addition, contingency reserves up to 10 per cent of the mathematical reserves must be established | Transport (journey): 25 per cent of 1/8th of premium paid in preceding year. For other classes: (a) 25 per cent of premium paid at a fixed date (b) 1/24th of premium paid monthly during preceding year (c) 100 per cent of premium to be received Contingency reserves: 2 per cent of the annual net premium, up to 50 per cent of the reserves for unexpired risks | Total estimated claims Detailed rules laid down for o/s claims, the amount of which has not been agreed upon by both parties concerned | Net |
| CAMEROON | Actuarial methods | 36 per cent of premiums written or "method of 1/24th" | Whichever of the following methods secures the greatest amount: 1. Total estimated amount 2. Average cost of claims 3. ("Cadence des règlements") Rate set by regulations | Gross |
| CENTRAL AFRICAN REPUBLIC ... | Actuarial methods | The establishment of such reserves is laid down in principle; however, no basis of calculation is prescribed | Total actual estimated or outstanding claims | Not specified |
| CEYLON | Based on actuarial judgement but not basis for valuation is prescribed | No statutory requirements. 40 per cent of net premiums, plus additional reserves of 25-75 per cent of net premiums are maintained according to customary practices | Based on actual or estimated amount of such claims | Net |
| CHAD | — | — | — | — |

TABLE 5 (continued)
Rules concerning technical reserves

| | 1 | 2 | 3 | 4 |
|------------------------------|--|--|---|---|
| CHINA (TAIWAN) | Actuarial methods, according to specified formulae. Special reserves of not less than 3 per cent of gross premiums for short-term life, health and accident insurances | For Fire; not less than 40 per cent of the net premiums. For Marine, Aviation and Inland transport 20 per cent. For Hull 60 per cent all other classes not less than 50 per cent of the net premiums | Based on estimated amounts of current year claims | Except for life reserves, all other reserves are on net basis |
| COLOMBIA | No basis of calculation prescribed | 40 per cent of premiums | Total estimated amounts | Gross |
| COSTA RICA | Usual methods of calculation | In fire business: in proportion to the next period during which the Institute will be still liable. Utilization of modern computers. Other classes: Formula 1/24 | Total estimated claims | Net |
| CYPRUS | Determined by an actuary | 60 per cent. For marine, aviation and transit insurances, 40 per cent | Basis of calculation not prescribed | Net system if reinsurances are ceded to companies licensed to carry on insurance business in the country. Gross system in all other cases |
| DAHOMY | Basis of calculation not regulated | Formula 1/24 | Total estimated claims | Gross |
| DOMINICAN REPUBLIC | No specific requirements | No specific requirements | No specific requirements | Not stated |
| EGYPT | Particulars for the valuation are not known | 1. Marine and Aviation 25 per cent of annual premium 2. Third Party (Motor) 47 per cent 3. The rest of non-life 40 per cent | No method of calculation is given | Net |
| GHANA | No specific requirements. Insurance concerns must produce a "certificate of solvency" issued by an actuary, stating that the liabilities in respect of life policies do not exceed the amount of the life insurance fund | 40 per cent of gross premiums | Claims paid and outstanding shall not be less than the average loss | Gross less local re-insurance |
| GUATEMALA | Calculated according to actuarial formula and technical basis approved by the Superintendency of Banks | Fire 40 per cent. Marine and accidents (short-term) 15 per cent | Total estimated claims | Net |
| GUYANA | Not regulated | Not regulated | Not regulated | Not regulated |
| INDIA | A valuation of the liabilities of the Life Insurance Corporation is to be prepared at least in every two years by actuaries | No basis of calculation prescribed | Total estimated claims | Net |

TABLE 5 (continued)
Rules concerning technical reserves

| | 1 | 2 | 3 | 4 |
|-------------------------------|---|--|--|---|
| INDONESIA | Not regulated | Not regulated | Not regulated | Not regulated |
| IRAQ | Based on actuarial methods but no basis for valuation prescribed | 25 per cent of marine insurance premiums 40 per cent of non-marine premiums | No basis for valuation prescribed | Gross |
| ISRAEL | No provisions | 40 per cent of gross prem. of the preceding year + 80 per cent of prem.-paid for a later insurance period. Special conditions are laid down for marine (cargo and hull) insurances | No provisions | Gross |
| IVORY COAST .. | No basis for valuation prescribed | No basis for valuation prescribed | No basis for valuation prescribed | Gross |
| JAMAICA | No legal requirements | No legal requirements | No legal requirements | No legal requirements |
| JORDAN | No basis for valuation regulated | Not less than 40 per cent of premiums (30 per cent in marine business) | Not regulated | Gross |
| KHMER REPUBLIC ... | Not known. (It is pointed out that the national company does not yet transact life business) | 36 per cent of annual premiums | Total estimated claims | Gross |
| KOREA, REPUB- LIC OF | "Zillmer" method over entire insurance period | On monthly pro-rate basis | No basis for valuation. Reserves for contingency losses must be established with 10 per cent of the net premium income | Net |
| KUWAIT | Evaluation is left to each individual concern. There are no minimum requirements apart from the fact that the technical reserves should be sufficient to meet the concern's contractual liabilities. In addition, each concern is requested to retain in the country the whole amount of the mathematical reserves and not less than 30 per cent of the gross premiums of all general insurance classes of business (15 per cent) in the case of marine and aviation insurance) | | | Gross |
| LAOS | No basis for valuation regulated | 30 per cent of annual premium income | Total estimated claims | Gross |
| LEBANON | Calculated actuarially at 6 per cent rate of interest Benefits reserves | Not less than 40 per cent of premium paid | Total estimated claims | Not prescribed |
| MALAGASY | Calculated according to actuarial method | Minimum 36 per cent of the premium income | Total of the estimated claims | Not known |
| MALAWI | No specific requirements | Not specified | Not specified | Not specified |
| MALAYSIA | Report on a valuation made by an actuary must be submitted at least every three years. The reports should include particulars on the methods and basis of valuation. Minimum valuation (mortality tables and rate of interest) is laid down by the authorities | 40 per cent of the annual premiums received (25 per cent for marine, aviation and transit policies) | No statutory minimum basis | Technical reserves for reinsurance may be deducted if the reinsurance is placed within the country, or if there is a reinsurer's deposit at least equal to his technical reserves, or if the reinsurance relates to a specific risk |

TABLE 5 (continued)
Rules concerning technical reserves

| | 1 | 2 | 3 | 4 |
|-----------------------|---|---|---|---|
| MAURITANIA . . . | — | Calculated on quarterly basis | Total estimated claims | — |
| MEXICO | On actuarial basis, according to the technical basis laid down by the supervisory authorities | Calculated on quarterly basis | Total estimated claims. Specific provisions are laid down for the valuation of these claims | Gross |
| MOROCCO | Calculated on actuarial basis at prescribed mortality tables (AF and RF) ad rate of interest (3.5 per cent). Additional management expenses of 4 per cent | 36 per cent of annual premiums (37.5 per cent for motor-car business) | Total estimated claims or evaluated according to the average claims cost of the two preceding years | Gross |
| NEPAL | "Actuarial liabilities" | Non-life: 50 per cent of premium | No specific regulations | Not regulated |
| NIGER | Actuarial valuation, Technical basis not regulated | Reserves have to be constituted on these accounts but no bases for their valuation are prescribed | — | — |
| NIGERIA | Neither the min requirements nor the method of their calculation are stipulated | The same as for mathematical reserves | The same as for mathematical reserves | Net |
| PAKISTAN | Determined by actuary of the Insurance concern | There are no legal requirements 40 per cent of premium is usually reserved in non-life business | No specific regulations | Net |
| PANAMA | According to actuarial basis | 50 per cent of the net annual premium | Total estimated outstanding claims | Net |
| PARAGUAY | On actuarial basis with a rate of interest not more than 4 per cent (5 per cent for annuity insurance). Acquisition costs can be deducted up to given proportions | Fixed individually by each company according to regulations to be laid down by the authorities | Life: total estimated claims other classes: (a) Total claims estimated by a single expert (b) Average claims when estimated by two experts (c) 60 per cent of claimed amount if there is no evaluation | Net |
| PERU | Calculated according to formula and technical bases submitted by the concerns and approved by the Superintendency of Banks | 30-40 per cent of premium | Total estimated claims | Net, except mathematical reserves calculated on gross basis |
| PHILIPPINES | Calculated according to actuarial practice. Rate of interest not more than 6 per cent and not less than 3 per cent. Standard table of mortality | Non-life: 50 per cent of premium for 1 year contracts. Over one year: on pro-rata basis. Marine: 50 per cent of premium on annual policies; 100 per cent of premiums on all other marine risks not terminated | Not regulated | Not known |
| SENEGAL | — | — | — | — |

