

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

GPR/W/66
30 January 1985

Special Distribution

Committee on Government Procurement

ARTICLE IX:6(b) NEGOTIATIONS STUDY OF CERTAIN TYPES OF SERVICE CONTRACTS

INSURANCE

On the clear understanding that the fact that studies were launched did not prejudice the position of any delegations in the negotiations nor the rôle of the secretariat in the area of services, the Committee agreed at its meeting on 11-12 April 1984 to carry out initial pilot studies in the areas of: (i) architectural and consulting engineering services and (ii) insurance services. A questionnaire was agreed upon as well as the target date of 15 September 1984 for submission of contributions from Parties to the secretariat. The rôle of the latter would essentially be to put together information supplied by delegations (GPR/M/11, Annex I).

At the meeting on 14-15 November 1984 it was agreed to revert to questions relating to service contracts at the next meeting on the basis of the secretariat's study (GPR/M/14, paragraph 26).

The present working document compiles contributions from Canada, Finland, Norway, Sweden and the United States in response to the questionnaire relating to insurance services. Addenda will be issued to take account of further contributions from the Parties.

I. COMMERCIAL IMPLICATIONS FOR CODE COVERAGE OF THE SERVICE

A. Definition of the insurance sector

(i) General definition

UNITED STATES

Insurance is a system under which individuals, businesses and other organizations or entities, in exchange for payment of a sum of money (a premium), are guaranteed compensation for losses resulting from certain perils under specified conditions.

(ii) Definition of government procurement of insurance

CANADA

The Canadian Government is self-insured except in the case of Crown-owned vehicles outside Canada, Health Insurance, Management Insurance and Disability Insurance.

Vehicles: The Government of Canada provides a world-wide third party only, fleet insurance policy covering all Crown-owned vehicles abroad with the exception of those operated under military agreements but including Canadian Forces Attaches Vehicles. The policy is renewed every two years and is administered for all Government Departments and Crown Agencies by the Department of External Affairs.

Health Insurance: The Group Surgical Medical Insurance Plan is a private health insurance plan sponsored by the Government of Canada for the benefit of its employees. The plan provides participants and their eligible dependents with insurance, up to reasonable limits, for unexpected expenses for specified medically-required services and items.

Management Insurance: The Public Service Management Insurance Plan is a private group plan which includes Life Insurance, Accidental Death and Dismemberment Insurance, Long-term Disability Insurance and Dependents Insurance for Public Servants not eligible for inclusion in Bargaining Units, Members of Parliament, and Judges.

Disability Insurance: The Disability Insurance Plan is a private group plan for the benefit of Public Service Employees eligible for inclusion in Bargaining units. The plan provides protection against loss of income due to long-term illness.

FINLAND

Government entities do not insure their property.

NORWAY

Norwegian Government entities do not buy insurance since they operate on a so-called self-insurance basis. Some exceptions obtain, however, for certain specialized equipment and to some extent motor vehicles.

UNITED STATES

The United States self-insures except in the case of life and health insurance.

The United States Government procures life and health insurance for government employees only. The life and health insurance procurement is carried out by the Office of Personnel Management (OPM). The Office of Personnel Management procures insurance services from companies which are classified by the United States Standard Industrial Classification System in SIC: 6311 Life Insurance; SIC: 6321 Accident and Health Insurance; and SIC: 6324 Hospital and Medical Service Plans. Life insurance covers those companies primarily engaged in underwriting life insurance. Accident and health insurance includes companies primarily engaged in underwriting accident and health insurance. Hospital and medical service plans include companies primarily engaged in providing hospital, medical, and other health services to subscribers or members in return for specified subscription charges, providing these services for the most part through contracts with participating hospitals and physicians.

Besides insurance-type health benefits plans, comprehensive medical plans (commonly called Maintenance Organizations (HMO's)) are involved in providing health benefits to government employees. There are two basic types of HMO's. The first, called a group/staff model HMO, delivers medical services at one or more locations, using physicians under contract or physicians who are employees of the HMO. The second, known as an Individual Practice Association makes contractual arrangements with doctors in the community who treat HMO members in their own offices.

