



ORGANISATION FOR ECONOMIC
CO-OPERATION AND DEVELOPMENT

SEVENTH EXAMINATION OF MEMBERS' RESERVATIONS TO THE INSURANCE AND PRIVATE PENSIONS PROVISIONS OF THE CODE OF LIBERALISATION OF CURRENT INVISIBLE OPERATIONS

Report by the Insurance and Private Pensions Committee and the Investment Committee

This report on the Seventh Examination of Members' Reservations to the Insurance and Private Pensions Provisions of the Code of Liberalisation of Current Invisible Operations was approved by the OECD Council on 19 February 2008. The main results and conclusions relating to the seventh examination process are given in a Note by the Secretary-General. The full set of findings is presented in the accompanying report.

The report has four Appendices: Appendix 1 contains the amendments to the Code of Liberalisation of Current Invisible Operations; Appendix 2 presents the interpretations of the insurance and private pensions provisions of the Code; Appendix 3 lists Members' reservations to the revised insurance and private pensions provisions of the Code; and Appendix 4 includes information on sub-national measures in Canada and the United States.

NOTE BY THE SECRETARY-GENERAL

Background

1. The *Code of Liberalisation of Current Invisible Operations* and the *Code of Liberalisation of Capital Movements* are two related, legally binding instruments to which all Member countries adhere. The Codes prescribe and promote progressive, non-discriminatory liberalization of capital movements, the right of establishment, and cross-border trade in services. The aim of the Codes is to remove unnecessary restrictions on cross-border capital flows and trade in services and thereby allow residents of OECD countries to do business with each other as if they were residents of a single country. The *Code of Liberalisation of Current Invisible Operations* (the “Code”) is concerned with the liberalisation of cross-border trade in services covering a variety of sectors, including banking and financial services and insurance and private pension services.

2. The obligations of the Code impose high standards of cross-border liberalisation in services, whether these services are conducted by means of an establishment in another Member (e.g., branch) or purely on a cross-border basis without any formal presence. While Members may lodge reservations against the Code’s liberalisation obligations in relation to specific operations, they are encouraged, by procedures under the Code, to justify the maintenance of any restrictive measures and to limit or remove them where possible. These reservations are regularly examined. Once a Member limits or removes a reservation, the corresponding restrictions cannot be reintroduced anew (the so-called “ratchet effect”); Members’ positions can only evolve in the direction of further liberalisation. However, the lodging of new reservations in response to the entry into force of new obligations is permitted under the Code.

3. On the occasion of its 1077th session on 12 February 2004, the Council adopted revisions to the insurance provisions of the Code. These revisions clarified and broadened the insurance obligations and introduced new obligations in the area of private pensions. Members were subsequently invited to lodge reservations on the new and revised insurance and private pensions provisions of the Code and to reconsider their reservations on the existing insurance provisions with a view to limiting or withdrawing them as appropriate. Consistent with the “peer review” practice under the Codes, Members were asked to justify fully any proposed reservations or modifications to reservations.

4. The Insurance and Private Pensions Committee (IPPC) and the Investment Committee (IC), through the Working Party of Governmental Experts on Insurance of the IPPC in special sessions with Codes experts of the Investment Committee, conducted an examination of Members’ reservations between July 2004 and July 2007. In the course of this examination, the Committees agreed on proposed additional amendments to the Code to provide greater clarity, for adoption by the Council (see Appendix 1), and on interpretations on how the provisions apply in specific circumstances (see Appendix 2). These interpretations should be duly adopted by the Council as they determined the way in which the reservations were drafted to reflect Members’ legal and regulatory regimes. These interpretations are particularly important in light of the standstill obligations of the Code. As elements of the context of the Code’s provisions, they will be taken into account in the event of any disputes relating to the Code.

5. The present document is structured as follows: paragraphs 1 to 14 are a note by the Secretary-General presenting the conclusions of the report to the Council by the Insurance and Private Pensions Committee and the Investment Committee relating to the seventh examination of Members’ reservations to the revised insurance and private pensions provisions of the Code; paragraphs 15 to 111 constitute the core of the report by the Committees. The report also contains four Appendices: Appendix 1 contains the amendments to the Code; Appendix 2 presents the interpretations agreed by the Committees; Appendix 3

lists Members' reservations to the revised insurance and private pensions provisions of the Code; and Appendix 4 includes information on sub-national measures in Canada and the United States.

Results of the Examination of Members' Positions

6. The seventh examination witnessed progress towards the advancement of liberalisation in insurance and private pension markets and the identification of obstacles to cross-border transactions. The introduction of more ambitious and comprehensive standards through the 2004 revision of the Code and further interpretations developed by the Committees raised the bar for liberalisation of insurance and private pensions. It resulted, in many cases, in the lodging of new reservations; these reservations have had the benefit of providing transparency regarding obstacles to cross-border transactions. However, not all countries introduced reservations in respect of the Code's new provisions, so that it can be concluded that some countries have regulatory regimes with higher degrees of liberalisation. This is the case, for instance, with the European Union, where some European Union member states have higher degrees of liberalisation than others. In reference to the insurance provisions of the Code that were left unchanged in 2004, and which have not been the subject of further proposed revision or interpretation, some Members have fully withdrawn or limited their reservations. These changes reflect liberalisation in country legislation or regulation since the last examination in 1992.

7. Canada and the United States, whose sub-national levels of government are not subject to the Code pursuant to Annexes C and D of the Code, provided information on sub-national measures in insurance and private pensions as an update to their 1992 submissions, in conformity with the procedure adopted by the Council in 1992 for the purpose of greater transparency. The Committees noted the introduction of new reservations at the federal level by the United States and Canada on the unchanged parts of the insurance provisions of the Code. The United States and Canada indicated that the failure to introduce these reservations -- which reflect long-standing federal measures -- in previous examinations was an unintentional omission. The Committees agree that the positions of the United States and Canada in respect of the Code should be regularised and recommend to the Council that this regularisation be endorsed.

8. France, Hungary and Norway also introduced new reservations on the unchanged parts of the insurance provisions of the Code. In the case of France, reservations were introduced in relation to the establishment and operation of branches and agencies of foreign insurers. Hungary and Norway introduced reservations related to the tax treatment of life insurance premiums. These countries provided evidence that their new reservations reflected long-standing legislative provisions and therefore did not, in practice, entail a breach of the standstill principle. The reservations were unintentionally omitted during the past examination process and were being disclosed in good faith for the purpose of transparency. The Committees agree that the positions of France, Hungary and Norway should be regularised and recommend to the Council that this regularisation be endorsed.

9. The Committees reviewed the position of Australia in relation to reinsurance and retrocession, which was also discussed during the sixth examination of Members' reservations, and agreed to invite Australia to limit its reservation to life reinsurance. Australia's current reservation is broader than the scope of its regulatory regime.

10. At the conclusion of the seventh examination, an outstanding issue concerned the implications of the agreement of the European Economic Area (EEA) for the OECD Codes of Liberalisation. European Union Member States and OECD members of the European Economic Area (EEA) - Norway and Iceland - provide preferential treatment to each other, notwithstanding the principle of non-discrimination under Article 9 of the Code. Article 10 allows members of a special customs or monetary system to apply liberalisation measures to one another without granting them to other OECD members. No formal

invocation of Article 10 has been made by OECD members of the EEA and no determination of the Council as to the applicability of Article 10 to the EEA has been made to date. On the occasion of the seventh examination, Norway indicated that it would like to seek a formal invocation of Article 10 before the OECD Council in order to obtain recognition of the EEA as a special customs or monetary system within the meaning of Article 10. This issue goes beyond the domain of insurance and private pensions and the competency of the IPPC. In the course of discussions on the EEA issue, it was agreed that the Investment Committee should be invited to resume its consideration of the status of the EEA under the Code, initiated in its report of 1992, and report back to Council in due course. In conformity with actual practice under other items of the Code or under the *Code of Liberalisation of Capital Movements*, and pending the resolution of the EEA issue, European Union Member States refer, in their reservations, to preferential treatment accorded to European Union Member States only. Similarly, the reservations of Iceland and Norway do not reflect preferential treatment given to other EEA member states.

11. The Committees also noted that Australia provides preferential treatment to life insurance undertakings from the United States on the basis of a free trade agreement concluded between Australia and the United States in 2004. Australia permits life insurers from the United States to establish branches while it requires life insurers from other OECD countries to establish domestic subsidiaries. In accordance with the non-discrimination principle of Article 9 of the Code, the Committees urged Australia to normalize, at an early date, the situation with respect to its obligations under the Code. The Committees also agreed to continue monitoring development under the Australia – United States Free Trade Agreement with a view to ensuring that the implementation of the Agreement is carried out in conformity with the contracting parties' obligations under the Code and to report back in due course.

12. In the course of the examination of Members' reservations, the Committees identified a number of issues that could deserve further consideration in the framework of the *Code of Liberalisation of Current Invisible Operations*. The Committees agreed that closer examination of these issues could promote further progress towards transparency and liberalisation in the insurance and private pensions sectors. These issues include: differentiating between large-scale and other risks (insurance classes involving larger or commercial risks may not require the same protection for policyholders); differentiating between occupational and individual private pension transfers; and addressing the question of netting of technical provisions in reinsurance (credit for foreign reinsurers) and similar types of prudential measures relating to reinsurance and retrocession. Lastly, the Committees underlined the importance of continuing efforts to liberalise insurance and private pension sectors while respecting social objectives where appropriate.

13. Adherence to the Codes is a key requirement for accession to OECD membership. This underlines the importance of the current report, whose adoption by the Council will allow for the completion of the modifications to the *Code of Liberalisation of Current Invisible Operations* undertaken in 2004. The Insurance and Private Pensions Committee, with its subsidiary bodies, will assist the Investment Committee in reviewing and assessing candidate countries' positions with respect to the insurance and private pensions obligations of the Code.