TABLE 5 (continued)
Rules concerning technical reserves

| | 1 | 2 | 3 | 4 |
|-----------------------|--|--|--|--|
| SIERRA LEONE | Not required | Not required | Not required | Not required |
| SINGAPORE | On actuarial basis with rate of interest not more than 4 per cent | Marine - aviation and transit 25 per cent of premium, other than life: 40 per cent of premium | — | Gross (if the reinsurance is placed abroad. Net when the reinsurance is placed in the country) |
| SUDAN | Net liabilities on life policies. No basis of calculation is prescribed | 40 per cent of net premium | Evaluated according to each individual company's experience | Net |
| SYRIAN ARAB REPUBLIC | Calculated by an actuary | Transport: 25 per cent Other branches: 40 per cent | Total estimated claims | Gross |
| THAILAND | Provision under consideration | Provision under consideration | Provision under consideration | Provision under consideration |
| TOGO | Calculated according to actuarial methods | Reserves must correspond to liabilities. No basis of calculation prescribed | Reserves must correspond to liabilities. No basis of calculation prescribed | Gross |
| TUNISIA | (No information available) | 36 per cent of premiums | Total estimated claims + 5 per cent of management expenses | Gross |
| UPPER VOLTA | "Réserve suffisante pour couvrir les risques et les frais généraux y afférents" | According 1/24 formula | Total estimated claims | Gross |
| URUGUAY | No specific regulations | No specific regulations | No specific regulations | No specific regulations |
| VENEZUELA | Calculated according to the technical methods and basis submitted by the companies and approved by the Supervisory authorities | 40 per cent of annual premiums (60 per cent in financial guarantees insurance) | No specific methods of calculation prescribed | Gross (mathematical reserve and reserves for unexpired risks) |
| VIET-NAM, REPUBLIC OF | No bases of valuation prescribed | Motor vehicles: 20 per cent of premium Transport: 15 per cent Other classes: 30 per cent Special conditions apply to policies of more than one year | Total estimated claims + 5 per cent for management expenses. Motor vehicle: at least 35 per cent of claims paid during the last five financial years | Gross |

TABLE 6
Financial guarantees other than technical reserves

| Country | National enterprises | | Foreign enterprises | |
|-----------|--|---|----------------------|-----------------------|
| | Share capital 1 | Other guarantees 2 | Share capital 3 | Other guarantees 4 |
| ARGENTINA | I. Enterprises registered before 27 January 1967 (a) Stock companies: pesos: 15,000,000.— | Share capital plus legal reserves must amount to not less than 15 per cent of the | Same as for national | Same as for national |

TABLE 6 (continued)

Financial guarantees other than technical reserves

| | 1 | 2 | 3 | 4 |
|------------------------------|--|---|-----------------------------------|---|
| ARGENTINA (continued) | For each additional main class of business transacted pesos 3,750,000. (b) Co-operative and Mutuals: ps. 3,000,000; for each additional main class of business transacted: 750,000. (c) Co-operative and Mutual (Trade unions and Syndicate) pesos 1,500,000. For each additional main class of business transacted: pesos 375,000. II. Enterprises awaiting approval at 27 January 1967. For any enterprise: 45,000,000. For each additional main class of business transacted pesos 11,250,000 III. Enterprises constituted after 27 January 1967 Subject to new regulations | annual net premiums. Legal reserve fund up to 10 per cent of the share capital | | |
| BARBADOS | Not regulated | Margin of solvency of \$200,000 or 1/10th of the premium income | | |
| BOLIVIA | Non-life, pesos: 500,000; Life: 500,000; Life and non-life: 750,000 | Pesos: 300,000 ("garantía de funcionamiento"). Legal reserve: up to 25 per cent of paid-up capital, accumulated from 5 per cent of annual profits | Same as for national concerns | Same as for national concerns |
| BRAZIL | Non-life: not less than new cruzeiros: 350,000 Life: 700,000 Sickness insurance only: 100,000 | Legal reserve: 20 per cent of share capital Accumulated from 5 per cent of annual profit | Same as for national | — |
| CAMEROON | No special regulations. However those laid down in France on 30.12.38 are applicable | No particular regulations | — | Not required |
| CENTRAL AFRICAN REPUBLIC ... | Fr. CFA 80,000,000 or Fr. CFA 50,000,000 ("fonds d'établissement" for mutuals) | Guarantee reserves and complementary reserves (as stipulated by the Supervisory Authority) | Same as for national concerns | Only if other countries require guarantee from concerns of Central African Republic |
| CEYLON | Rs. 10,000,000 | — | Not applicable | Not applicable |
| CHAD | — | — | — | — |
| CHINA (TAIWAN) | 1. Not less than new Taiwan \$30 million for general business (new Taiwan \$20 million for life business) transacted by Corporate Insurance Companies | None | The same as for national concerns | The same as for national concerns |

TABLE 6 (continued)

Financial guarantees other than technical reserves

| | 1 | 2 | 3 | 4 |
|-------------------------------|--|--|--|--|
| CHINA (TAIWAN) (continued) | 2. Not less than new Taiwan \$5 million for general business (new Taiwan \$3 million for life business) transacted by Mutual Companies | | | |
| COLOMBIA | Pesos 200,000 (marine insurance); pesos 200,000 (fire insurance); pesos 150,000 (life insurance); pesos 100,000 (motor-car insurance); pesos 100,000 (personal accident); pesos 50,000 (any other class) | Legal reserves: 10 per cent of annual profits, up to 50 per cent of paid-up capital | Same as for national concerns. Foreign concerns are requested to invest in Colombia at least equivalent amounts to those prescribed to national concerns in respect to share capital | Same as for national concerns |
| COSTA RICA ... | Not applicable | Not applicable | Not applicable | Not applicable |
| CYPRUS | Not less than £Cyp. 100,000 | Margin of solvency: Concerns carrying on general business (non-life) only: £cyp 50,000 or 1/10 of the premium income (whichever is the greater) Concerns carrying on long-term business (life) only: liabilities under unmatured policies not to exceed the amount of the respective funds (particular conditions apply to concerns carrying on both general and long-term business and to mutual associations) | Same as for national concerns | Same as for national concerns |
| DAHOMEY | The French regulations applicable (French Decree of 30 December 1938) | French regulations | Same as for national concerns | Same as for national concerns |
| DOMINICAN REPUBLIC ... | Pesos 100,000 | — | No specific requirements | Foreign concerns operating in one class of business only: pesos 25,000 in 2 classes: pesos 30,000; in more than 2 classes: pesos 40,000. (Foreign concerns transacting business beyond a certain amount of insured sums are requested to increase these guarantees up to pesos 80,000) |
| EGYPT | £E 200,000 (Initial capital) £E 100,000 (Working capital) | Legal reserves according to regulations other than insurance regulations | Not applicable | Not applicable |

TABLE 6 (continued)
Financial guarantees other than technical reserves

| | 1 | 2 | 3 | 4 |
|-------------------------------|--|--|---|--|
| GHANA | C.1,200,000 to C.2,400,000 depending on premium income | Margin of solvency: C.60,000 (C.120,000 in the case of foreign concerns) or 1/10 of the premium income (non-life) whichever is greater | Same as for national concerns | See conditions for national concerns |
| GUATEMALA ... | Life and similar classes: Q 200,000, General: Q 200,000 Others: Q 100,000, For all classes: Q 300,000. Additional capital: 25 per cent of the above sums, aimed at making up the initial deposit | Legal reserves: 50 per cent of paid-up capital accumulated from 5 per cent of annual profit | Not applicable (Foreign concerns are excluded from the national market) | Not applicable |
| GUYANA | Not regulated | Not regulated | Not regulated | Not regulated |
| INDIA | Not regulated | Rs 50,000 exclusive of the statutory deposits to be made (table 8) | — | The same as for national |
| INDONESIA | Not regulated | Not regulated | Not regulated | Not regulated |
| IRAQ | ID:100,000 | — | Not applicable | Not applicable |
| ISRAEL | Capital (paid-up) + free reserves: IL 3,000,000 | Not required but contingency reserves: 10 per cent of technical reserves permitted and exempt from income tax | Same as for national concerns | Not required |
| IVORY COAST .. | Fr CFA 100 million of which 50 per cent paid-up. Mutual concerns: initial funds of 30 million Fr CFA | Not regulated | Same as for national concerns | |
| JAMAICA | Motor vehicles: £50,000 | Solvency margin for concerns transacting motor insurance: £50,000 | Same as for national concerns | Same as for national concerns |
| JORDAN | 100,000 dinars | — | 250,000 dinars | — |
| KENYA | — | — | — | — |
| KHMER REPUBLIC ... | Not applicable | Legal reserves | Not applicable | Not applicable |
| KOREA, REPUB- LIC OF | General branches not less than 100,000,000 won Life: not less than 50,000,000 won | Legal reserves (calculated on the annual profits) | Same as for national concerns | Same as for national concerns |
| KUWAIT | 150,000 Kuwaiti dinars | Legal reserves: 10 per cent of annual profit | 225,000 Kuwaiti dinars | Not regulated |
| LAOS | For each branch: 6,000,000 Kips | Guarantee reserves 1 per cent of net premiums issued till 10 per cent of technical reserves | Not regulated | Same as for national concerns (with the exception of French companies) |
| LEBANON | L£ 1,000,000 (with except of Mutuelles professionnelles) | Legal reserve: 10 per cent of annual profit | Not regulated | Not regulated |

TABLE 6 (continued)