Additionally, the United States Government sells flood and crime insurance and purchases insurance-related services in connection with these programmes. The flood and crime insurance programmes are administered by the Federal Emergency Management Agency (FEMA). FEMA's flood insurance programme grew out of the fact that this type of insurance is generally unavailable from private sector insurance companies. The programme is based on an agreement between local communities and the Federal government that if a community will implement programmes to reduce future flood risks, the Federal government will make flood insurance available within the community as a financial protection against flood losses when they do occur. Under the crime insurance programme, the Federal government makes crime insurance available to communities where private sector insurance companies do not offer such insurance. In the case of both the flood and crime insurance programmes, the United States Government contracts with a private company to administer the government insurance, but does not contract with private sector insurance companies to provide this type of insurance.

B. Current number and value of procurement contracts by signatory government of the service

CANADA

Health, Management and Disability Insurance: Premiums for the three plans totalled approximately \$131,000,000 for 1983.

Vehicles: Total premiums for the fleet Insurance policies were approximately \$140,000 for 1983.

FINLAND

None. See reply to question A above.

NORWAY

A survey of all nineteen Code-covered entities shows that five entities¹ procured insurance during calendar year 1983 as follows:

	<u>Value</u>
Postal Services Administration	162,000 SDR
State Hospital	80,000 SDR
National Road Services	77,000 SDR
Norwegian Broadcasting Corporation	8,000 SDR
State Pollution Control Authority	<u>5,000 SDR</u>
Total	332,000 SDR

¹The contribution seems to indicate that data may not be available for some entities.

SWEDEN

Two Code-covered entities procured insurance services during calendar year 1983:

	<u>Number</u>	<u>Value</u>
- National Civil Aviation Administration	1	120,000 SEK
- National Police Board	1	2,277,000 SEK ¹
Total	2	2,397,000 SEK ¹

No data were available for National Industries Corporation, National Board of Forestry, Royal Fortifications Administration, National Board of Health and Welfare and National Board of Education. The remaining fourteen Code-covered entities, as well as ten non-covered entities² for which data were available had made no purchases of this type of service in 1983. The Civil Defence Board (covered by the Agreement) has reported that it never procures insurance services.

UNITED STATES

Health Insurance: Premiums for all of the health insurance programmes administered by OPM total approximately \$5 billion per year. Approximately 60 per cent of this total represents the government's contribution to the plans. Ten per cent of the cost is contributed by Federal employees. Administrative costs plus profit of the health benefits programmes total approximately \$250 million.

The \$5 billion per year in premiums is distributed among the health plans in the following way:

- (a) \$370 million to HMO plans. (Currently there are about 200 HMO's.) Approximately 95 per cent of the \$370 million total is returned as benefits to the participants in the HMO's;
- (b) \$2.9 billion to two government-wide health benefits plan. \$500 million of this amount is for the Indemnity Benefit Plan administered by the Aetna Life Insurance Company. Aetna currently re-insures the risk in the Indemnity Benefit Plan with approximately 75 companies; and
- (c) \$1.7 billion to seventeen employment organization plans which are underwritten by the insurance industry. For both the government-wide health benefits plans and the employee organization plans, roughly 95 per cent of premium receipts are returned to the participants in the plans in the form of benefits. Both the government's contribution and the employee's contribution of the premium are remitted to the individual carriers on a semi-monthly basis.

¹ 1983 average: US\$1 = SEK 7.6679

² National Computer Centre for Administrative Data Processing, Board of Customs, National Bacteriological Laboratory, State Railways, National Environmental Protection Board, National Testing Institute, Geological Survey, National Telecommunications Administration, Board for the Equipment of Swedish Universities, State Power Board.

Life insurance: Premium receipts for the group life insurance programme administered by the Office of Personnel Management currently total approximately \$800 million per year. Of the \$800 million, an estimated \$860,000 is the government's share of administrative costs plus profit.

The principal underwriter, Metropolitan Life Insurance Company, is required by United States law to re-insure the risk with other insurance companies. Metropolitan currently re-insures the risk with approximately 200 companies. Ninety-seven per cent of premiums are returned to participants as benefits.

Flood insurance programme: The United States Congress has established a fund of \$3 billion as a line of credit to cover flood risks. Currently, the programme is administered by one company which receives reimbursement of approximately \$27 million from FEMA to cover administrative costs plus profit. The company administers approximately 1.7 million policies. In addition to the superfund aspect of the programme, there exists what is known as a "write your own programme" which is an attempt by the government to completely privatize the programme. This new programme, which began in October 1983, covers roughly 200,000 policies. It is expected that premium receipts will grow dramatically in the years ahead as the privatization effort gathers momentum. Forty companies currently are authorized to issue policies under this write your own programme with annual premium receipts of \$15 million. Thirty-three per cent of the premiums received by the companies in the programme are allocated to expense and profit while the remaining 67 per cent of the premium is placed in the \$3 billion dollar fund to be used when needed to pay claims.