Proposed Action

14. In the light of the preceding and in order to give effect to the proposed additional amendments to the insurance and private pension provisions of the Code and proposed revisions to Members' reservations in this field, the Secretary-General invites the Council to adopt the following conclusions:

THE COUNCIL

- a) noted the present report from the Insurance and Private Pensions Committee and the Investment Committee;
- b) welcomed the progress achieved by Members in advancing towards liberalisation as reflected in the withdrawal or limitation of Members' reservations to the provisions of the Code and the transparency resulting from their reservations, and encouraged all Members to make further progress in the liberalisation of insurance and private pension services;
- c) adopted the Decision set out in Appendix 1 of the report, amending Annex A and Annex I to Annex A of the *Code of Liberalisation of Current Invisible Operations* in order to clarify some of its provisions and adopted the interpretations reached by the Committees as contained in Appendix 2 regarding the insurance and private pensions provisions of the Code;
- d) adopted the revised list of Members' reservations to the insurance and private pensions provisions of the Code, contained in Appendix 3;
- e) welcomed the update, as set out in Appendix 4 of the report, of sub-national measures and regulation of insurance and private pension services, provided by Canada and the United States, without prejudice to the provisions of Annexes C and D of the Code;
- f) invited the Investment Committee to resume its consideration of the status of the European Economic Area under the Code initiated in its report of 1992 and report back to the Council in due course;
- g) noted the new reservations lodged by Canada, France, Hungary, Norway and the United States on the insurance and private pensions provisions of the Code that remained unchanged and, taking into consideration evidence provided by these Members that these reservations, which were unintentionally omitted, reflected long-standing legislative provisions and therefore did not entail a breach of the standstill principle in practice, and having regard to established practices under the Code, agreed to regularise their positions;
- h) invited Australia, in relation to its reservation on Item D/5 concerning reinsurance and retrocession, to limit it to life reinsurance;
- i) noted that Australia allows preferential liberalisation for life insurance providers from the United States and urged Australia to normalise, at an early date, the situation with respect to their obligations under the Code;
- j) noted issues identified in Part V of the report which could deserve future consideration in the framework of the *Code of Liberalisation of Current Invisible Operations*;
- k) agreed to declassify the present document and make it publicly available in order to maximise transparency of liberalisation measures and of remaining barriers to the provision of insurance and pension services in OECD countries.

SEVENTH EXAMINATION OF MEMBERS' RESERVATIONS TO THE INSURANCE AND PRIVATE PENSIONS PROVISIONS OF THE CODE OF LIBERALISATION OF CURRENT INVISIBLE OPERATIONS

Report by the Insurance and Private Pensions Committee and the Investment Committee

Introduction

15. The OECD Council adopted, on the occasion of its 1077th session on 12 February 2004, revisions in respect of insurance to the *Code of Liberalisation of Current Invisible Operations* (hereafter the "Code"), proposed by the Committee on Capital Movements and Invisible Transactions (CMIT; now the Investment Committee (IC)) and the Insurance Committee (now the Insurance and Private Pensions Committee (IPPC)). The revisions were intended to simplify, clarify, and strengthen the insurance provisions and introduce new obligations in the areas of insurance and private pensions. This work responded to the mandate given by the Council in 1992 following the completion of the sixth examination of Member countries' (hereafter "Members") reservations under the insurance Items of the Code, and pursued the overall objectives of promoting greater liberalisation and transparency through the Codes and other OECD instruments.

16. Following the adoption of the revisions, and in accordance with Article 2 of the Code, Members were invited to submit proposals on the reservations that they wished to lodge in respect of the new and revised provisions of the Code. They were also invited, in accordance with Article 12 of the Code, to reconsider their current reservations on all insurance provisions and to limit or withdraw them as appropriate. The Working Party of Governmental Experts on Insurance of the IPPC (hereafter "Working Party"), in special sessions with Codes experts of the Investment Committee, initiated work in 2004 to consider potential new reservations reflecting the new and revised provisions of the Code and reconsider existing reservations relating to all insurance provisions. This two-fold exercise can be considered to constitute the seventh examination of Member countries' reservations.

17. This report presents the results of this exercise. The report is organised as follows: the first section describes the mandate of the Working Party; the second section, which constitutes the core of this report, describes the deliberations of the IPPC and the IC made on the basis of the work conducted by the Working Party in respect of the new and/or revised provisions of the Code relating to insurance and private pensions (including new interpretations and, in some instances, proposed further modifications to the Code) and the results of its examination of Member country reservations; the third section notes the procedure applicable to the United States and Canada to promote the transparency of sub-national measures; the fourth section deals with pending issues identified by the IPPC and the IC based on the examination by the Working Party of the positions of Member countries under the Code, some of which go beyond the areas of insurance and private pensions and the competency of the IPPC and require consideration by the IC in due course; and the final section outlines the conclusions of two Committees and future work that could be considered in relation to the Code, pending resource availability. The report also includes Appendix 1 ("Amendments to the Insurance and Private Pensions Provisions of the Code"); Appendix 2 ("Interpretations of the Insurance and Private Pensions Provisions of the Code"); Appendix 3: ("New Members' Reservations to the Revised Insurance and Private Pensions Provisions of the Code"); and Appendix 4 ("Information on Sub-National Measures in Canada and the United States").

I. Mandate of the Working Party

18. The OECD Council adopted, in February 2004, revisions to the Code that sought to simplify, clarify, and strengthen the insurance provisions and introduce new obligations in the areas of insurance and private pensions. The revisions were intended to promote increased openness in insurance markets and greater transparency (see Table 1 below):

- clarification of the general right of members to take regulatory measures in the field of insurance and private pensions, including the regulation of promotion, provided those measures do not discriminate against non-resident providers of such services (new Item under general heading of insurance and private pensions, chapter D);
- clarification and simplification of the wording and scope of Item D/2 on insurance relating to goods in international trade;
- expansion of the coverage of Item D/3 on life assurance to group insurance;
- clarification and simplification of the wording of Item D/6 on the conditions for the establishment and operation of branches and agencies of foreign insurers and removal of the flexibility to refer to market-need criteria;
- creation of a new Item to cover the conditions for the establishment and operation of entities providing other insurance services, including intermediaries (D/7 – new Item); and,
- creation of a new Item covering private pensions (D/8 – new Item).

19. In response to these changes, OECD Member countries were invited in 2004 to: (a) review their legal and regulatory conformity to the new and modified provisions of the Code; (b) submit their reservations, where relevant, on the new and modified provisions of the Code and reconsider their positions relating to all insurance provisions, including those that remained unchanged by the Council Decision; and (c) offer comprehensive and argued explanations of the motivations for any proposed reservations and modifications of reservations. Canada and the U.S., in addition to being requested to lodge any reservations at the federal level in respect of the new and modified provisions of the Code, were asked to provide updates on their sub-national measures, in conformity with the procedure noted by the Council in 1992 to promote greater transparency in the sub-national measures of these two countries.

20. The IPPC and the IC mandated the Working Party, in special sessions with Codes experts of the Investment Committee, to conduct the examination of Members' reservations. The Working Party held seven plenary sessions between July 2004 and July 2007; an informal meeting in November 2005; and one ad-hoc special meeting in May 2007. The IPPC and IC were regularly informed of the progress of the work of the Working Party. All Members participated in this exercise.

21. The Working Party, in addition to reviewing Members' reservations, developed interpretations of the Code to clarify its application and, in some instances, proposed further modifications to the provisions of the Code. These interpretations and proposed further modifications were endorsed by the parent Committees (the IPPC and the IC). They are described in section II below and are summarized in Appendices 1 and 2. These interpretations and proposed modifications have provided the basis for limitations on, and the removal of, Members' reservations under the Code. They have, however, also led to the introduction of new reservations.

Table 1	
2004 Revisions to the Insurance Provisions of the Code of Liberalisation of Current Invisible Operations	
Section	Revision
D	<p>General: Insurance & private pensions - prudential considerations</p> <p>Insertion of a sentence clarifying the right of Members to take regulatory measures, including the regulation of promotion, provided that these measures are non-discriminatory: <i>“Members may take regulatory measures in the field of insurance, including the regulation of the promotion, provided those measures do not discriminate against non-resident providers of such services”.</i></p> <p>The right to take regulatory measures in respect of insurance promotion by non-resident providers was previously in Items D/2, D/3 and D/4.</p>
D/2	<p>Insurance related to goods in international trade</p> <p><u>Clarification of wording</u> Explicitly provide for the freedom of transactions between a proposer in a Member and a foreign insurer, not only when the latter is established outside the proposer’s country of residence, but also when the insurer is established in the proposer’s country of residence.</p> <p><u>Scope of Item</u> The scope of Item D/2 was defined more precisely by making explicit reference to the different insurance classes involved in the insurance of international transport and freight: <i>International transport:</i> <u>All damage to or loss of:</u> railway rolling stock and other transport; aircraft; satellites; ships (sea, lake and river and canal vessels); and road transports (commercial land vehicles used for international business road transports) <u>All liability (including carrier’s liability) arising out of use of:</u> aircraft and satellites; ships (sea, lake and river and canal vessels); and road transports <i>Freight:</i> all damage to or loss of goods in transit (including merchandise, baggage and all other goods), irrespective of the form of transport</p>
D/3	<p>Life assurance</p> <p><u>Clarification of wording</u> Clarification that pensions products or services offered by insurance companies are covered by this Item (to provide equivalent treatment in respect of pensions products covered under new Item D/8 (see below)).</p> <p><u>Scope of Item</u> Extension to group insurance.</p>
D/6	<p>Conditions of establishment and operation of branches and agencies of foreign insurers</p> <p><u>Clarification/simplification of wording</u> Clarification of activities and entities deemed to fall within the scope of Item D/6. Clarification that branches and agencies of foreign insurers include natural persons as well as legal entities entitled to cover insurance/reinsurance risks on behalf of the foreign insurer. Administrative practices to be included within the scope of government measures subject to the disciplines of Item D/6 to ensure equivalent treatment of domestic and foreign insurers. Simplification of specific prudential provisions relating to financial guarantees and controlled investments. Provisions on transfers integrated into Part III of Annex I to Annex A of the Code.</p> <p><u>Strengthened wording</u> Elimination of “market needs” tests, which should not be permitted as a criterion in considering applications by foreign insurers subject to authorisation for conducting business in the host country.</p> <p><u>Scope of Item</u> Introduction of a new provision regarding membership of associations and regulatory bodies (no discrimination based on nationality).</p>

D/7 (new)	Conditions for establishment and operation of entities providing other insurance services (new title: Entities providing other insurance services)	Introduction of a new Item on the conditions for the establishment and operation of natural and legal entities providing insurance/ reinsurance services other than the coverage of insurance/ reinsurance risks. This Item covers entities providing intermediation services as well as services auxiliary to insurance (consultancy, actuarial, risk assessment and claim settlement services). The Item also covers representatives and representative offices.
D/8 (new)	Private pensions	Introduction of a new Item on private pensions, based on the model of Item D/3, paragraphs 2 and 4 (“pensions transfers” equivalent to paragraph 3 of Item D/3 are already covered by Item J/1; pension fund management is also already covered by Item E/4). Private pensions to be defined as products offered by any entities, other than insurance companies (pensions products or services offered by insurance companies to be covered by revised Item D/3), authorised or otherwise permitted in its home country to provide pensions products or services, through funded schemes (even partly) and operating as a private (or assimilated) entity.