Financial guarantees other than technical reserves

| | 1 | 2 | 3 | 4 |
|----------------|--|---|-------------------------------|---|
| MADAGASCAR .. | Fr CFA 120,000,000 (50 per cent paid-up). For Mutual 60,000,000 | " Réserve de garantie et complément obligatoire aux réserves techniques " | Same as for national concerns | Not required in principle, except that when Malagasy companies in foreign territory are required to provide guarantees, foreign companies will be subject to the same requirement |
| MALAWI | Not regulated | £500,000 or 1/10 of premium income of preceding year, whichever is greater, as margin of solvency | Not regulated | Same as for national concerns |
| MALAYSIA | Surplus of assets over liabilities: not less than 1 million dollars to be registered for one class of business (life or general). For both classes of business the surplus must not be less than 1.5 million dollars. The surplus can be paid up share capital or in other forms | | Same as for national concerns | Same as for national concerns |
| MAURITANIA ... | Fr CFA 80,000,000 Fr Mutual cos. 40,000,000 | — | Same as for national concerns | Same as for national concerns |
| MEXICO | At the discretion of the authorities, within the following limits: Life: Pesos 2,000,000-6,000,000 Accidents and sickness: Pesos 500,000-1,500,000 General: Pesos 1,000,000 Pesos 2,000,000 (for one class of insurance only) Pesos 3,000,000 to 6,000,000 for three or more classes. Particular conditions are laid down for mutual concerns | Legal reserves: 50 per cent of paid-up capital, accumulated from 10 per cent of annual profit | Same as for national concerns | Same as for national concerns |
| MOROCCO | To be fixed by the Minister of Finance | Legal reserves: 5 per cent of annual profits Guarantee reserves: 0.5 per cent of premiums written till it reaches 5 per cent of technical reserves (10 per cent for certain classes) | — | Same as for national concerns |
| NEPAL | Not less than 2,000,000 rupees (paid-up) | Margin of solvency | Same as for national concerns | — |
| NIGER | Fr CFA 80,000,000 (Stock company) Fr 40,000,000 initial fund (<i>fonds d'établissement</i>) for mutual | Complementary guarantee reserves | Same as for national concerns | Not required |
| NIGERIA | £25,000; £50,000 for concerns carrying business outside the country | Non-life insurance concerns: Margin of solvency: £25,000 or 1/10th of the premium income, whichever is the greater | £50,000 | Not required |

TABLE 6 (continued)
Financial guarantees other than technical reserves

| | 1 | 2 | 3 | 4 |
|----------------------------|---|--|-------------------------------|-------------------------------|
| PAKISTAN | Not less than Rs. 1 million (in the country where the company is constituted) | Margin of solvency invested in Pakistan of Rs. 500,000 or 10 per cent of the net premium, whichever is the higher | Same as for national concerns | Same as for national concerns |
| PANAMA | Balboas 100,000 (Insurance concerns transacting Fire business must have a paid-up capital of Balboas 400,000) | Life: 20 per cent of annual profits up to the amount of paid-up capital. Other classes 15 per cent of the annual profits up to the amount of paid-up capital | Same as for national concerns | Same as for national concerns |
| PARAGUAY | Fire: guarantes 2,500,000 Motor: 1,000,000 Transport: 1,000,000 Life: 500,000 Other risks: 200,000 Minimum capital not less than 4,000,000 | Legal reserves: 50 per cent of paid-up capital, accumulated from 10 per cent of annual profit | Same as for national concerns | Same as for national concerns |
| PERU | Soles 5,000,000 | Legal reserves: Soles 1,000,000 accumulated from 20 per cent of annual profit | Same as for national concerns | Same as for national concerns |
| PHILIPPINES | Share-capital or initial fund: Pesos 500,000 Working capital: Pesos 100,000 | Surplus (contributed) of pesos 250,000 (life concerns) and Pesos 100,000 (non-life concerns) | Not required | Same as for national concerns |
| SENEGAL | — | — | — | — |
| SIERRA LEONE | No provision | Not required | — | Not required |
| SINGAPORE | Share capital plus reserves for 1 class not less than £1,000,000; for life and non-life classes: \$1,500,000 | — | Same as for national concerns | Same as for national concerns |
| SUDAN | £S 50,000 | Not required | Same as for national concerns | Not required |
| SYRIAN ARAB REPUBLIC | £S 2,000,000 (paid-up 1,500,000) | Life: £S. 100,000; for each other branches: £S. 50,000 | Not applicable | Not applicable |
| THAILAND | Life: Baht 5,000,000 Marine and Transport: Baht 2,500,000 Others: Baht 3,000,000 All non-life (including marine and transport): Baht 3,500,000 | Provisions under consideration | Same as for national concerns | Same as for national concerns |
| TOGO | Share-capital: Fr CFA 100 millions or initial fund: Fr CFA 30 millions | Not required | Same as for national concerns | Same as for national concerns |
| TUNISIA | Life: not stated Non-life: Tunisian dinars, 200,000 | Guarantee reserve of 20 per cent of share-capital accumulated from 1 per cent of premiums (0.5 per cent of life premiums) | Same as for national concerns | Same as for national concerns |

TABLE 6 (continued)
Financial guarantees other than technical reserves

| | 1 | 2 | 3 | 4 |
|--------------------------|---|--|----------------------------------|----------------------------------|
| UPPER VOLTA . . . | Fr CFA 100,000 (share-capital) Fr CFA 100,000 (initial fund) | — | Same as for national concerns | |
| URUGUAY | No specific regulations | | Not applicable | Not applicable |
| VENEZUELA | Life: not less than: Bs 3,000,000 Life and non-life: Bs 4,000,000 Financial guarantees: Bs 5,000,000 Non-life and financial guarantees: Bs 8,000,000 Reinsurance: Bs 4,000,000 (50 per cent of the above share-capital must be paid-up) | Concerns transacting financial guarantees insurance must es- tablish a special fund, in addition to that laid down in the Code of Com- merce, up to the amount of the paid- up capital, accumu- lated from 20 per cent of the annual profits. For all in- surance concerns, the amount of the paid- up capital plus legal reserves must be not less than 10 per cent of the mathematical reserves and reserves for unexpired risks | Not applicable | Not applicable |
| VIET-NAM, REPUBLIC OF | All branches except life: VN\$ 15 mil- lion; Fire, transport workmen's compensation misc. and motor: VN\$ 14 million; Transport and motor: VN\$ 13 million; Fire and transport or fire and motor: VN\$ 11 million; Transport and Motor: VN\$ 10 million; Workmen's com- pensation and misc.: VN\$ 6 mil- lion; Life: VN\$ 15 million | Initial fund, additional to share-capital, of at least 1/10th of the share-capital. Gua- rantee reserves of at least 20 per cent of the share-capital or up to 33 per cent of the average annual claims paid and out- standing of the five last years. For life insurance concerns, the reserve is ac- cumulated from 5 per cent of the premiums paid, up to 5 per cent of the technical re- serves | Same as for national concerns | Same as for national concerns |

TABLE 7
Assets of insurance enterprises

| Country | Assets considered as acceptable investments 1 | Prescribed quotas per kind of asset if any 2 | | Is investing in foreign assets permitted? 3 | Rules concerning the evaluation of investments 4 | |
|-------------------|--|--|---------------------------|--|--|--------------------|
| | | Non-life | Life | | Securities: value | Market property |
| ARGENTINA | Public bonds shares: Debentures | minimum 25 per cent | minimum 10 per cent | Foreign securities up to the mathematical reserves established | Securities: value Immovable | Market property |

TABLE 7 (continued)
Assets of insurance enterprises

| 1 | | 2 | | 3 | 4 |
|--------------------------|--|---|---------------------|---|---|
| | | Non-life | Life | | |
| ARGENTINA (continued) | | maximum | maximum | in foreign currency | (Land): purchase |
| | Mortgage (1st degree in Argentina) | 60 per cent | 80 per cent | Foreign stocks of companies the main objective of which is the organization of public services in Argentina | price building; cost price less annual depreciations |
| | Immovable property Stock and shares of public utility companies | 15 per cent | maximum 20 per cent | | |
| | Loans guaranteed with shares and debentures | | | | |
| BARBADOS | Not regulated | Not regulated | | Not regulated | Not regulated |
| BOLIVIA | Public or other bonds | | | | Shares and bonds: market value; other investment: purchase price |
| | Shares of local stock enterprises | | | | |
| | Loans for commercial and industrial enterprises | Up to 80 per cent of the technical reserves | | No | |
| | Mortgage loans | | | | |
| | Loans on life policies | | | | |
| | Cash in Central Bank | Minimum of 20 per cent | | | |
| BRAZIL | Treasury bills | 50 per cent of the additional reserves established during the year must be invested in treasury bills | | No | Except in cases fixed by law, evaluation is based on purchase price |
| | Debentures | | | | |
| | Bonds | | | | |
| | Shares and debentures | | | | |
| | Mortgage loans | | | | |
| | Cash and banks | (Obrigações reajustáveis do Tesouro nacional o letras do Tesouro Nacional) | | | |
| | | 30 per cent of the life insurance reserves are submitted to this obligation | | | |
| CAMEROON | State bonds, mortgage loans, credits, property | Not stated | | No | Bonds: quotation in bourse |
| | Bons d'équipement ... | 10 per cent or more of the reserves | | | Mortgage: value at date of allocation |
| | | | | | Property: purchase price less depreciation of 3 per cent |
| CENTRAL AFRICAN REPUBLIC | State securities, loans, issued by the State, Securities of Banque Nationale de Développement and Société Nationale d'Habitat, Property in the country | Without limit | | No | Shares quoted: either purchase price or lowest price at date of evaluation (if lower than purchase price) |
| | Mortgage loans | | | | Shares unquoted: nominal value |
| | Shares in companies established by the State | Min. 50 per cent of total invest. | | | Property: purchase or cost price less depreciation of 4 per cent |
| | Other authorized invest. | | | | Shares of building societies: allocation value |
| | Cash, Banks, Premiums due | Max. 40 per cent of technical reserves | | | Others: to be fixed by the Minister |
| CEYLON | It is left to the discretion of the Government | — | | — | — |