Crime insurance: The crime insurance programme currently involves reimbursement of approximately \$7 million to cover administrative costs. However, this programme may be discontinued in the near future.

Trade figures: United States import and export figures are available only for reinsurance.

1982 United States Exports of reinsurance (net premiums received on reinsurance assumed from abroad): \$924.3 million

1982 United States Imports of reinsurance (net premiums paid on reinsurance ceded abroad): \$2,100.4 million

II. QUESTIONS REGARDING THE PROCUREMENT OF THIS SERVICE BY GOVERNMENT ENTITIES

- A. What are the procedures used to procure the service, including the criteria used in evaluating and choosing bids, e.g. reliability, price, quality, etc?

CANADA

The Health, Management and Disability Insurance Contracts are open-ended with terms and conditions renegotiated periodically.

Vehicles: Every two years, bids are invited from a selected short list of insurance suppliers for the provision of world-wide (outside Canada) third party liability fleet insurance. Evaluation criteria include local agent representation and price per unit.

SWEDEN

The Civil Aviation Administration normally uses negotiated procurement, the Police Board normally straight tender procurement. Criteria have not been indicated, but in connection with question II.F. below the former entity has mentioned norms and standards, easy availability and language requirements; the latter has pointed to security requirements.

UNITED STATES

All government health and life insurance contracts are open-ended with terms and conditions renegotiated annually. New firms may seek to obtain contracts to be providers of comprehensive medical plans. The reliability of the insurer and its past corporate record are key criteria that are considered by OPM in determining whether to accept a new firm.

There is only one company which administers the Congressional fund for flood insurance. The contract under which this company operates is a one-year contract with four one-year options. Likewise, there is one company that administers the crime insurance contract and it is a one-year contract with a two-year option. Every three years or five years FEMA solicits bids for the contract to administer the crime and flood insurance programmes, respectively. The procedures used by FEMA for purchasing the service of administering the flood and crime insurance are essentially the same as those provided for in the Government Procurement Agreement. Companies wishing to be involved in the National Flood Insurance Programme under the "write your own" aspect of the programme sign up one time with FEMA and are authorized to participate as long as they wish.

B. In the procurement of this service by governments, are there problems in defining the origin?

CANADA

Rules of origin for goods are not applicable to insurance. Country of residence of supplier could be an appropriate criteria in the determination of origin.

SWEDEN

No specific reply has been given. The two entities which are reported to have procured this type of service in 1983 did so from national sources. One Code-covered entity and two non-covered entities for which information on services in general has been provided, procure only in Sweden (see under II.F. below).

UNITED STATES

Since insurance does not involve a physical product, the rules of origin applied for goods purchased under the Government Procurement Agreement do not apply. Place of license could possibly be used as a rule of origin.

- C. Does the procurement of this service typically involve sub-contracting?

CANADA

Sub-contracting is involved when the risk is reinsured by the underwriter.

SWEDEN

Sub-contracting in insurance has not been mentioned by any of the entities (Code-covered or not), for which data are available.

UNITED STATES

Government procurement of health and life insurance involves sub-contracting where the risk is reinsured by the underwriter.

- D. Are there issues or ambiguities concerning the valuation of the service procurement contract, including, inter alia:
1. Is the procurement of the service in some cases not the purchase of a discrete service, but rather a contract for ongoing, possibly open-ended work?

SWEDEN

Replies to this question from the entities which procured insurance services in 1983 do not indicate whether contracts for ongoing, open-ended work exist in this area. Some problems have been indicated but with no mention of insurance.

CANADA AND UNITED STATES

Insurance is purchased as a discrete service.

2. Is the procurement of the service done in some cases through multi-year contracts?

CANADA

The contracts for the Health, Management and Disability insurance plans are open-ended. The fleet insurance policy is renewed every two years.

SWEDEN

Information concerning the entities which were reported to have procured insurance indicates that multi-year contracts are not concluded in this service area. One Code-covered entity (National Board of Health and

Welfare) for which there are no data as to whether it procured such services has indicated that contracts (concerning services in general) are concluded for no longer than a budget year.