II. Results of the Seventh Examination

A. Overview

22. The Committees made progress towards the advancement of liberalisation in insurance and private pension markets and identified remaining obstacles to cross-border transactions. As a result of the current examination, six Members (Germany, Greece, Iceland, Italy, Japan, and Turkey) withdrew reservations and nine Members (Australia, France, Germany, Greece, Hungary, Italy, Poland, Portugal and Spain) limited and/or partly withdrew their reservations with respect to the insurance provisions of the Invisibles Code that were left unchanged in 2004. As a general rule, European Union (EU) Member States limited the scope of their reservations to the provision of services by insurance undertakings headquartered outside the EU.

23. At the same time, nineteen countries introduced additional reservations in response to the revised provisions of the Code, specifically on Items D/2, D/3 and D/4. The additional reservations reflect both (i) changes to the Code in 2004 and (ii) proposed interpretations and amendments to the Code agreed by two parent Committees. For instance, reservations have been introduced as the scope of Items D/2 (insurance related to goods in international trade) and D/3 (life assurance) was enlarged due to modifications to the Code in 2004; moreover, reservations have been added for cross-border transactions and transfers concluded on the insurer’s initiative, reflecting confirmation by the IPPC and the IC that Items D/2 to D/4 (all other insurance) are intended to cover the whole cross-border provision of insurance services, regardless of whether the insurance contract was placed abroad at the initiative of the insurer or the policyholder (the latter denoted as “correspondence insurance”).

24. In respect of the new provisions of the Code, thirteen countries (Australia, Austria, Czech Republic, France, Hungary, Iceland, Italy, Korea, Norway, Poland, Portugal, Slovak Republic and Sweden) introduced reservations on promotional activities in response to the introduction of a provision clarifying the right of Members to take regulatory measures, including in respect of promotion, provided that these measures are non-discriminatory. In line with the decision of the Committees, these reservations on promotion were lodged under the relevant insurance and private pension items to which they directly apply. Twenty two countries lodged reservations on new Item D/7 (entities providing other insurance services), while twenty eight lodged reservations on new Item D/8 (private pensions).

25. The lodging of reservations was facilitated by clarifications from the European Commission regarding the application of European directives to the cross-border provision of insurance and private pensions services by non-EU based providers. The Working Party received confirmation from the Commission that the provision of insurance, insurance intermediation, and private pensions services on a cross-border basis (active or passive) by undertakings not established in the EU are not regulated by EU directives but remain a matter of national legislation -- the only proviso being that, in the case of reinsurance and insurance and reinsurance intermediation services, undertakings from third countries are not treated more favourably than EU undertakings. In other words, the EU directives do not require that EU Member States impose discriminatory restrictions on services by non-EU based providers.

26. Confirmation that national legislation largely governs the regulation of cross-border provision of insurance and private pensions services where there is no establishment in the EU provided important guidance to EU member states within the OECD to define with greater precision and in a more transparent manner the nature and scope of their reservations to the liberalisation obligations of the Codes, and served as a basis for limiting reservations. The list of reservations suggests that such EU member states have differing degrees of liberalisation regarding the treatment of undertakings established outside the EU but providing insurance or private pensions services on a purely cross-border basis within a member state.

B. Annex A, Chapter D (“D. Insurance and Private Pensions”)

27. The revisions to the insurance provisions of the Code in 2004 introduced a provision (“prudential considerations”) under the general chapter of insurance (renamed “D. Insurance and private pensions”) clarifying the right of Member countries to take regulatory measures, including the regulation of promotion, provided that these measures are non-discriminatory.

28. This provision made explicit the previously implicit understanding that Members could take regulatory measures of a general nature insofar as the treatment of non-resident providers was equivalent to the treatment of resident providers. The Code previously contained explicit provisions permitting regulatory measures, but only in respect of insurance promotion by non-resident providers; these provisions had appeared under Items D/2, D/3 and D/4 of Annex I to Annex A of the Code. These specific provisions were removed in the 2004 revisions.

29. The Committees, in reviewing the general provision on prudential considerations introduced in 2004, acknowledged that although the provision lacks some clarity, it is to be interpreted as designating measures taken in order to protect the interests of policyholder and beneficiaries. In order to introduce greater clarity, the Committees have proposed a slight revision of this provision, so that it would read as follows (see Appendix 1):

“Members may take regulatory measures in the field of insurance and pensions, including the regulation of the promotion, in order to protect the interests of policyholders and beneficiaries, provided that those measures do not discriminate against non-resident providers of such services”.

30. In order to make the meaning of the provisions clearer, the Committees agreed on the following definitions of the terms used in section D. The term “regulatory measures” designates all measures taken for the protection of policyholders, insured persons and beneficiaries. These measures include prudential safeguards in the stricter sense, i.e., rules on solvency, technical provisions and investments, as well as prudential measures in a broader sense, relating for example to contract law, intermediation, promotion, etc.

31. The term “resident provider of a Member” in this provision on prudential considerations as well as in the rest of the Code designates a domestic provider as well as a branch established by a foreign provider in this Member’s territory. In case a foreign provider has a branch within a Member’s territory but carries out activities otherwise than by using this branch, these activities are deemed to be carried out by a non-resident provider.

32. As Items D/1 to D/8 of Annex I to Annex A cover regulatory measures related to specific areas in the fields of insurance and private pensions, any reservation concerning regulatory measures in these areas were to be lodged with the specific item in question.

33. This is the case in particular of promotion. Promotion covers promotional activities related to all activities covered by the insurance and private pensions provisions of the Code and is exclusive of individualised pre-contractual contacts between the proposer and the intermediary/insurance undertaking. Included under promotion are advertisements by media or Internet. Promotion should be distinguished from intermediation and underwriting. It was recalled that the right to regulate promotion should be applied on a non-discriminatory basis.

34. At the occasion of the seventh examination, the Committees agreed that Members’ reservations on promotion should be lodged under the relevant insurance and private pension items of the Code. It was viewed that this approach would allow Members to define more precisely the nature of their restrictions on promotion; it also supports the objective of transparency and conforms to the general spirit of the Codes. Thirteen countries (Australia, Austria, Czech Republic, France, Hungary, Iceland, Italy, Korea, Norway, Poland, Portugal, Slovak Republic and Sweden) have introduced reservations with specific reference to the regulation of promotional activities in the field of insurance and pensions. The reservations on promotion were incorporated into the text of Members’ reservations lodged from Items D/2 to D/8. In the majority of cases, Members introduced a reference to promotional activities in all of their reservations with the exception of reservations relating to tax treatment of insurance premiums (in Items D/3 and D/4) and private pension contributions (in Item D/8), as well as reservations on the operation of branches and agencies of foreign insurers operating on a territory of a Member country (Item D/6). Those EU Member States that have lodged reservations have limited them to the promotional activities of undertakings not headquartered in the EU.

35. The reason commonly put forward during the seventh examination for reservations on promotion is that there is a general prohibition on promotional activities by non-resident providers, the objective being to protect domestic consumers. Those wishing to promote their services to consumers must establish a presence (e.g., branch, subsidiary) in the country so as to be subject to the domestic regulatory regime.

C. Annex I to Annex A: Items D/1 to D/8

D/1. Social security and social insurance

36. It was recalled that social security and social insurance matters within the scope of Annex A and of Annex I to Annex A, regardless of the provider involved, are subject to provisions of Item D/1. Social insurance transactions carried out by private insurers are also subject to the provisions of Item D/6.

37. The obligations of the Code do not restrict the right for a Member to impose an affiliation to their social security system under certain conditions of residence or activity on their territory. Insofar social insurance transactions may be carried out by private insurers, they may continue to be governed by the laws and regulations applicable to social insurance of the Member concerned.

38. The Committees noted the deliberations by the predecessor bodies (Joint Working Group on Insurance Services of the CMIT and of the Insurance Committee) on the scope of coverage of Item D/1 and agreed that Item D/1 should be interpreted as not covering the supply of insurance related to government benefit arrangements, such as social security, by foreign companies.

39. No reservations currently exist on this Item.

D/2. Insurance relating to goods in international trade

40. The revisions to the Code in 2004 simplified the wording for Item D/2 and clarified that the freedom of transactions between a proposer in a Member and a foreign insurer is provided for not only when the latter is established outside the proposer's country of residence, but also when the foreign insurer operates through a branch in the proposer's country of residence. In addition, the scope of the Item was defined more precisely by making explicit reference to the different insurance classes involved in the insurance of international transport and freight.

41. The Committees agreed that the wording of Item D/2 should be revised to include civil liability insurance for railway stock. The drafting of the reservations already takes into account this proposed extension of the Code.

42. Item D/2 covers transactions between a proposer in a Member and a foreign insurer, whether established in the country of the proposer or in another Member.

43. A comparison between the commitments entered under the General Agreement on Trade in Services (GATS) pursuant to the Understanding on Commitments in Financial Services and the obligations deriving from Item D/2 shows that the latter are covered by the GATS except for damages to or loss of commercial land vehicles and lake, river and canal vessels used for international business transports and all liability arising out of their use, the land vehicles comprising railway rolling stock and road vehicles. Reservations to Item D/2 could only be lodged insofar they were compatible with eventual corresponding national reservations in the context of the GATS.

44. According to the Code, a Member's reservation to any item should reflect its current restrictions. It could therefore reflect a higher level of liberalisation than appears in the schedule of commitments of the Member concerned under the GATS either because since these commitments were scheduled, regulations have been liberalised, or because the Member's schedule provides for lesser liberalisation commitments than permitted by the actual scope of its reservations. The latter case corresponds to the so-called "precautionary reservation" approach, which is possible under the GATS but is not consistent with the Code's disciplines. On the other hand, it is understood that a Member's reservation under the Code should not provide for a lesser level of liberalisation commitments as scheduled under the GATS.