TABLE 7 (continued)
Assets of insurance enterprises

| | 1 | 2 | 3 | 4 |
|------------------------|---|--|---|---|
| CHAD | — | — | — | — |
| CHINA (TAIWAN) | Cash, bank deposits, bonds or debentures real estate Loans on life policies guaranteed loans (These regulations also apply to the investment of the share-capital | Not more than 1/3 of share capital and technical reserv. | No | No particular regulations except those laid down in the Income Tax Act and Land Act |
| COLOMBIA | Public bonds or debentures guaranteed by the State or by public bodies Mortgage certificates issued by mortgage banks Industrial debentures (<i>bonos industriales</i>) Mortgage loans for low-cost housing Other assets, inc. cash, banks, loans on life policies, bonds, debentures, mortgages, real estate, etc. | <i>Minimum</i> 40 per cent 25 per cent 20 per cent 15 per cent | 54 per cent of the technical reserves (non-life) and 61 per cent of technical reserves (life) | Not as a rule. The authorities may consider, however, this possibility for national concerns operating abroad |
| COSTA RICA ... | Public bonds (National debt) | Not more than 25 per cent of technical reserves | — | Real property: Subject to tabulated depreciation methods set up by the taxation authorities |
| CYPRUS | Not yet specially regulated. Only the general principle that investments are to be made in approved securities is laid down | | No | Concerns are free to evaluate their assets subject to the production of a certificate to the effect that the assets set forth in the balance-sheet are in the aggregate fully of the value stated therein |
| DAHOMEY | Securities (bonds of treasury) Immovable property Bons issued by Société dahoméenne d'équipement touristique et hôtelier Mortgage loans (1st degree) Other invest. Cash and banks | Without limit Maximum 50 per cent of total invest. Maximum 40 per cent of the technical reserves | No | Bonds: nominal value Property; purchase price or cost price less 2 per cent depreciation Shares of building societies: allocation value Mortgage: 50 per cent of estimated value Other invest.: to be fixed by the Minister |
| DOMINICAN REPUBLIC ... | Bonds issued or guaranteed by the State Cash in State banks Mortgage loans Stock and debentures of national concerns dealing with agricultural, industrial and livestock promotion Loans on life policies, property | — | No | No rules |
| EGYPT | Securities, real estate, mortgages, loans on policies, cash and banks | Not prescribed | — | These are laid down by the Egyptian Insurance Organization |

TABLE 7 (continued)
Assets of insurance enterprises

| | 1 | 2 | 3 | 4 |
|-----------------|---|---|--|--|
| GHANA | Government securities Other approved investments | 75 per cent of reserves 25 per cent for un- expired risks and life fund | Not stated | No rules but the Com- missioner must ap- prove any valuations |
| GUATEMALA ... | Public bonds (<i>Bonos públicos del Estado</i>) National Banks (current and deposit accounts) | 40 per cent of reserves Min. 1 per cent of mathem. reserves | No | Immovable property: cost value less dep- reciation Revaluations are per- mitted, provided they are shown as such in the Balance- sheet (" <i>Superavit no ganado</i> ") |
| GUYANA | Not regulated | Not regulated | Not regulated | Not regulated |
| INDIA | No restriction besides that statutory deposits to be in cash or approved securities | — | — | Not to exceed realis- able or market value |
| INDONESIA | Not regulated | Not regulated | Not regulated | Not regulated |
| IRAQ | According to the general policies set up by the State Insurance Organ- ization | — | — | — |
| ISRAEL | Government securities or securities guaranteed by it Non-government securities registered with the Stock Exchange Loans on policies Mortgage loans Other loans Other assets, including equipment, debts of insurance companies and other debtors, premium for collection Cash and deposits | Without limit 30-70 per cent of total amount of liabilities Within the limits of surrender value of each policy 15-40 per cent 15-40 per cent Detailed regulations Without limit | Permitted for funds derived from in- surance policies is- sued in foreign cur- rency | Government securities: not exceeding pur- chase price Non-government secu- rities: (registered) not exceeding pur- chase price of their value on the stock exchange on date of balance-sheet Non-government secu- rities (not registered) purchase price or estimated true value Mortgage loans on building not more than 25 per cent of value of property at that date Other buildings: 33 per cent Loans on life policies: nominal value not exceeding the policy redemption value Building and vacant lots: not exceeding purchase price less depreciation or as- sessment value whichever is less Loans to sister cos.: not exceeding pur- chase price Bank deposits (1 year) nominal value Furniture and office equipment taken value |

TABLE 7 (continued)
Assets of insurance enterprises

| | 1 | 2 | 3 | 4 |
|--------------------------|---|--|--|---|
| IVORY COAST ... | Similar to regulations applicable in France | — | No | Regulated |
| JAMAICA | Not regulated | Not regulated | Not regulated | Not regulated |
| JORDAN | Will be prescribed by the Minister No action taken as yet | — | — | To be made by three experts appointed by Minister No rules given |
| KENYA | — | — | — | — |
| KOREA, REPUBLIC OF | Loans on securities (national bonds, Government bonds and stocks or company bonds) Loans on security or possession of real estate Loans on vessels (Marine insurance concerns) Loans on life policies Cash, money trust | Stocks: not more than 40 per cent of gross assets Real estates: not more than 30 per cent of gross assets Not more than 5 per cent of gross asset in the loan on security of policy or stocks, or possession of bonds and stocks of the same company | No | Assets (except stocks): current price. Listed stocks: average value of the last 30 days reckoning from the date of evaluation. Stocks: not listed on regulation laid down in Presidential Decree |
| KUWAIT | Cash in banks operating in Kuwait Foreign securities Kuwaiti companies shares, debentures or bonds Current account in banks operating in Kuwait Real property in Kuwait, Mortgages, loans on life policies | Funds retained in the country Not more than 25 per cent Not more than 20 per cent Not more than 10 per cent The balance | Permitted in foreign stocks, as indicated | Stocks: not exceeding market value Real property: purchase price or market value, whichever less Loans secured by mortgage on real property, on insurance policies: face value less any amount paid off |
| LAOS | Not regulated | Not regulated | Not regulated | Not regulated |
| LEBANON | Cash and bank deposits Land and property of first degree mortgage Loans on life policies Shares and debentures State bonds Foreign shares and debentures subject to the approval of the authority | Not prescribed | Permitted in foreign shares and debentures, subject to approval of the authority up to the mathematical reserves in foreign currencies | Rules of commercial code |
| MADAGASCAR ... | Shares, bonds, stocks Real estate Property Loans to building societies Cash, banks | — | — | Purchase price or nominal value Assignment value Purchase or cost price |
| MALAWI | Not regulated | Not regulated | Not regulated | Not regulated |
| MALAYSIA | Authorized Federation assets | At least 55 per cent of the insurers' funds | Reserves of life policies not expressed in Malaysian currency | Freedom in the valuation, subject to a certificate that the assets are at least of the value stated in the balance sheet |

TABLE 7 (continued)
Assets of insurance enterprises

| | 1 | 2 | 3 | 4 |
|----------------------|---|--|--|---|
| MAURITANIA | Government securities Loans issued by the Govt. Securities of Central Fund and Economic Co-operation Pro- perty in the country Mortgage loans Other authorized investment | Without limit Maximum 50 per cent of total investment | — | Shares quoted: pur- chase price or lowest price at date of evaluation Shares unquoted: nominal value Property: purchase or cost price less de- preciation Shares of building so- cieties: allocation value Others: to be fixed by the Minister |
| MEXICO | State securities and bonds, bonds on mortgages issued by the national credit institutions Bonds of national credit institutions for low cost housing (<i>habitación popular</i>) Low-cost housing or mortgages on such buildings Loans guaranteed by mortgages Buildings Cash and banks Shares and stocks of Mexican companies Other assets, such as premiums to be collected, reinsurers' deposits, etc. | Minimum 25 per cent Minimum 5 per cent Minimum 5 per cent Maximum 30 per cent Maximum 30 per cent Maximum 10 per cent Maximum 20 per cent ... | Permitted only for liab- ilities taken in for- eign currencies — not exceeding 25 per cent of total reserves | Shares and bonds: av- erage value of the 24 months preceding the date of quotation Shares of national in- stitution, nominal value Urban property: (a) Average price but must be approved by the authority (b) On basis of rent |
| MOROCCO | State securities and bonds Shares of the State bank Securities of Société centrale de réassurance Property Shares of Building Societies Bonds issued by Municipality Loans Mortgage (1st degree) Securities quoted in the local stock market | No limit 50 per cent | — | Purchase price or av- erage value of the last month preceding date of evaluation, whichever is less |
| NEPAL | Subject to Government directives | | — | — |
| NIGERIA | Stock, notes, bonds and other se- curities issued by the Government. Stocks, shares and debentures issued by Nigerian enterprises established by law Cash, real estate, mortgage loans, Loans on insurance policies Property | — | — | No rules |
| PAKISTAN | Life insurance reserves: Government securities Non-life: no specific requirements | — | — | Cost price less dep- reciation |
| PANAMA | 80 per cent of the mathematical re- serves and other reserves to be invested in the country in national securities | — | 20 per cent of the math- ematical reserves | Purchase price |