UNITED STATES

Contracts with OPM are open-ended while those with FEMA are renegotiated every three or five years, or, in the case of the "write your own programme", agreements are open-ended.

3. Is there ambiguity as to what would be considered the value of the service procurement contract?

CANADA

In respect of insurance contracts, it would appear that the amount of premiums is an appropriate basis for determining contract value.

SWEDEN

Information collected does not mention insurance in this connection.

UNITED STATES

In the case of insurance there are several questions regarding valuation of contracts. Should they be valued based on the level of benefits, premiums, or administrative expenses allowed to the contractor? Should the value include solely payments by the government or should it include co-payments by employees? The United States Government bases contract value on the government contribution for administrative costs plus profit.

- E. Further characteristics of government procurement of this service, such as:
1. What is the range of typical values of government contracts in this area? Do the bulk of purchases typically exceed a certain value?

CANADA, NORWAY AND SWEDEN

See I.B. above.

UNITED STATES

The range of government contracts for insurance procurement is varied. As stated above, the United States Government considers the value of the contract to be the government share of administrative costs plus profit. The life insurance contract is approximately \$860,000; health insurance contracts range from a few thousand dollars to \$125 million for the government-wide health benefits plan with a median contract value for the over 200 participating plans of less than \$100,000 in value. The contract for the administration of the flood insurance programme is \$27 million, and the contract for the administration of the crime insurance programme is \$7 million.

2. What is the typical time necessary in the procurement process of this service between invitation to tender and bid deadline?

CANADA

The Department of External Affairs generally allows sixty days for bidding on the third party liability fleet insurance contract.

SWEDEN

National Police Board: 3 weeks

National Civil Aviation Administration: 30 days

UNITED STATES

FEMA generally permits sixty days for bidding.

F. Are there practices that affect foreign access to government contracts in this service area?

CANADA

Supervision of the insurance industry is shared by the federal and provincial governments although in practice it is largely undertaken by the federal government. The Foreign Investment Review Act affects foreign participation in the Canadian market. Any non-Canadian wishing to establish an insurance business in Canada who does not already have a related business here, must obtain clearance from the Foreign Investment Review Agency. Subsequently federal insurance legislation permits non-Canadians to establish new Canadian insurance companies subject to the same requirements that apply to Canadians. However, federal legislation prevents non-Canadians from acquiring control of a Canadian life insurance company that is already controlled by Canadians, although they are not prevented from acquiring any Canadian incorporated property and casualty insurance company, or a Canadian incorporated life insurance company that is currently controlled by non-residents. Requirements for registration by a non-resident company that wants to do business in Canada on a branch basis are no more stringent than the requirements for the registration of a Canadian incorporated insurance company. There is a 10 per cent excise tax imposed on certain types of insurance when bought by Canadian residents from non-resident companies not authorized to do business in Canada, but there is nothing to prevent a Canadian from taking the initiative to purchase such a policy. There is non-discriminatory regulation of the industry to protect the consumer by requiring e.g. that a company has sufficient assets available in Canada to cover its liabilities and that these are invested in approved vehicles.

SWEDEN

Replies concerning the two entities which were reported to have procured insurance services in 1983 deal with this question in general terms, without particular reference to insurance. In the case of the Civil Aviation Administration mention has been made of geographical inconvenience, sometimes language problems, and differences between national and international norms, regulations, etc. In the case of the Police Board, strict security rules are mentioned; for certain services

the acting personnel has to be of Swedish nationality and without police record. The National Board of Health and Welfare (for which data do not show whether insurance services have been procured), contracts with foreign suppliers (in general) can be limited for reasons of national security, as well as due to secrecy requirements surrounding medical information. Some information requires acceptance by the Data Inspection Board in order to be transferred abroad for further handling or processing.

UNITED STATES

Other factors that affect foreign access to government procurement of insurance are those factors which ordinarily affect insurers in the United States. Since insurance is a state regulated industry in the United States, a foreign insurer must be licensed in an individual state before it can become a participant in the OPM and FEMA programmes. To date, no foreign insurer has applied to participate in either the health insurance, or in the case of life insurance, the reinsurance aspect of life insurance as administered by the sole underwriter for the Office of Personnel Management. To date, no foreign insurer has applied for permission to participate in FEMA's flood insurance programme. However, "per se" barriers do not exist for foreign carriers to participate in either FEMA or OPM administered programmes.