45. The more precise definition of the scope of Item D/2 and particularly the inclusion of compulsory third-party liability insurance arising from the use of road vehicles resulted in the introduction of new reservations by many countries that did not have reservations previously (Australia, Austria, Belgium, Czech Republic, Finland, Germany, Hungary, Luxembourg, Poland, Slovak Republic, Spain, Sweden, Switzerland and Turkey¹); most EU Member States that have adopted such reservations have limited them to insurance undertakings not headquartered in the EU or not having branches established in the country of residence of the proposer. A number of countries that previously had reservations have expanded them to include damage and/or loss of commercial land vehicles used for international business transport and liabilities arising out of their use (France and Italy).

¹ Turkey has transferred its old limitations to Item D/4 (paragraph 5) to the revised Item D/2.

46. Several countries (Germany, Mexico and Switzerland) have modified their already existing reservations to this Item, limiting or partially withdrawing some of their reservations. Korea introduced a reservation on Item D/2 in respect to promotional activities. Portugal's position has remained unchanged. One country, Greece, has completely withdrawn its reservation.

47. In addition, the Committees noted that both Canada and United States lodged reservations on Item D/2 which were not listed during the sixth examination of Members' reservations. Canada put forward evidence that the reservation was motivated by the existence of long-standing restrictive regulatory provisions that were unintentionally omitted during the 1992 examination process. The reservation relates, in part, to a federal excise tax of 10 percent applicable on net premiums paid to non-resident insurers or exchanges in regard to a contract against a risk ordinarily within Canada, unless such insurance is deemed not to be available in Canada. The excise tax is also applicable on net premiums payable with regard to a contract entered into, through a non-resident broker or agent, with any insurer authorized under the laws of Canada or of any province to carry out the business of insurance. Contracts of life insurance, personal accident insurance, sickness insurance and insurance against marine risks are not subject to the 10 percent federal excise tax. The reservation also relates to certain federal-level prudential measures in respect of cross-border activity; these measures do not apply if the policy has been taken out at the proposer's initiative and the contract is concluded and serviced in the jurisdiction of the foreign insurer.

48. The United States also informed the Committees that it unintentionally omitted to communicate reservations on Item D/2, and submitted evidence indicating that these reservations reflected long-standing measures at the federal level. In particular, the United States provided information on restrictions that explains the reservations made under Item D/2: e.g., 1) a requirement for the insured, when more than 50 percent of the value of a maritime vessel whose hull was built under federally guaranteed mortgage funds is insured by a foreign insurer, to demonstrate that the risk was substantially first offered in the U.S. market; and 2) requirements of a fiscal nature (i.e., the application of a one percent federal excise tax on insurance premiums paid under life insurance, sickness and accident policies, or annuity contracts, and of a four percent federal excise tax imposed on premiums paid under policies of casualty insurance or indemnity bonds, covering U.S. risks that are paid to companies not incorporated under U.S. law). Fiscal measures also explain the lodging of new reservations by the U.S. on Items D/3, D/4 and D/5 (see below).

49. Taking into consideration established practices under the Code, the Committees agreed that the introduction of reservations by Canada and the U.S. on Item D/2 accurately reflected long-standing legislative provisions at the federal level and therefore did not entail a breach of the standstill principle in practice. The regularisation of the Canadian and U.S. positions was also viewed as contributing significantly to increased transparency of existing barriers at the federal level in relation to insurance of international trade. The Committees agreed to recommend to the Council that it regularise the positions of Canada and the U.S.

D/3. Life assurance

50. In 2004, the scope of Item D/3 was expanded to include group insurance and private pension services and products offered by insurance companies (the latter expansion was done to ensure consistency with Item D/8 in relation to the provision of private pensions services and products).

51. According to footnote 4 in the revised insurance provisions of the Code, transfers of capital and annuities in connection with life insurance are governed by the *Code of Liberalisation of Capital Movements*. This remark applies in particular to pension products when, prior to the benefit phase, pension rights are transferred to a foreign insurer not established in the country of residence of the proposer. This transfer is to be considered as a transfer of capital and is not governed by the present Code; therefore, no

reservations should be lodged within the *Code of Liberalisation of Current Invisible Transactions*, but instead should be lodged under the other Code.

52. It should be noted that a certain number of EU Member States lodge reservations for paragraph 3 concerning tax deductibility for premiums and do not limit their reservation to premiums paid to insurers not headquartered in the EU. Although the fiscal treatment of insurance premiums continues to be a controversial issue within the EU, discriminatory treatment of non-resident EU providers in this respect has been regularly condemned by the European Court of Justice.

53. It was recalled that, contrary to Item D/2, Item D/3 relates only to foreign insurers not established in the country of residence of the proposer, so that restrictions to eventual reservations concerning the establishment and treatment of branches in the country of residence of the proposer should be lodged on Item D/6 of the Code and on the relevant provisions of the *Code of Liberalisation of Capital Movements*.

54. It was also clarified, in line with deliberations made prior to the revisions to the Code in 2004, that Item D/3 covers the whole cross-border provision of insurance services, regardless of whether the insurance contract was placed abroad at the initiative of the insurer or the policyholder (the latter denoted as “correspondence insurance”). At the same time, the Committees acknowledged that some members had a more restrictive interpretation of Item D/3 based on the fact that, prior to the 2004 revision, Item D/3 allowed for Members to regulate promotion of activities undertaken by non-resident insurers. The Committees agreed that existing Members’ positions were, at least, reflecting liberalisation of cross-border provision of insurance services in absence of such activities, i.e. insurance services at the initiative of the proposer (correspondence insurance).

55. Like the sixth examination, a number of countries (Austria, Denmark, Ireland, Mexico, Norway, Poland, Sweden, Switzerland, Turkey, and United Kingdom) have maintained reservations in relation to all or part of insurance contracts related to life insurance effected on a cross-border basis by insurers not established in the country of the proposer. Reservations have been introduced and/or extended by some countries (Australia, Belgium, Canada, Czech Republic, Finland, Iceland, Japan, Korea, Luxembourg, Netherlands and Slovak Republic), due to the introduction of new provisions related to group insurance and private pension services provided by insurance companies and the agreement reached by the Committees that the cross-border provision of insurance includes not only “correspondence” insurance but also insurance contracted on the initiative of the insurer. Norway withdrew limitations on its reservation on Item D/3, paragraph 1, since its former reservation, which covered the provision of cross-border correspondence insurance, was removed; its current reservation is limited to contracts concluded at the initiative of the insurer.

56. Most of the EU Member States (Belgium, Czech Republic, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic and Spain) made efforts to limit and/or partially reduce the scope of their existing and/or new reservations to insurance contracts concluded with insurance undertakings not headquartered in the EU.

57. As noted in previous examinations, the justification by countries for lodging or maintaining reservations lies in the diversity of national practices with regard to the regulation of insurance operations, which vary significantly between Member countries (with the exception of the EU where EU legislation has led to greater harmonisation of national rules in respect of life insurance business), and which are motivated by the need to protect resident policyholders and safeguard the market from undue distortion of competition, and by the consideration of specific social and financial issues related to this class of insurance.

58. Hungary and Norway introduced new reservations related to the tax treatment of life insurance premiums. The introduction of these new reservations was motivated by the existence of long-standing preferential tax measures for premiums paid to domestic life insurers and therefore did not entail a breach of the standstill principle in practice. To support their arguments, Hungary referred to earlier income tax legislation (Act VI of 1987 on Income Tax of Private Persons, section 20 point (1) (d)), while Norway made reference to “TPES” rules in force since 1969. Hungary and Norway informed the Committees that these reservations were unintentionally omitted during the 1992 examination process and that the measures were being disclosed in good faith for the purpose of transparency. After an in-depth examination of the Hungarian and Norwegian positions and having regard to established practices under the Code, the Committees agreed to recommend to the Council the regularisation of the positions of Hungary and Norway.

59. Similar to Item D/2, the Canada and the United States informed the Committees that they unintentionally omitted to communicate reservations at the federal level in relation to Item D/3, paragraphs 1 and 2. These reservations reflected long-standing measures and therefore did not entail a breach of the standstill principle in practice. In Canada, the reservation relates, in part, to certain federal-level prudential measures in respect of cross-border activity; these measures do not apply if the policy has been taken out at the proposer’s initiative and the contract is concluded and serviced in the jurisdiction of the foreign insurer. The reservation also relates to federal-level tax measures that give preferential treatment to private pension plans funded through a Canadian trust or a contract issued by an insurance company authorized under Canadian law to carry on a life insurance business in Canada.

60. In the U.S., the restrictive measures underlining the proposed reservations are similar to those for Item D/2, and relate to the application of a one percent federal excise tax on insurance premiums paid under life insurance, sickness and accident policies, or annuity contracts, and of a four percent federal excise tax imposed on premiums paid under policies of casualty insurance or indemnity bonds, covering U.S. risks that are paid to companies not incorporated under U.S. law.

61. Taking into consideration established practices under the Code, the Committees agreed to consider the justification provided by Canada and the United States for the introduction of the new reservations on Item D/3, paragraphs 1 and 2, and recommended to the Council a regularisation of the positions of Canada and the United States under the Code in this field.

D/4. All other insurance

62. In conducting the examination of Members’ reservations to Item D/4, it was recalled that this item concerns all insurance classes not covered by other items of the Code, with the exception of group insurance and compulsory insurance.

63. The Committees noted and agreed that paragraphs 52-54 fully apply to Item D/4.

64. The Committees explored how to achieve a higher degree of liberalisation by inviting Members to differentiate their reservations under Item D/4 between large risks and other classes of risks. Although this approach did not lead to concrete results in the drafting of current reservations, it could be envisaged for future work in the field of liberalisation.

65. It should be noted that the Committees agreed to a further renumbering of Item D/4 by placing the sub-categories a), b) and c) of paragraph 6 under a separate paragraph 7. This proposal is reflected in the recommendations to the Council of further amendments to the text of the insurance and private pensions provisions (see Appendix 1). Members’ reservations already reflect the new paragraph numbering.

66. At the conclusion of the current examination, nine countries (Austria, France, Ireland, Italy, Japan, Korea, Mexico, Poland and Switzerland) maintained their reservations in respect of Item D/4. Poland withdrew limitations on its reservation on Item D/4 since its former position covered only correspondence insurance. Poland, upon joining the EU, liberalised its regulatory regime for insurance and, as a part of these reforms, removed remaining restrictions on correspondence insurance. This more liberalised regime is confirmed in Poland's revised reservations on Items D/3 and D/4, where the reservations are limited to contracts concluded at the initiative of insurer.