TABLE 7 (continued)
Assets of insurance enterprises

| | 1 | 2 | 3 | 4 |
|--------------------------------|---|--|--------------------------|--|
| PARAGUAY | Public bonds or those guaranteed by the State Mortgage loans of 1st degree on property located in the country Mortgage bonds Property located in the country and authorized by the Superintendency of banks Loans on life policies Other investments, non-life Mortgage loans | Not prescribed | No | No fixed rules |
| PERU | Bonds of public debt, shares quoted on the national Stock Exchange Mortgage loans (1st degree) Loans on life policies | Not regulated | No | According to specific requirements Revaluation of property only admitted with the approval of the authorities |
| PHILIPPINES | Mortgage loans (real estate) Mortgage loans (agricultural lands) Land and Building: Government bonds Bonds and debentures of corporations Preferred or guaranteed stocks Loans on life policies Common stocks of Corporation Certificate, notes and obligations of trustees Other securities approved by Insurance Commissioner Life Insurance companies Housing projects Real property | Not more than 60 per cent of market value Not more than 40 per cent of market value Not exceeding 10 per cent of admitted assets Not exceeding 25 per cent of admitted assets | — | Market value |
| SENEGAL | Treasury Bonds (<i>Bons d'équipement et du Trésor</i>) | — | — | — |
| SIERRA LEONE | All kinds of assets | — | Permitted | No rules |
| SINGAPORE | Fixed assets: land or building. Loans on land or building Debentures or shares Insurance policies Life interests and reversions Personal security Government securities Securities of local Government Companies' debentures and shares Cash | — | Permitted | No rules |
| SUDAN | Post Office Savings Bank Government securities | 60 per cent 30 per cent | Not permitted | Laid down in commercial code |
| SYRIAN ARAB REPUBLIC | Cash Others to be decided by the Minister | — | — | — |
| THAILAND | No information available | No information available | No information available | No information available |

TABLE 7 (continued)
Assets of insurance enterprises

| | 1 | 2 | 3 | 4 |
|-------------------|---|---|-------------------------|---|
| TOGO | State bonds or guaranteed by the State, Securities issued by the Banque togolaise de développement Property and real estate situated in the country Mortgaged loans on property Others authorized investment Cash, banks, premiums to collect | Without limit 50 per cent of the total investments 40 per cent of the technical reserves | Not authorized | No specific regulations |
| TUNISIA | Government securities, Bonds of Société tunisienne de banque or of Banque nationale agricole Urban property Mortgage loans (1st degree) Shares or debentures of building societies | Without limit 30 per cent of technical reserves | Not admitted | Securities: purchase price If market value is less than 75 per cent of purchase price on date of valuation would be referred to quotation office Property: purchase or cost price (excluding maintenance but including improvements) Redeemable securities if price of reimbursement is higher than purchase price and maturity is at least after 3 years after the date of evaluation the purchase price can be substituted by market value |
| UPPER VOLTA | Deposits in <i>Caisse d'épargne</i> State securities Bonds guaranteed by the State Securities of National Development Bank Property in the country Mortgage (1st degree) Other authorized investment | Minimum 60 per cent of the technical reserves Without limit Maximum 50 per cent of total assets | — | Bonds, quotation in stock market or purchase price whichever is less at date of valuation Non-quoted: nominal price Purchase price less depreciation 50 per cent of estimated value Building: allocation value Others: to be fixed by the Minister |
| URUGUAY | No specific regulations | No specific regulations | No specific regulations | No specific regulations |
| VENEZUELA | Government securities or guaranteed by the State Loans on mortgages (<i>cédulas hipotecarias</i>), shares and debentures of national joint-stock companies Cash and banks, loans, mortgages | Minimum 30 per cent of mathematical reserves and reserves for unexpired risks Maximum 20 per cent of mathematical reserves and reserves for unexpired risks Maximum 50 per cent of mathematical reserves and reserves for unexpired risks | Not admitted | According to detailed regulations for each category of securities |

TABLE 7 (continued)
Assets of insurance enterprises

| | 1 | 2 | 3 | 4 |
|--------------------------|--|---|--------------|---|
| VIET-NAM, REPUBLIC OF | Government bonds Urban property Shares of companies in which the State participates financially } | Without limit Up to 50 per cent of reserves for un- expired risks Up to 15 per cent | Not admitted | Purchase price less dep- reciation Urban property cannot be evaluated for more than 70 per cent of the purchase price. Revaluations are only admitted under the approval of Fiscal authorities |

TABLE 8
Rules concerning the deposit of financial guarantees

| Country | National concerns | | Foreign concerns | |
|-------------------------------|--|---|---|----------------------------------|
| | Fixed guarantees 1 | Adjustable deposits 2 | Fixed guarantees 3 | Adjustable deposits 4 |
| ARGENTINA | Workmen's compensation Pesos 50,000 in public securities | — | Public debt securities: Fire: 360,000 pesos; one class of business except fire: pesos 180,000, each addi- tional class: pesos 120,000 | — |
| BARBADOS | Unknown | — | Unknown | — |
| BOLIVIA | B\$ 30,000 in bonds deposited with the Central bank. (This amount may be counted as part of tech- nical reserves) | — | Same as for national concerns | — |
| BRAZIL | Unknown | Securities deposited with the Bank Property registered with Superintend- ency of Private In- surers "SUSEP" | — | Same as for national concerns |
| CAMEROON | No applied rules | No applied rules | No applied rules | No applied rules |
| CENTRAL AFRI- CAN REPUBLIC | — | — | — | — |
| CEYLON | No regulations | No regulations | (Requirements regarding deposits applicable to foreign concerns are no longer operative as entire business is a State monopoly) | — |
| CHAD | — | — | — | — |
| CHINA (TAIWAN) | 15 per cent of share-capital or initial fund to be deposited with the Government Treasury | Investments corre- sponding to tech- nical reserves must be deposited in the banks or treasuries prescribed by the competent author- ities | Same as for national concerns | Same as for national concerns |

TABLE 8 (continued)

Rules concerning the deposit of financial guarantees

| | 1 | 2 | 3 | 4 |
|--------------------------|---|---|---|-------------------------------|
| COLOMBIA | Guarantee deposits: Life insurance: pesos 100,000 Fire and marine: pesos 100,000 Accidents: pesos 25,000 Other classes: pesos 25,000 | — | Same as for national concerns | Same as for national concerns |
| CYPRUS | £cyp 10,000 (in respect of each of the following classes long-term business and motor vehicle) £cyp 10,000 (in respect of any one or more than one class, other than long-term and motor vehicles) | Part of the assets covering technical reserves must be deposited with the Central Bank and part with Trustees resident in the country | Same as for national concerns | Same as for national concerns |
| DAHOMY | Not required | Not required | Not required | Not required |
| DOMINICAN REPUBLIC ... | RD\$ 40,000 (exceptions are permitted for concerns operating in a limited number of classes) | Not required | The amounts of the financial guarantees indicated in table 6 | Not required |
| EGYPT | Deposits: Marine and aviation: £E 5,000. Each other branch: £E 10,000 Deposits can be counted towards technical reserves | — | Not applicable | Not applicable |
| GHANA ^a | Cc 120,000 (In Government securities) | — | Cc 240,000, 50 per cent thereof may be in banker's guarantee | — |
| GUATEMALA ... | Not prescribed | Government securities to cover policy holder liabilities, deposited in the Banco de Guatemala, to be withdrawn with the consent of the Superintendency of Banks | Not applicable | Not applicable |
| GUYANA | Deposit with the Minister of Finance of securities to be approved by the Governor-General to the market value of \$50,000; they can be counted as part of the technical reserves | Not regulated | Same as for national concerns | Not regulated |
| INDIA | For each class (i.e. Fire, Marine, or miscellaneous): Rs. 150,000 For 2 classes: Rs 250,000 For 3 classes: Rs 350,000 to be deposited with the Reserve Bank on behalf of the Central Government | — | Same as for national concerns (unless foreign countries impose additional deposits on Indian companies operating there) | — |
| INDONESIA | Not regulated | Not regulated | Not regulated | Not regulated |
| IRAQ | Life and capital redemption: Iraqi dinars 30,000, Other insurances: Iraqi dinars 15,000 to be deposited | — | Not applicable | Not applicable |

TABLE 8 (continued)

Rules concerning the deposit of financial guarantees

| | 1 | 2 | 3 | 4 |
|-----------------------|---|---|---------------------------------|-------------------------------|
| ISRAEL | Life: IL.40,000 Motor (TP): 40,000 Other risks: 20,000 (each class of business) Amounts may be reduced when several classes of business are operated These guarantees are deposited with the Accountant General either in cash or approved securities ^b | Not prescribed | Same as for national concerns | Not prescribed |
| IVORY COAST .. | Regulations can be laid down by the Minister | — | Same as for national concerns | — |
| JAMAICA | Concerns transacting motor insurance: £20,000 deposit in "approved resources" | Not required | Same as for national concerns | Same as for national concerns |
| JORDAN | Life: Jordanian dinars 20,000 Each other class: 10,000 to be deposited in any bank in the country to the order of the Minister of the National Economy ^b | — | Same as for national concerns | — |
| KENYA | — | — | — | — |
| KHMER REPUBLIC ... | — | 1/3 funds with the Treasury 2/3 of funds with the national banks | Not applicable | Not applicable |
| KOREA | At the discretion of the Minister | Not prescribed | 20,000,000 Won | Not prescribed |
| KUWAIT | Life: Kuwaiti dinars 45,000 Each other class: Kuwaiti dinars 30,000 These guarantees may take the form of cash, shares and bonds (deposited in a bank) or real estate (mortgaged in the name of the Minister of Commerce and Industry). They also may take the form of a bank guarantee | Funds corresponding to technical reserves | Same as for national concerns | Same as for national concerns |
| LAOS | Cash deposited in National Treasury. Mortgage deposited in the Direction de l'enregistrement et de la propriété foncière | | Kips 200,000 or bank guarantees | Same as for national concerns |
| LEBANON | Life: LP 200,000 Each other class: 100,000 to be deposited in a Lebanese bank ^b | — | Same as for national concerns | — |
| MADAGASCAR .. | Deposits are not prescribed | Deposits are not prescribed | Deposits are not prescribed | Deposits are not prescribed |
| MALAWI | Not regulated | Not regulated | Not regulated | Not regulated |
| MALAYSIA | Statutory deposit of 300,000 dollars for life and for general business, or a Bank covenant in lieu of the deposit. The concerns had the option to specify the amount of the deposit to be counted towards their technical reserves, but had no choice thereafter to increase the amount of the deposit so counted | Not prescribed | The same as for national | |

TABLE 8 (continued)

Rules concerning the deposit of financial guarantees

| | 1 | 2 | 3 | 4 |
|-------------------|---|--|--|--------------------------|
| MAURITANIA ... | None | — | Deposits may be required from foreign concerns whose country of origin would not grant reciprocal facilities to Mauritanian concerns | — |
| MEXICO | No applied rules | No applied rules | No applied rules | No applied rules |
| MOROCCO | The Minister has discretionary powers to prescribe corresponding amounts | Financial guarantees that constitute accepted investments mentioned in table No. 7 have to be deposited with banks | The same as for national | The same as for national |
| NEPAL | Not regulated | Not regulated | Not regulated | Not regulated |
| NIGER | — | — | Deposits may be required from foreign concerns whose country of origin does not grant reciprocal facilities to national concerns | — |
| NIGERIA | — | — | — | — |
| PAKISTAN | Life: R\$ 200,000 Non-life: (for each class fire, marine, miscellaneous) R\$ 150,000 Life and any other class: R\$ 300,000 Life and two classes: R\$ 400,000 Life and three classes: R\$ 450,000 All classes (non-life): R\$ 300,000 Two classes (non-life): R\$ 250,000 To be deposited either in cash or in Government securities with State Bank. Life securities can be deposited with scheduled banks in Pakistan | — | Same as for national concerns | — |
| PANAMA | Balboas 50,000 to 200,000 (according to the classes transacted) to be deposited in the National Bank | — | Same as for national concerns | — |
| PARAGUAY | No regulations | No regulations | No regulations | No regulations |
| PERU | Soles 2,500,00 (securities) and soles 2,500,000 (property) deposited in the Central Bank. (They cannot be counted towards technical reserves) | Securities covering life insurance reserves and legal reserves must be deposited in the Central Bank | The same as for national | The same as for national |
| PHILIPPINES | No special rules | No special rules | Pesos 250,000 deposited with the Office of Insurance Commissioner | — |
| SENEGAL | No information available | No information available | No information available | No information available |
| SIERRA LEONE . | Not regulated | Not regulated | Not regulated | Not regulated |

TABLE 8 (continued)

Rules concerning the deposit of financial guarantees

| | 1 | 2 | 3 | 4 |
|---------------------------------|---|---|---|----------------------------------|
| SINGAPORE | For one class: \$300,000 for 2 classes: \$600,000 deposited in cash or any other type of assets (not in land) released only when winding-up | — | The same as for na- tional | — |
| SUDAN | — | — | — | — |
| SYRIAN ARAB REPUBLIC | Life: £S 100,000; each other branch: £S 50,000 to be deposited in cash with "banks recognized by the State" | — | Not applicable | Not applicable |
| THAILAND | Deposits lodged with the Controller of Insurance: Life: baht 2,000,000 Marine and Transport: baht 1,000,000 Others: baht 1,000,000 Non-life: (including marine and transport) baht 1,500,000 | — | The same as for na- tional | — |
| TOGO | No specific regulations | No specific regulations | No specific regulations | No specific regulations |
| TUNISIA | — | Particular conditions for concerns trans- acting workmen's compensation and motor-car insurance | Deposit for each branch: 10,000 Tuni- sian dinars Maximum for all branches: Tunisian dinars 40,000 (cannot be counted towards technical reserves) | Same as for national concerns |
| UPPER VOLTA | — | — | Required only if the country of origin requires similar de- posits from national concerns | — |
| URUGUAY | Not applicable | Not applicable | Not applicable | Not applicable |
| VENEZUELA | Amounts to be deposited in the Banco Central Bs 400,000 (life or non-life) Bs 500,000 (financial guarantees) Bs 500,000 (Reinsurance) These deposits cannot be counted towards technical reserves | — | Not applicable. All insurance concerns must be national | |
| VIET-NAM, REPUBLIC OF | Initial guarantee deposit (<i>Caution- nement de base</i>) Motor vehicle VN\$ 500,000 + 0.5 per cent of the annual premium up to VN\$ 1,000,000 | — | Initial guarantee de- posit VN\$ 1,000,000 to VN\$ 2,000,000 (depending on the amount of initial funds invested in the country for the start- ing of business) | — |

^a The fixed guarantees can be counted as part of technical reserves.^b These deposits may be counted towards technical reserves.

TABLE 9
Rules governing reinsurance operations

| Country | Rules concerning compulsory reinsurance cessions in the country 1 | Specialized reinsurers (without direct business): are they supervised? 2 | Rules concerning technical reserves of accepted reinsurance 3 | Rules concerning transfers resulting from reinsurance operations 4 |
|------------------------------------|--|--|--|--|
| ARGENTINA | Insurance companies must reinsure their surpluses in the National Institute of Reinsurance all branches subject to legal monopoly as: life, fire, transport, hull and cargo, motor vehicle, Aviation (including the basic risk of accidents when the cession exceeds certain amount) Hail and earthquake Business in other branches may be fully reinsured abroad with the consent of the National Reinsurance Institute. Foreign companies are subject to the same requirements, but cessions to the Institute are made on a quote-share basis | Non existant, except the National Reinsurance Institute which enjoys the monopoly of reinsurance | For active reinsurance, the local or foreign companies must constitute a reserve for unexpired risks on the original premium. Any co. ceding reinsurance abroad must retain the reserve corresponding to the ceded part of the original risk | No restrictions on transfers abroad |
| BARBADOS | None | No | None | Unknown |
| BOLIVIA | No special rules | Supervised | If a reinsurance company would be established in the country, it must fulfil all requirements as for insurance companies | No restrictions |
| BRAZIL | Reinsurance operations can only be transacted with the National Institute of Reinsurance (IRB) which is vested with the monopoly for almost all kind of reinsurance transactions. The IRB retrocedes to insurance companies a substantial part of reinsurance, proportionate to the capacity of each one and to the interests of the market | Supervised | Similar to rules laid down for direct business. No deposits are generally made by the IRB with its ceding companies in Brazil. However, reinsurances or retrocessions placed abroad are subject to the condition that the corresponding technical reserves are deposited with the IRB. A "retrocession guarantee" is deposited with the IRB by direct cos. in Brazil for retrocessions accepted from the IRB | Transfers are practically only permitted to the IRB for its transactions with foreign retrocessionnaires |
| CAMEROON | Reinsurance cessions to the National Reinsurance Fund (Caisse nationale de réassurance): up to 25 per cent of direct business | — | Reinsurance reserves are deposited with ceding Companies so as to enable the latter to invest the global amount of their technical reserves | No special rules on transfers |
| CENTRAL AFRICAN REPUBLIC | No special rules | — | — | — |

TABLE 9 (continued)
Rules governing reinsurance operations

| | 1 | 2 | 3 | 4 |
|----------------|--|--|--|--|
| CEYLON | No formal regulations All reinsurance transactions are through the Insurance Corporation of Ceylon and are placed in the foreign market from which it receives reciprocal treatment | — | No specific rules | Permission has to be obtained from the Superintendent of Banks before making a remittance |
| COLOMBIA | No special rules. The only regulation is that 60 per cent of the risks must be retained in the country | Supervised | 40 per cent of reinsurance premiums are deposited by the reinsurer with the ceding company. Reserves for outstanding claims are not submitted to particular regulation | Permission has to be obtained from the Superintendent of Banks before making a remittance |
| COSTA RICA ... | No special rules | Not applicable | No special rules | — |
| CHINA (TAIWAN) | Compulsory cessions on all business transacted in the country to the Reinsurance Fund in accordance with the rates of mutual liabilities agreed upon between the insurance concerns and the Fund | Supervised | No special rules | For incoming reinsurances in New Taiwan dollars, foreign insurance concerns should establish a "Special Account for the Reinsurance Premiums", with the Bank of Taiwan. Can only transfer to the Head Office 50 per cent of total deposits. The other 50 per cent is kept to pay the claims and expenses, and is transferable after expiry of the contract in question. For foreign currency reinsurances, Marine and Travel accidents, companies must establish a "foreign Currency Operation Account". Transfers and remittances are made from and to this account accordingly |
| CYPRUS | No regulations | The same supervision as for direct insurance | No regulations | No restrictions for transfers to countries in the sterling area. The permission of the exchange control is required for transfers to countries outside this area. This permission is usually granted |
| DAHOMY | No rules | Not supervised | No specific rules | Subject to previous authorization of the Foreign Exchange Department |