67. Mexico informed the parent Committees of the omission that occurred in the previous edition of the Codes (2004) where Mexico lodged reservations on paragraphs 5 and 6. The Mexican authorities acknowledged that during the past examination of Members' obligations to the Code, its reservations should have covered the old paragraphs 5 and 7 (which now cover paragraphs 4 and 6), and not paragraphs 5 and 6.

68. Several EU countries (France, Germany, Hungary, Ireland, Italy, Luxembourg, Poland, Portugal, Slovak Republic and Spain) reduced the scope of application of their existing and new reservations to insurance undertakings not headquartered in the EU: France limited the reservation to §4, Germany to §6; Hungary to §4; Italy to §4 and 6; Luxembourg to §6; Poland to §4; Portugal to both §4 and 6; Slovak Republic to §4 and Spain to §4 and 6. Turkey, while maintaining its reservation on §6, has transferred some existing limitations to Item D/2.

69. Eight Members (Australia, Belgium, Czech Republic, Germany, Iceland, Luxembourg, Norway and Slovak Republic) have extended their reservations to paragraph 4, reflecting the new interpretation regarding the scope of cross-border transactions (see paragraph 54). Their reservations are limited, however, in that they do not apply if the policy has been taken at the initiative of the proposer or with undertakings headquartered in the EU.

70. Only one Member (Greece) has withdrawn its reservation on this Item; Greece withdrew its reservations on paragraphs 4 and 7.

71. As with Item 3, Canada lodged a new reservation on Item D/4 that reflects long-standing regulatory measures -- specifically, certain federal-level prudential measures in respect of cross-border activity. These measures do not apply if the policy has been taken out at the proposer's initiative and the contract is concluded and serviced in the jurisdiction of the foreign insurer.

72. As with Items D/2 and D/3, the United States introduced new reservations on Item D/4, paragraphs 4 and 5, reflecting long-standing regulatory measures relating to the application of a one percent federal excise tax on insurance premiums paid under life insurance, sickness and accident policies, or annuity contracts, and of a four percent federal excise tax imposed on premiums paid under policies of casualty insurance or indemnity bonds, covering U.S. risks that are paid to companies not incorporated under U.S. law.

73. Taking into consideration established practices under the Code, the Committees agreed to accept the justification provided by Canada and the United States for the introduction of new reservations that reflect long-standing measures on Item D/4 and therefore did not entail a breach of the standstill principle in practice, and recommended to the Council a regularisation of the Canadian and U.S. position under the Code in this field.

D/5. Reinsurance and retrocession

74. At the conclusion of the current examination, two countries (Japan and Turkey) have withdrawn their reservations and only Australia maintained a reservation in relation to Item D/5. In Australia, if a foreign reinsurer not registered in Australia reinsures Australian life insurance business, this is ignored for the purposes of the *Life Insurance Act*; in particular, the Australian ceding company must maintain the same reserves as it would have done had the business not been reinsured, and thus gets no credit for its reserves (i.e., no netting of technical provisions). Since registration under the *Life Insurance Act* is required for recognition in the context of netting of reserves, and necessarily requires establishment in the form of a branch or a subsidiary, a reservation is necessary in respect of life reinsurance. Australia was invited during the examination process to limit its reservation to life reinsurance as non-life reinsurance is not subject to the same netting regime; specifically, insurers ceding non-life business to non-resident reinsurers can obtain credit for such reinsurance in their technical provisions.

75. It is recognised that countries may have prudential measures in the area of reinsurance and retrocession that do not clearly discriminate between resident and non-resident providers but which may pose obstacles to trade in reinsurance services. There was a discussion of whether the netting of technical provisions and other prudential measures related to reinsurance and retrocession are subject to the liberalisation disciplines of the Code and in particular to Item D/5. No consensus could be reached within the Committees on this question. The Committees therefore agreed that such measures could deserve further consideration in the framework of the *Code of Liberalisation of Current Invisible Operations*.

76. In addition, Canada and the United States lodged new reservations on Item D/5 that were not tabled during 1992 examination process. In the case of Canada, the reservation reflects certain federal-level prudential measures in respect of cross-border activity, which do not apply if the policy has been taken out at the proposer's initiative and the contract is concluded and serviced in the jurisdiction of the foreign insurer. In the U.S. context, the reservation is limited to the application of a one percent federal excise tax on reinsurance of contracts relating to life insurance, sickness and accident policies, or annuity contracts, and contracts on policies of casualty insurance or indemnity bonds, on U.S. risks covered by companies not incorporated under U.S. law.

77. Canada and the United States brought evidence to the attention of the Committees that these restrictions reflected long-standing legislative provisions at the federal level and were unintentionally omitted in the last examination. Having regard to established practices under the Code, the Committees decided to accept the justifications provided by Canada and the United States for having lodged reservations on Item D/5, which reflected long-standing provisions and therefore did not entail a breach of the standstill principle in practice, and recommended to the Council the regularisation of the positions of Canada and the U.S. in this area.

D/6. Conditions for establishment and operation of branches and agencies of foreign insurers

78. The Committees confirmed that Item D/6 applies to services in connection to both insurance and reinsurance activities. The Committees also agreed that Item D/6 does not apply to intermediation activities undertaken by branches and agencies of foreign insurers, as intermediation activities are covered under Item D/7.

79. While examining Members' positions under Item D/6, the Committees agreed that the existence of registration or licensing requirements for general managers of foreign branches and agencies in the field of insurance are not contrary to the Code insofar as these requirements are not globally superior to those applicable to domestic providers. No reservations are thus needed for regulatory but not discriminatory measures.

80. In discussing the proposed reservations of EU member states, the Committees drew on developments in EU legislation. According to European legislation, an authorisation is necessary for branches established in an EU Member State and belonging to undertakings headquartered outside the EU; the undertaking must possess assets in that member of an amount equal in value to at least half the guarantee fund applicable to insurers headquartered in the EU and deposit one quarter of this minimum amount as security. When carrying on the activities the assets representing the solvency margin must be kept within the country of the branch up to the amount of the guarantee fund and the surplus has to be kept within the EU. It is required in general that the assets covering the technical provisions of the branch are localised in the country of the branch and that resources necessary to meet the costs of setting up the administrative services and the organisation for securing business have to be kept in the country of the branch.

81. Although authorisation is required both for national and foreign insurers, provisions governing the authorisation process are quite similar for national and foreign providers (e.g.: guarantee fund required for the establishment of a branch is only half of the corresponding amount of a national insurer; there are no additional requirements with regard to the solvency margin calculation and the condition of availability of resources necessary for the setting up of the business applies both to national and foreign insurers). The only discrimination consists in a deposit of a small part of the guarantee fund and in restrictions concerning the localisation of assets and of the resources for the setting up expenses. In this regard, the Committees agreed that these requirements are overall not more burdensome but equivalent to those imposed on national insurers in the EU jurisdictions and that reservations based on the EU legislation are thus not necessary. The Committees reached a similar conclusion in relation to Switzerland whose requirements are very similar to the ones of the EU.

82. In regard to the branches of reinsurance companies, the same principles apply. Insofar as the setting up of a national reinsurance undertaking is subject to a licensing procedure, the requirement of an authorisation for the establishment of a branch by a foreign reinsurer is not as such contrary to the obligations of the Code and does thus not call for a reservation, if the conditions for this authorisation are not globally superior to the ones applicable to national reinsurers.

83. At the conclusion of the examination of country reservations, several countries (France, Ireland, Mexico, New Zealand and United Kingdom, Bermuda) maintained their reservations on Item D/6. Four countries (Australia, France Ireland and Portugal) limited their reservations; Australia limited the application of its reservation solely to foreign life insurance undertakings that are not allowed to operate by way of branches in Australia, while France, Ireland and Portugal limited their reservations to insurance undertakings not headquartered in the EU. Finland extended its reservation taking into account the provision of occupational pensions by insurance undertakings not headquartered in the EU. The authorities of Bermuda (United Kingdom) moved their reservation on paragraph 3 of old text of the Code of Item D/6 to the new Item D/7, which covers, following the 2004 revisions to the Code, the activities of representatives and representative offices. Italy withdrew fully its reservation based on the Committees' interpretations of Item D/6 as described above. Iceland withdrew its reservations on Item D/6 that related to controlled investments and deposits. For their part, Austria, Norway and Iceland removed their reciprocity measures in respect of Item D/6, Finland, France and Ireland maintained reciprocity measures under this Item as notified in the Annex E of *the OECD Code of Liberalisation of Capital Movements* (denoted in their reservations by an asterisk beside Item D/6).

84. France clarified its position with regard to Item D/6, which entailed the introduction of new reservations in relation to the deposit, withdrawal and transfer of funds. France indicated that these reservations, which reflect measures that are applicable only to foreign insurers not headquartered in the EU, have been in place since 1976 and acknowledged that they were unintentionally omitted during the previous examination process. France furnished evidence of its good faith by disclosing detailed

information on these measures and their history. The Committees, after a thorough examination of the position of France, considered that the new reservations reflected long-standing provisions and therefore did not entail in practice the breach of the standstill principle. Having regard to established practices under the Code, the Committees decided to recommend to the Council the regularization of the position of France.

85. The Committees also noted that Australia provides preferential treatment to U.S. life insurance undertakings under Item D/6 on the basis of a free trade agreement concluded between Australia and the U.S. in 2004. Australia permits U.S. life insurers to establish branches while it requires life insurers from other OECD countries to establish domestic subsidiaries. In accordance with the non-discrimination principle of Article 9 of the Code, the Committees urged Australia to normalise, at an early date, the situation with respect to its obligations under the Code. The Committees also decided to continue monitoring development under the Australia – United States Free Trade Agreement with a view to ensuring that the implementation of the Agreement is carried out in conformity with the contracting parties' obligations under the Code and to report back in due course.

86. The United States introduced a reservation on Item D/6, which reflects a restriction that prevents the branches of foreign insurance companies from providing surety bonds for U.S. Government contracts. As with Items D/2, D/3, D/4 and D/5, the United States confirmed that it unintentionally omitted to introduce, in the sixth examination, a reservation based on this long-standing measure which reflected a long-standing provision and therefore did not entail a breach of the standstill principle in practice.

87. After a discussion of these issues, and having regard to established practices under the Code, the Committees decided to consider the justifications provided by the United States for having introduced a reservation on Item D/6 and recommended to the Council the regularisation of the U.S. position in this area.

D/7. Entities providing other insurance services.

88. The Committees agreed on the interpretation that the scope of Item D/7 covers:

- both the activities of entities providing other insurance services under the establishment regime and the freedom to provide cross-border services;
- all activities under the freedom to provide services whether service provision is on the initiative of the provider or the beneficiary of the service,

and invited Members to draft their reservations accordingly. For greater clarity, the Committees have agreed to recommend to the Council that Item D/7 be modified to make it explicit that this Item covers these activities (see Appendix 1). In light of the preceding, the Committees also agreed to change the title of D/7 to “Entities providing other insurance services”.

89. The Committees noted that Item D/7 applies to services in connection to both insurance and reinsurance activities. The Committees expressed the opinion that auditing services are not to be considered as other insurance services, since similar services are provided to all kinds of firms and are not specific to insurance. No reservation is thus needed in this respect, as far as this item is concerned. The Committees also agreed to consider the enumeration of auxiliary services in the footnote of Item D/7 in Annex I to Annex A to be exhaustive -- auxiliary services covering thus only consultancy, actuarial, risk assessment and claim settlement services.

90. The Committees noted that in light of the introduction of the provision relating to prudential considerations at the outset of chapter D of the Code, the existence of registration or licensing requirements

in the field of intermediation, auxiliary and representation services are not contrary to the Code insofar as these measures do not discriminate against non-resident providers of such services. No reservations are thus needed for regulatory but not discriminatory measures. In particular, the Committees agreed that the existence of registration requirements for services under Item D/7 is not contrary to the obligations of the Code insofar as these requirements are not subject to conditions that are globally superior to those applicable to domestic providers.

91. Twenty two countries (Australia, Austria, Belgium, Czech Republic, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, Norway, Poland, Portugal, Slovak Republic, Spain, Switzerland and United Kingdom, (Bermuda)) introduced reservations on this new Item. The Bermuda authorities (United Kingdom) moved their previous reservation from paragraph 3 of old text of the Code of Item D/6 to the new Item D/7. EU Member States with reservations limited them to providers headquartered outside of the EU. Other countries (Australia, Japan, Korea, Mexico and Switzerland) also introduced limitations relative to specific activities linked to the provision of other insurance business in their respective countries.

D/8. Private pensions

92. The Committees agreed on the interpretation that the provisions of Item D/8 should:

- cover the activities of entities other than insurance companies whether under the establishment regime or under the freedom to provide cross border services;
- cover all activities under the freedom to provide services contracted between a proposer in one Member and an entity established in another Member whether on the initiative of the entity concerned or on the initiative of the proposer;
- apply both to pensions related to the exercise of professional occupation by the proposer and to pensions that are not in any way connected to a professional occupation;

and invited Members to draft their reservations accordingly. For greater clarity, the Committees have agreed to recommend to the Council that Item D/8 be modified to make it explicit that this Item is interpreted in this fashion (see Appendix 1).

93. The Committees agreed that, similar to Items D/3 paragraph 1 and D/4 paragraph 4, the term “transfer” employed in the first bullet point of Item D/8 is to be interpreted in the sense of transfers of premiums and benefits arising from pension contracts. Portfolio transfers from a resident provider to a non-resident provider are not dealt with under Item D/8, but under of the *Code of Liberalisation of Capital Movements*.

94. Similar to the discussion under Item D/6, consideration was given to the question of registration or licensing requirements for private pension fund managers and trustees. The Committees agreed that the existence of registration or licensing requirements for private pension fund managers or trustees is not contrary to the Code insofar as these requirements are not globally superior to those applicable to domestic providers. No reservations are thus needed for regulatory but not discriminatory measures, as far as this item is concerned.

95. Most countries (Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Mexico, Netherlands, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom and United States) lodged reservations on this new Item. Luxembourg and New Zealand have not introduced any reservations on this Item.

96. Consistent with their positions on other Items of the Code, EU Member States have limited their reservations to providers of private pension services headquartered outside the EU. Four countries (Australia, Denmark, Sweden and Turkey) lodged reservations only on the second bullet point of Item D/8, which deals with the tax treatment of private pension contribution under the freedom to provide services. Greece introduced a reservation, but only on the first bullet point of Item D/8, and limiting its application to non-EU-based private pension providers.

97. Most of the reservations of EU Member States relate to transactions and transfers of premiums and benefits arising from the pension contracts concluded on a cross-border basis and have been justified on prudential grounds. These countries identified the main obstacles to further liberalisation as being the lack of harmonisation of prudential requirements and supervisory rules and practices in the area of private pension provision, and the modest advance in international co-operation between relevant private pension supervisory authorities. Establishing a minimum level of harmonisation of prudential rules, acknowledging the principle of host country jurisdiction over social and labour law, and enhancing co-operation between relevant supervisory authorities to oversee and enforce compliance both with prudential and social rules were deemed as prerequisites to further liberalisation in the area. Taking into account the increasing important role that occupational private pension are playing in retirement income provision, ensuring sustainable and adequate protection of the interest and funds of beneficiaries was considered to be an essential responsibility for EU governments.

98. Regarding the deduction of pension contributions for tax purposes, EU Member States argued that, in the absence of any co-ordinated effort on an international level, the treatment of transfers relating to private pensions for purposes of tax is dependent on bilateral and multilateral agreements reached among Members.

99. EU Member States argued that the reservation lodged on cross-border activity of private pension providers does not apply to undertakings headquartered in the EU. An EU directive covers only occupational private pension provision and therefore does not cover the full scope of item D/8. In course of the examination process, OECD Members were requested among others to differentiate their reservations between occupational and individual private pension schemes. Although this approach did not lead to concrete results in terms of lodging reservations – this might be identified as an avenue for the future possible work in the area.

100. The justifications provided by other countries that lodged reservations on the provisions of Item D/8 were similar to the ones provided by EU Member States, i.e., the need to promote the protection of the rights of members and beneficiaries and the financial security of pension plans and funds. The provision of private pension services and tax relief of pension contributions are permitted for entities with a commercial presence (though branch or subsidiary company) in the Member country, therefore restrictions appear to relate to the provision of private pension services on cross-border basis whether on the initiative of the provider or beneficiary.

III. Sub-national measures in Canada and the United States.

101. In the course of the present examination, the Committees held a discussion of sub-national regulation governing insurance and private pensions in Canada and the United States.

102. Since the adhesion of Canada and the United States to the Code in 1961, both countries have been subject to limited obligations with regard to measures taken by sub-national level of governments, in accordance with the decisions of the Council set out respectively in Annexes C and D of the Code. However, the federal governments of these countries have undertaken to use their best efforts to encourage the application of the Code's provisions at the sub-national level.

103. At the occasion of the sixth examination held in 1992, the CMIT and the Insurance Committee held a thorough discussion on the sub-national measures taken in Canada and the United States with regard to the operation of foreign insurers on their territory. During that examination, the Canadian and U.S. authorities provided details on the regulations and other relative rules and provisions governing foreign insurers at the sub-national level and described the scope of application of these sub-national measures with respect to relevant items in the Code. At the time, these contributions constituted the most complete and comprehensive set of information provided by the countries on their respective sub-national regulation of insurance services.

104. The discussion of the regulatory framework governing insurance services in Canada and United States on the occasion of the sixth examination led the Committees to consider and reach an agreement, which was noted by the Council, concerning the application of operational procedures for measures taken at sub-national levels of government in the insurance sector in these two countries. These procedures were developed based on procedures already adopted in the Organisation and contributed to the harmonisation of the Code's procedures in such closely related and complementary areas as banking, financial and insurance services. The following procedures concerning measures taken at sub-national levels of governments apply for banking, financial and insurance services:

- Member countries are expected to notify the Organisation of sub-national measures to the extent that the central or federal government has or acquires knowledge of them.
- Such measures should be included in any publication of controls and impediments affecting cross-border operations under the relevant provisions of the Code.
- Such measures should also be addressed in the examination of the positions of Member countries under the Code.
- Member governments should encourage the authorities of any sub-national units of government in their country to provide effective liberalisation of the operations covered by the relevant positions under the Code, and to communicate to those authorities the views expressed by the Organisation or the Investment Committee regarding measures affecting the liberalisation of these operations.
- If a Member country considers that its interests under the Code are being prejudiced by such measures and notifies the Organisation of the circumstances, the Member government addressed should, in conformity with procedures consistent with the political structure of its country, bring the provisions of the Code and the circumstances notified, with an appropriate recommendation, to the attention of the competent sub-national authorities concerned. Member governments addressed should also undertake to inform the Organisation of the action they have taken in this regard and of the results thereof.
- The Investment Committee should periodically review these operational procedures to ensure their effective and equitable application.

105. The scope of these procedures is consistent with the understanding embedded in Annexes C and D of the Code, insofar as they fully take into account the legal as well as practical limitations imposed on the Canadian and United States governments by the respective constitutions of these two countries on the ability to take action with respect to the matters falling within the purview of the Code.

106. At the conclusion of 2004 revisions to the Code, the United States and Canada, along with other Members, were invited to lodge, if necessary, reservations at the federal level in respect to the new and modified provisions of the Code and were asked to provide updates on their sub-national measures in conformity with the provisions of established in the Annexes C and D of the Code and the operational procedures adopted by the Council in 1992. The updates on sub-national measures provided by Canada and the United States in the current examination are presented in Appendix 4.

IV. Pending issue

107. At the conclusion of the examination of Members' positions under the revised provisions of the Code, an outstanding issue concerned the implications of the agreement on the European Economic Area (EEA) for the OECD *Codes of Liberalisation*. EU Member States and OECD members of the EEA – Norway and Iceland - provide preferential treatment to each other notwithstanding the principle of non-discrimination under Article 9 of the Code. Article 10 allows members of a special customs or monetary system to apply liberalisation measures to one another without granting them to other OECD members. No formal invocation of Article 10 has been made by the OECD members of the EEA and no determination of the Council as to the applicability of Article 10 to the EEA has been made to date. The Committees discussed this issue on several occasions, and took full knowledge of the 1992 Report to the Council on Agreement on the EEA and its implications for the OECD *Codes of Liberalisation*. On the occasion of the seventh examination, Norway indicated that it would like to seek a formal invocation of Article 10 before the OECD Council in order to obtain recognition of the EEA as a special customs or monetary system within the meaning of Article 10. The Committees concluded that this issue goes beyond the domain of insurance and private pensions and therefore agreed that the Investment Committee should be invited to resume its consideration of the status of the EEA under the Code initiated in its report of 1992 and report back to Council in due course. In conformity with actual practice under other items of the Code or under the *Code of Liberalisation of Capital Movements*, pending the resolution of the EEA issue, EU Member States refer in their reservations to preferential treatment vis-à-vis EU countries only. Similarly, the reservations of Iceland and Norway do not reflect preferential treatment given to other EEA member states.