TABLE 9 (continued)
Rules governing reinsurance operations

| | 1 | 2 | 3 | 4 |
|---------------------------|--|--|--|--|
| DOMINICAN REPUBLIC ... | No special rules | Not supervised | No special rules | Authorization of the Central Bank should be obtained |
| EGYPT | Certain percentages of direct business are assigned by law to the Egyptian Reinsurance Company | Supervised | The same rules as for direct insurance. Reinsurance reserves are required by law to be kept in Egypt | Transfers arising from funds of reinsurance transactions require the previous consent of the Egyptian General Insurance Organization and the Exchange Control authorities in the Ministry of Economy |
| GHANA | No special rules | Not supervised | Not regulated | Subject to availability of exchange |
| GUATEMALA ... | No special rules | There are no specialized concerns in the country | No regulations | Authorization of the supervisory authorities and of exchange control |
| GUYANA | Not regulated | Not regulated | Not regulated | The competent authorities must be satisfied that the funds represent reinsurance premiums |
| HONG KONG .. | No special rules | Supervised | The same rules as for direct insurance | Owing to the existence of a free exchange market, the movements of funds between Hong Kong and the other Scheduled Territories and <i>vice versa</i> , as well as transfers to non-Scheduled Territories, are subject to Exchange Control approval |
| INDIA | Compulsory cessions of 20 per cent of the insured risks are made to the State-owned concerns, India Reinsurance Corporation and India Guarantee | Supervised | Not regulated | Transfers arising from reinsurance transactions allowed to the extent that there is no reinsurance capacity within the country |
| INDONESIA | Not regulated | Not regulated | Not regulated | Not regulated |
| IRAQ | Compulsory cession to the Iraq Reinsurance Company: 25 per cent of all business (in priority to any other reinsurance arrangement) on quota share basis except life where the cession is on risk premium and surplus basis | Supervised | No statutory provisions | Foreign exchange authorities provide facilities for transfers |

TABLE 9 (continued)
Rules governing reinsurance operations

| | 1 | 2 | 3 | 4 |
|---------------------|---|--|--|--|
| ISRAEL | No special rules | Not supervised | No specific rules | Foreign currency is allocated as a matter of routine on the basis of annual statements. Reinsurers' shares in technical reserves are covered generally by "Reinsurers' deposits". Reinsurers' shares in pending claims may be transferred abroad |
| IVORY COAST .. | Not regulated | In principle, yes, but there are no specialized concerns | No special regulations | Unknown |
| JAMAICA | Not regulated | No | Not regulated | Exchange control for the remittance of funds outside the sterling area |
| JORDAN | No special rules | Supervised | No special rules | Authorization of the Ministry of National Economy and of the Central Bank |
| KHMER, REPUBLIC ... | Not applicable | Not applicable | Reinsurers have to keep reserves proportionally to their liabilities; technical reserves charged to reinsurers are retained and booked in the debit of the company's current account | The National Insurance Company is authorized to transfer reinsurance premiums when they arise out of reinsurance agreements duly authorized by the Director of Insurance and the Exchange Control Office |
| KOREA REPUBLIC OF | Direct concerns must reinsure with the Korean Reinsurance Corporation, and they assume retrocessions only through the Corporation after its retention | Supervised | No special regulations | Approval from the Minister of Finance should be obtained |
| KUWAIT | No special rules | Not supervised | Reinsurance concerns are required to maintain deposits with ceding companies in Kuwait in respect of mathematical reserves and reserves for unexpired risks | Permission should be obtained from the Kuwait Exchange Board |
| LAOS | | Not regulated | | |
| LEBANON | No special rules | Supervised | No special regulations | No rules |
| MADAGASCAR .. | No special rules | Not supervised | — | Unknown |
| MALAWI | No special rules | Supervised | Same rules as for direct insurance | Authorization of the Exchange Control Authorities |

TABLE 9 (continued)
Rules governing reinsurance operations

| | 1 | 2 | 3 | 4 |
|----------------|---|--|---|--|
| MALAYSIA | Not prescribed | Supervised | No special provisions | Transfers within the sterling area are not subject to any restriction. For other areas, authorizations for transfers must be requested from the Central Bank |
| MAURITANIA ... | No special rules | Not supervised | Not regulated | Not known |
| MEXICO | No special rules. (There is a regulation which compels direct insurance companies to cede to the national market or to licensed reinsurance concerns at least as many of the reinsurance cessions as are effected with non-licensed concerns) | Supervised | Same rules as for direct insurance | Transfers are free |
| MOROCCO | Quota-share cessions (5 per cent to the Société centrale de réassurances) | Supervised | Not regulated. According to international practice technical reserves are retained by the ceding company | Authorization required |
| NEPAL | Not regulated | Not regulated | Not regulated | Not regulated |
| NIGER | No special rules | Not supervised | No special rules | A Service of Foreign Finance regulates transfers in a general way |
| NIGERIA | No special rules. (Compulsory reinsurance cessions to the National Insurance Corporation not excluded) | Supervised | Same rules as for direct insurance | Subject to Exchange Control approval |
| PAKISTAN | 30 per cent to the Pakistan Insurance Corporation on a quota-share basis | Supervised | Not regulated. According to international practice, technical reserves are being retained by the ceding company | In the case of treaty business, the companies are required to furnish copies of relevant agreements to the State Bank, and specific permission of this Bank has to be obtained each time. In respect of facultative placing, a certificate from the Controller of Insurance must accompany the application for remittance abroad |
| PANAMA | No rules on reinsurance | — | — | — |
| PARAGUAY | Not regulated | Not applicable; no specialized reinsurance concerns exist in the country | Not regulated | Not regulated |

TABLE 9 (continued)
Rules governing reinsurance operations

| | 1 | 2 | 3 | 4 |
|-----------------------------|--|-------------------------------|--|---|
| PERU | No special rules | Supervised | No special rules In practice, however, deposits of technical reserves are maintained by the reinsurers with their ceding companies | No restrictions |
| PHILIPPINES | No special rules | Supervised | Reinsurance placed with unauthorized concerns is subject to the condition that the full amount of the reserve for unexpired risks is kept in the Philippines as long as the risk concerned is in force | Transfers are free. However, remittances abroad of premiums amounting to US\$ 5000 and above require the submission to the bank of a sworn statement by the applicant stating the circumstances under which said premium balance is to be remitted to reinsurer |
| SENEGAL | No special rules | Not supervised | No special rules | Information not available |
| SIERRA LEONE . | No special rules | Not applicable | Not applicable | Transfers are free within the sterling area. Transactions with countries not belonging to the sterling area are subject to control |
| SINGAPORE | No special rules | Supervised | Same rules as for direct insurance | No restrictions for transfers to the Scheduled Territories (sterling area countries) |
| SUDAN | No specific rules | No specific rules | No specific rules | Transfers are subject to regulation by the Exchange Control which requires documentary evidence of reinsurance arrangements |
| SYRIAN ARAB REPUBLIC ... | Ceded in a proportion fixed by the Minister of Economy and Foreign Trade upon the advice of the Conseil suprême d'assurance. This proportion cannot be more than 10 per cent of the transacted insurance | Not supervised | Not applicable | Transfers must be authorized by the Bank |
| THAILAND | No specific rules | No specialized reinsurance | No specific rules | Transfers require permission of the Bank of Thailand |
| TOGO | Not prescribed | No reinsurance concerns exist | Same rules as for direct insurance | No specific regulations |
| TUNISIA | Compulsory cessions of 10 per cent on account of legal reinsurance (<i>réassurance légale</i>) | Not supervised | Technical reserves are deposited with the ceding companies | Transfers must be authorized by the Banque Centrale de Tunisie |

TABLE 9 (concluded)
Rules governing reinsurance operations

| | 1 | 2 | 3 | 4 |
|--------------------------|------------------|----------------|--|-----------------|
| UPPER VOLTA . . . | No special rules | Supervised | Same rules as for direct insurance | No rules |
| URUGUAY | No special rules | Not supervised | — | — |
| VENEZUELA | No special rules | Supervised | The same rules as for direct insurance | No restrictions |
| VIET-NAM, REPUBLIC OF | No special rules | No | — | — |