V. Conclusions and considerations for future activities

108. The seventh examination of Members' reservations resulted in progress being made in the advancement of liberalisation in insurance and private pension markets and identification of remaining obstacles to cross-border transactions. The examination also led to important clarifications to the Code, which will take effect if the proposed amendments and interpretations are adopted by the Council. Moreover, important clarification of reservations was achieved by confirmation from the EU Commission that restrictions regarding the cross-border provision of insurance, intermediation, and private pensions services by undertakings established outside the EU are governed by national legislation, not EU directives, the only proviso being, in the case of reinsurance and insurance and reinsurance intermediation services, that non-EU undertakings should not be given a more favourable treatment than EU undertakings. The seventh examination served as a reminder of the underlying reasons raised by Member countries for restrictions in insurance and private pensions markets, namely the protection of policyholders and beneficiaries, the safeguarding of markets from undue distortions in competition, and the pursuit of specific social and financial objectives related to insurance and private pensions.

109. In the course of the examination of Members' reservations, the Committees identified a number of issues that could deserve further consideration in the framework of the *Code of Liberalisation of Current Invisible Operations*. The Committees agreed that further examination of these issues could promote further transparency and liberalisation in the insurance and private pension sectors. These issues include:

- *Differentiation of risks under Item D/4*: The Committees considered it relevant to study further the scope for differentiating between insurance classes covered by item D/4 in order to improve the transparency of the item and develop a more liberalised trade regime for these insurance services. Given that the item covers a large variety of insurance classes which do not require the same protection for insurance policyholders, a differentiation, notably between large risks² and

² In the past discussions on the issue, the Group referred to the EU approach related to the definition of large risks. Following this definition, "large risks" means:

other type of risks, could be set out. Differentiation between different types of risk under Item D/4 would also contribute to greater clarity of the scope of the item.

- *Credit for foreign reinsurers*: It is recognised that countries may have prudential measures in the area of reinsurance and retrocession that do not clearly discriminate between resident and non-resident providers but which may nonetheless pose obstacles to trade in reinsurance services. As the issue of measures relating to the netting of technical provisions and other prudential measures related to reinsurance and retrocession was not settled in the seventh examination, it could deserve further consideration in the framework of the *Code of Liberalisation of Current Invisible Operations*.
- *Private pensions*: In course of the examination process, Members were requested to differentiate their reservations between occupational and individual private pension schemes. Although this approach did not lead to concrete results in terms of the lodging of reservations, it could be an avenue for future possible work in this area.

110. The Committees considered that future work could be undertaken in close co-operation with other committees and bodies -- in particular the Working Party on Private Pensions and the Committee on Financial Markets.

111. The IPPC is currently addressing the issue of regulatory efficiency, which may offer an avenue for enhancing market access and international competition in insurance and private pensions services. Reducing regulatory burden for companies and funds operating domestically and internationally, in a manner that does not jeopardize the interests of policyholders and beneficiaries, could facilitate the cross-border provision of insurance and private pensions services. Moreover, movement toward greater international convergence and, where appropriate, harmonisation of legislative measures and regulatory standards can have the beneficial effect of reducing unnecessary obstacles to, and restrictions on, insurance and private pensions market transactions. In this context, international efforts by domestic and international bodies (e.g., the Organisation for Economic Co-operation and Development, the International Association of Insurance Supervisors and the International Organisation of Pension Supervisors) are important for enhancing the competitive framework for the provision of insurance and private pensions services.

1. Risks classified under classes 4 (railway rolling stock), 5 (aircraft), 6 (ships – sea, lake and river and canal vessels), 7 (goods in transit – including merchandise, baggage, and all other goods), 11 (aircraft liability) and 12 (liability for ships – sea, lake and river and canal vessels) of point A in annex 1 NL (annex reproducing classification of risks according to classes of insurance and which is compatible with OECD classification).

2. Risks classified under classes 14 (credit) and 15 (suretyship) of point A in annex 1 NL, where the policyholder is engaged professionally in an industrial or commercial activity or in one of the liberal professions, and the risks relate to such activities.

3. Risks classified under classes 3 (land vehicles – other than railway rolling stock), 8 (fire and natural forces), 9 (other damage to property), 10 (motor vehicle liability), 13 (general liability) and 16 (miscellaneous financial loss) of point A in annex 1 NL insofar as the policyholder exceeds the limits of at least two of the following three criteria:

Balance sheet: 6.2 million ECUs.

Net turnover: 12.8 million ECUs.

Average number of employees during the financial year: 250.

**TABLE 2. SUMMARY OF MEMBERS' RESERVATIONS TO THE INSURANCE
AND PRIVATE PENSIONS PROVISIONS OF THE CODE**

Country	Part I				Part II	Part III	Part IV	
	D/1	D/2	D/3	D/4	D/5	D/6	D/7	D/8
	Social security and social insurance	Insurance relating to goods in international trade	Life assurance	All other insurance	Reinsurance and retrocession	Conditions for establishment and operation of branches and agencies of foreign insurers	Entities providing other insurance services	Private pensions
Australia		RL	RL§1	RL§4	R	RL	RL	R§2
Austria		RL	R §1; 3	R§4; 6			RL	RL
Belgium		RL	RL§1; R§3	RL§4			RL	RL
Canada⁶		RL	RL§1; 2	RL	RL			R
Czech Republic		RL	RL§1	RL§4			RL	RL
Denmark			R§3					R§2
Finland		RL	RL§1; 3			R ⁴	RL	RL
France		RL	RL§1; 3	RL§4		RL ⁵	RL	RL
Germany		RL	RL §1; 3	RL§4/R§6			RL	RL
Greece		R withdrawn	RL §1 R§2 withdrawn	R withdrawn			RL	RL§1
Hungary		RL	RL§1; 3	RL§ 4			RL	R
Iceland			RL§1	RL§4		R withdrawn		R
Ireland			RL§1; 3	RL§4; 6		RL ¹	RL	RL
Italy		RL	RL§1; 3 R§2 withdrawn	RL§4; 6		R withdrawn	RL	RL
Japan			RL§1; R 3	RL§4; 6	R withdrawn		RL	R
Korea			RL§1; 3	RL§4			RL	R
Luxembourg		RL	RL§1; 3	RL§4; 6			RL	
Mexico		RL	RL§1	RL§4; R§6		R	RL	R
Netherlands			RL§1; 2					RL

New Zealand						R		
Norway			RL§1;R 3	RL§4			R	R
Poland		RL	RL§1	RL§4			RL	RL
Portugal		RL	RL§1; R§2a); 3	RL§4; R§6		RL ³	RL	RL
Slovak Republic		RL	RL§1	RL§4			RL	RL
Spain		RL	RL§1; 3	RL§4; §6			RL	RL
Sweden		RL	R§3					R§2
Switzerland		RL	R§1	R§4			RL	R
Turkey		RL	R§3	RL§4; R§6	R withdrawn			R§2
UK			RL§3					R
UK Bermuda						R ²	R	
United States⁷		RL	RL§1; 2	RL§4; 5	RL	RL		R

1: Ireland maintains a limited reservation on the "General" section of Item D/6.

2: UK (Bermuda) maintains its reservations on the "General" and "Controlled investment and deposits" sections of Item D/6.

3: Portugal has limited its reservation to the "General" section of Item D/6.

4: Finland has limited its reservation to the "General" section of Item D/6.

5: France has limited its reservation to the following provisions of Item D/6: authorisation of representative; deposit, withdrawal and transfer of funds.

6: Canada - federal level only.

7: U.S. - federal level only.

R: full reservation

RL: limited reservation

APPENDIX 1

AMENDMENTS TO THE INSURANCE AND PRIVATE PENSIONS PROVISIONS OF THE CODE

DECISION OF THE COUNCIL AMENDING ANNEX A AND ANNEX I TO ANNEX A TO THE CODE OF LIBERALISATION OF CURRENT INVISIBLE OPERATIONS

THE COUNCIL

Having regard to Articles 1 c), 2 d), and 5 a) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Code of Liberalisation of Current Invisible Operations;

Having regard to revisions to the insurance provisions of the Code of Liberalisation of Current Invisible Operations;

Having regard to the Report, prepared by the Insurance and Private Pension Committee and the Investment Committee, on the examination of Members' reservations to the revised insurance and private pensions provisions of the Code of Liberalisation of Current Invisible Operations;

DECIDES:

1. The following item in Annex A to the Code of Liberalisation of Current Invisible Operations shall be further amended to read as follows:

“D. Insurance and private pensions³

Prudential considerations

“Members may take regulatory measures in the field of insurance and pensions, including the regulation of the promotion, in order to protect the interests of policyholders and beneficiaries, provided those measures do not discriminate against non-resident providers of such services”.

D/1. Social security and social insurance.

Remarks:

1. Free transfer of:

a) contributions and premiums in respect of social security or social insurance payable in another Member;

³ Cross-border provision of insurance and private pension services covers transactions and transfers concluded both on the initiative of the provider or the proposer.

b) *social security and social insurance benefits payable to an insured person or beneficiary residing in another Member or, for their account, to a social security or social insurance authority in that other Member.*

2. *If the transfer relates to an insurance considered as social insurance by only one of the Members concerned the provisions according the more liberal treatment shall apply.*

3. *Social insurance transactions carried out by private insurers shall also be subject to the provisions of Parts III and IV of Annex I.*

Transactions⁴ and transfers in connection with direct insurance (other than social security and social insurance).) *Remark: Direct insurance transactions between insurers in one Member and insured in other Member, and transfers of premiums and contributions between insured and insurers in*

D/2. Insurance relating to goods in international trade.) *two different Members. Transfers by insurers in one Member of settlements and benefits paid or to be paid in another Member, and transfers*

D/3. Life assurance) *of sums necessary for the enforcement of claims arising under an insurance contract. Within*

D/4. All other insurance) *the limits specified in Part I of Annex I.*

D/5. Transactions and transfers in connection with reinsurance and retrocession.

Remark: The provisions of Part II of Annex I shall also apply.

D/6. Conditions for establishment and operation of branches and agencies of foreign insurers.