TABLE 10
Insurance Control Service

| Country | Name of service and authority to which it is subordinate 1 | Mode of control (general? financial and accounting only? on documents?) 2 | Appeal against decisions taken by the control services 3 | Are there any consulting bodies (councils, etc.)? 4 |
|------------------------------------|--|--|---|--|
| ARGENTINA | Superintendency of Insurance (Ministry of Economy and Labour) | Accounting, financial, legal and technical | National Chamber of Appeals (Camara Nacional de Apelaciones) | Consultative Council, Commission of Mutual and Co-operative insurance |
| BARBADOS | Registrar of Insurance (Minister of Public Finance) | — | Unknown | Unknown |
| BOLIVIA | Superintendency of Banks (under Ministry of Finance) | Accounting, financial, legal and technical | To the Minister of Finance | No consultative bodies |
| BRAZIL | Superintendency of private insurance (Superintendência de Seguros Privados — SUSEP) | Accounting, financial, legal and technical | Appeal can be made | National Council of Private Insurance (Concelho Nacional de Seguros Privados — CNSP) |
| CAMEROON | Insurance Supervisory Office (Ministry of Finance) | Accounting, legal and technical | Appeal can be made | No consultative bodies |
| CENTRAL AFRICAN REPUBLIC | Directorate of Taxation and Insurance (Ministry of Finance) | — | To administrative tribunal | The National Insurance Committee |
| CEYLON | The Control of Insurance under Ministry of Commerce and Trade. However, the Insurance Corporation of Ceylon which now enjoys the sole monopoly of insurance is not placed under the supervision of this body | | To District and Supreme Court | No |
| CHAD | — | — | — | — |
| CHINA (TAIWAN) | Monetary Department under Ministry of Finance | Accounting, financial | To the Administrative Court | Association of Insurance Concerns or Reinsurance Fund |
| COLOMBIA | Superintendency of Banks (directly under the Presidency of the Republic) | Accounting, financial, legal and technical | Appeal through administrative channels. There is no right of appeal to the courts | Insurance Advisory Commission |

TABLE 10 (continued)
Insurance Control Service

| | 1 | 2 | 3 | 4 |
|------------------------|---|--|---|---|
| COSTA RICA ... | No supervisory authority | Not applicable | No appeal | No consultative bodies |
| CYPRUS | Superintendency of Insurance, Department of the Accountant-General, Ministry of Finance | — | An executive or administrative decision of the supervisory authorities is subject to appeal to the Supreme Court | Insurance Advisory Board appointed by the Minister of Finance |
| DAHOMY | The Office of Insurance Control Property Registration and Stamp Department (Service de l'enregistrement des domaines et du timbre) (Ministry of Finance and Labour) | Accounting, legal and technical | To administrative tribunal | No consultative bodies |
| DOMINICAN REPUBLIC ... | Superintendency of Insurance (under the Department of Finance) | Accounting, financial, legal and technical | No appeal (but the Superintendent can only make decisions in respect of the accounting systems to which insurance concerns are subjected) | No consultative bodies |
| EGYPT | The Egyptian General Insurance Organization (under Ministry of Economy) | Accounting, financial, legal and technical | Superior Control Committee | No consultative bodies |
| GHANA | Office of the Commissioner of Insurance (under Ministry of Finance) | Accounting, financial, legal and technical | To the Minister | Insurance Consultative Committee |
| GUATEMALA ... | Superintendency of Banks (under Ministry of Economic Affairs and Labour) | Accounting, legal and technical | To the Ministry of Economic Affairs for cases under Administrative Law; to the Ministry of Finance, for taxation matters | No consultative bodies |
| GUYANA | Insurance concerns and their operations are not subject to any direct supervision or control | | | |
| INDIA | Controller of insurance under Ministry of Finance (Controller to be appointed by the Central Government) | Accounting, financial and legal | To the Court | The Executive Committee of the General Insurance Council |
| INDONESIA | Directorate of Insurance | Not known | Not known | No |
| IRAQ | State Insurance Organization | Financial and accounting | No appeal | The Principal Technical Committee, the Marine Committee, the Fire Committee |
| ISRAEL | Superintendency of Insurance (Ministry of Finance) | Accounting, legal and financial | To the High Court | Insurance Council |
| IVORY COAST .. | Directorate of Insurance (Ministry of Finance, Economic Affairs and the Plan) | Accounting and legal | To the Administrative Tribunals | Insurance Committee and Economic and Social Council |
| JAMAICA | Economic Division (Ministry of Finance) | Registration arrangements | Court | No |
| JORDAN | Insurance Supervisor (Ministry of National Economy) | Accounting, financial and legal | To the High Court | No consultative bodies |

TABLE 10 (continued)
Insurance Control Service

| | 1 | 2 | 3 | 4 |
|--------------------------|--|--|---|---|
| KENYA | — | — | — | Advisory Board |
| KHMER REPUBLIC | Directorate of Insurance (Ministry of Finance) | Not known | — | Not known |
| KOREA, REPUBLIC OF | Insurance Division of Finance Bureau (Ministry of Finance) | Financial and general | To the High Court | Insurance Council |
| KUWAIT | Insurance Controller (Ministry of Commerce and Industry) | Accounting, legal and financial | To the Minister, Appeals against Minister's decisions may be taken to the Court | Insurance Consultative Committee, Insurance Technical Committee |
| LAOS | Registration Department, Ministry of Finance | Unknown | — | Unknown |
| LEBANON | Department of Commerce, Ministry of the National Economy | Unknown | Council of Ministers of the Council of State | National Insurance Council |
| MADAGASCAR .. | Insurance Control Office, Directorate of Commerce (Ministry of Finance and Commerce) | Unknown | Administrative tribunal | 1. Consultative Committee of Insurance 2. Central Office of Tariffs (it deals with motor-car tariffs only) |
| MALAWI | Registrar of Insurance (Secretary to the Treasury, Ministry of Finance) | Registration | — | No consultative bodies |
| MALAYSIA | Insurance Commissioner (Ministry of Finance) | Financial and legal | High Court | No |
| MAURITANIA ... | Insurance Control Division (under the Ministry of Finance and Commerce) | Accounting, financial and legal | To the Minister | A Committee of Insurance in process of being formed |
| MEXICO | National Insurance Committee under Secretary of Finance and Public Credit | Accounting, financial, legal and technical | To the Court | Permanent Commission of Insurance studies |
| MOROCCO | Insurance Central Service (under Ministry of Finance) | Accounting, financial, legal and technical | To the Supreme Court | Consultative Committee |
| NEPAL | Insurance Board under Ministry of Finance | — | To the Zonal Court | No consultative bodies |
| NIGER | Office of the control of Insurance (under Ministry of Finance) | Accounting, financial, legal | Unknown | — |
| NIGERIA | Office of Supervision of Insurance (under Ministry of Trade) | Accounting, financial | To the Government (only appeals against rejection and cancellation of registration is possible) | Nigerian Insurance Consultative Committee |
| PAKISTAN | Control of Insurance (under Ministry of Commerce) | Accounting, financial, legal | To the Court | Advisory Board of the Controller of Insurance |
| PANAMA | Superintendent of Insurance (Ministry of Agriculture, Commerce and Industry) | Not known | To the Minister of Agriculture, Commerce and Industry | Technical Insurance Council |
| PARAGUAY | Superintendent of Banks (Banco Central del Paraguay) | Financial, accounting, legal | Tribunal de Cuentas | None |

TABLE 10 (continued)
Insurance Control Service

| | 1 | 2 | 3 | 4 |
|-----------------------------|---|--|--|--|
| PERU | Superintendency of Banks (under Ministry of Finance and Commerce) | Accounting, financial, legal | No appeal (except for specific cases) | None |
| PHILIPPINES | Insurance Commissioner (under Department of Finance) | Accounting, financial, legal | To the Secretary of Finance | No consultative bodies |
| SENEGAL | Insurance control service (under Ministry of Finance) | Accounting, financial, legal | To the Court | — |
| SIERRA LEONE . | Not applicable | Registration | Not applicable | Not applicable |
| SINGAPORE | Insurance Commissioner (under Ministry of Finance) | Accounting, financial, legal | Ministry of Finance | No consultative bodies |
| SUDAN | Control of insurance (under Ministry of Finance and Economics) | Accounting, financial, legal | To the Minister | Insurance Advisory Council |
| SYRIAN ARAB REPUBLIC ... | Directorate of Insurance (Ministry of Economic Affairs) | Not known | Not applicable | The insurance law provides for the creation of a Supreme Council of Insurance |
| THAILAND | Controller of Insurance (under Ministry of Economic Affairs) | Accounting, financial, legal | To the Minister (whose decision is final) | No consultative bodies |
| TOGO | Insurance Control Department (Ministry of Finance) | Examination of the accounts; licensing; approval of tariffs and general conditions; transfers of portfolios; widening-up of concerns | Competent administrative authorities (<i>Juridictions administratives compétentes</i>) | No |
| TUNISIA | Insurance Department (Department for the Plan and the National Economy) | Accounting, financial, legal (<i>Contrôle sur place et sur pièces</i>) | No possibility of appeal is laid down in the legal texts | 1. Syndicate of General Agents 2. Committee of Maritime transport 3. Committee of Motor Vehicle Insurers |
| UPPER VOLTA . | Insurance Control Service (Ministry of Finance) | Not known | To Administrative Court | "Comité consultatif" |
| URUGUAY | No specific insurance control service | — | — | — |
| VENEZUELA | Superintendency of Insurance (under Minister of Development) | Accounting, financial, legal | Minister of Development, Administrative Tribunals (<i>Contencioso - Administrativo</i>), Supreme Court | National Insurance Council |
| VIET-NAM, REPUBLIC OF | Directorate for Control of Insurance (Ministry of Finance) | Accounting, financial, legal | To the State Secretary of Finance | Insurance Consultative Council |

CORRIGENDUM

TD/B/393
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Geneva

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

INSURANCE LEGISLATION AND SUPERVISION IN DEVELOPING COUNTRIES

On page 57, foot-note 60, the following sentence should be added at the end of the note: "The developing countries do not appear to have laid down any corresponding measures for foreign concerns operating in their territories."