Remarks:

1. *Authorisation within the limits specified in Part III of Annex I for insurers of other Members to establish themselves and to transact business.*

2. *Transfers between branches and agents of such authorised insurers and their head offices: within the limits specified in Part IV of Annex I.*

D/7. Entities providing other insurance services

D/8. Private pensions”

2. Annex I to Annex A to the Code of Liberalisation of Current Invisible Operations shall be amended to read as follows:

⁴ Transaction shall be deemed to mean the conclusion of a direct insurance contract by a person in one Member with an insurer in another Member.

ANNEX I TO ANNEX A

"INSURANCE AND PRIVATE PENSIONS"

PART I

D/2. Insurance relating to goods in international trade.⁵

Insurance contracts relating to goods in international trade shall be concluded freely between a proposer in a Member and the establishment of a foreign insurer, whether situated in the proposer's country of residence or in another Member.

The transfers required for the execution of such contracts or for the exercise of rights arising therefrom shall be free.

D/3. Life assurance⁶

1. Transactions and transfers relating to life assurance between a proposer in a Member and a foreign insurer not established in the country of residence of the proposer shall be free.

⁵ Item D/2 must be interpreted as covering the following sets of classes:

a) International Transport in the following classes:

railway rolling stock and other transport: *all damage to or loss of railway rolling stock and other transport and all liability arising out of their use*

aircraft and satellites: *all damage and loss of aircraft*

ships (sea, lake and river and canal vessels): *all damage or loss of river and canal vessels, lake vessels, sea vessels*

aircraft and satellites liability: *all liability arising out of the use of aircraft and satellites (including carrier's liability).*

liability for ships (sea, lake and river and canal vessels): *all liability arising out of the use of ships, vessels or boats on the sea, lakes, rivers or canals (including carrier's liability)*

road transports: *all damage and loss of commercial land vehicles used for international business road transports and all liability arising out of their use (including carrier's liability)*

b) Freight

goods in transit (including merchandise, baggage and all other goods): *all damage to or loss of goods in transit or baggage, irrespective of the form of transport*

⁶ Item D/3 includes pensions products or services offered by insurance companies.

2. Under existing contracts:

- a) Transfers of premiums⁷ due to non-resident insurers from residents shall be free;) *Such transfers shall be free also in the case of contracts under which the persons from whom premiums are due or the beneficiaries to whom disbursements*
- b) Transfers of pensions and annuities other than annuities certain⁸ due to non-resident beneficiaries from resident insurers shall be free.) *are due were residents of the same country as the insurer at the time of the conclusion of the contract but have changed their residence since.*

3. Members in which premiums paid are allowed, totally or partially, as a deduction for tax purposes shall grant the same benefits whether the contract has been concluded with an insurer established on their territory or abroad.

D/4. All other insurance.

4. Transactions and transfers between a proposer in a Member and a foreign insurer not established in the country of residence of the proposer, relating to insurance other than that covered under items D/2 and D/3, except group insurance and insurance which is compulsory in the country of residence of the proposer, shall be free.

5. Transactions and transfers shall be free whenever it is not possible to cover a risk in the Member in which it exists.

6. Members in which premiums paid are allowed, totally or partially, as a deduction for tax purposes shall grant the same benefits whether the contract has been concluded with an insurer established on their territory or abroad.

7.

- a) Transfers of amounts due in respect of indemnities to be settled abroad and paid or payable in execution of an insurance contract by an insurer acting on his own behalf or on behalf of his client shall be free⁹;

⁷ Transfers of capital and annuities certain in connection with life assurance contracts are governed by the Code of Liberalisation of Capital Movements (List A, items XIII).

⁸ Transfers of capital and annuities certain in connection with life assurance contracts are governed by the Code of Liberalisation of Capital Movements (List A, items XIII).

⁹ The following transfers in particular are included under this item (the list is not exhaustive, but includes the most frequent cases of transfer of insurance indemnities):

- Transfers of indemnities payable by reason of the insured's liability;
- Transfers of indemnities to cover physical damage to a ship, aircraft, motor vehicle or any other means of transport;
- Transfers of indemnities under baggage insurance;
- Transfers in payment of benefits covered by accident insurance (including individual insurances) or sickness insurance;
- Transfers to fulfil commitments arising from marine insurance not covered by the above paragraphs (provisional or final contributions in respect of general average, paid by the insurer on behalf of the ship's

- b) Transfers of costs, subsidiary expenses or sums necessary for the exercise of any rights arising out of an insurance contract shall be free;
- c) Without prejudice to cases which are settled individually, each Member shall authorise insurers or their agents who are established in its territory and who settle claims under reciprocal arrangements to offset the payments made on each side and to transfer the balance thereof.

PART II

D/5. Reinsurance and retrocession.

1. Accounts relating to reinsurance operations, including the constitution and adjustment of guarantee deposits held by the ceding insurers, as well as accounts relating to cash losses, may be drawn up on the currency of the direct insurance contract, in the national currency of the ceding insurer or in the national currency of the acceptor, according to the provisions of the reinsurance treaty or agreement.
2. The settlement of balances resulting from the account referred to in paragraph 1 shall be authorised. Settlement may be made either by a set-off of any reciprocal credits of the ceding insurer and the reinsurer or (as agreed between the parties):
 - a) By transfer to the country of residence of the creditor; or
 - b) By payment through a bank account opened in accordance with the provisions of paragraph 3 below; or
 - c) By transfer to another Member to the credit of a bank account opened in accordance with the provisions of paragraph 3 below if the contract stipulates that payment should be made in that Member's currency.
3. Reinsurers shall be authorised to open accounts in banks established in Members. These accounts may be credited with the amounts due to their holders arising out of reinsurance operations which are to be settled in accordance with the provisions of paragraph 2 b) and c). They may be debited, at the choice of their holders, with the amounts due under any settlement in connection with reinsurance operations if it is made in accordance with the provisions of paragraph 2 b) and c) and complies with normal practice. The balances of such accounts may also be transferred to the country of residence of the reinsurer holding the account in question.
4. The provisions of paragraphs 1 to 3 shall apply also to retrocession operations.

owner or the consignee of the goods or his agent, the transfer of interest on any bank security substituted for a provisional contribution, transfer of interest in respect of provisional contributions, the transfer of remuneration of assistance and salvage, etc.).

PART III

D/6. Conditions for establishment and operation of branches and agencies of foreign insurers¹⁰.

General

All laws, regulations and administrative practices relating to insurance shall ensure equivalent treatment for national insurers and insurers from other Members so that the latter shall not be liable to heavier burdens than those imposed on national insurers.

Authorisations

Where the establishment of insurers in a Member is made subject to authorisation:

- a) The competent authorities shall make available to each insurer from another Member applying for authorisation a written statement setting out fully and precisely the documents and information that the applicant insurer must supply for the purpose of obtaining authorisation, and shall ensure that any procedures to be followed prior to the lodging of an application are straightforward and expeditious;
- b) Where in addition to legal, financial, accounting and technical requirements (e.g. requirements concerning the form of the undertaking, qualification of directors or managers, reinsurance arrangements, etc.) the grant of authorisation is also subject to other criteria, the competent authorities shall inform applicant insurers of such criteria at the time of their application, and shall apply these criteria in the same way to national insurers as to insurers from other Members. The grant of authorisation shall not be subject to the criterion of the needs of the national insurance market;
- c) The competent authorities shall decide on each application for authorisation by an insurer from another Member not later than six months from the date on which that application has been completed in all particulars and shall without further delay notify their decision to that insurer;
- d) Where the competent authorities ask an insurer from another Member for modifications to a completed application for authorisation, they shall inform that insurer of the reasons for seeking such modifications and shall do so under the same conditions as for a national insurer;
- e) Where an application for authorisation by an insurer from another Member is refused, the competent authorities shall advise that insurer of the reasons for their decision, and shall do so under the same conditions as for a national insurer;

¹⁰ The following definitions apply with respect to the activities and entities covered by D/6:

Activities covered are those relating to the concept of “production” of insurance services involving the writing of contracts. The activity of such “coverage” corresponds to the technical English term of “underwriting”, used in several English-speaking countries, and to the French “couverture”. The conditions for establishment and operation of entities performing only an intermediary, auxiliary or representative role are the subject of item D/7. “Insurance” refers to any product defined as such by the authorities of the home Member and is taken to include reinsurance.

Entities covered are domestic or foreign insurers expressly authorised or otherwise permitted to cover insurance risks. A foreign insurer is defined as an insurance enterprise having its headquarters in another Member, including subsidiaries of third country enterprises incorporated under the legislation of that other Member. “Branches and agencies of foreign insurers” are defined to include natural persons as well as legal entities entitled to cover insurance/reinsurance risks on behalf of the foreign insurer.

- f) Where authorisation is refused, or where the competent authorities have not dealt with an application upon the expiry of the period of six months provided for under paragraph c) above, insurers from other Members shall have the same right of appeal as national insurers.

Membership of Associations with Regulatory Powers

Members shall ensure that, in areas under their jurisdiction, discrimination on grounds of nationality is not practised in their jurisdiction as to conditions for membership in any professional association with regulatory powers, which membership is necessary in order to provide insurance services on an equal basis with domestic enterprises or natural persons, or which confers particular privileges or advantages in providing such services.

*Financial Guarantees for Establishment*¹¹

- a) Where financial guarantees of any kind are imposed for the establishment of a branch or agency of a foreign insurer, the total amount of such financial requirements shall be no more than that required of a national insurer to engage in similar activities.
- b) Any financial guarantee requirement may be applied to more than one branch or agency of a foreign insurer, but the total amount of the financial requirements to be furnished by the branches and agencies of the same foreign insurer, taken overall, shall be no more than that required of a national insurer to engage in similar activities.
- c) Any financial guarantee requirement may be met by payment in the currency of the host Member.

Controlled investments and deposits

Members shall ensure that enterprises from other Members operating in their territory are not subject to provisions concerning the choice, valuation, including depreciation, and changes of investments more burdensome than those applying to national insurers engaging in similar activities.

Transfers

- a) The transfer of all amounts which the statutory or administrative controls governing insurance do not require to be kept in the country shall be free.
- b) The insurers from a Member who execute direct insurance transactions in another Member through one or more branches or through agents shall be authorised, insofar as such insurers,

¹¹ For the purposes of this Code, the term "financial guarantee" includes the assets constituting respectively the fixed or initial deposit, the adjustable deposit and the variable deposit, and also the technical reserves and any reserve of another description required under the respective national laws, insofar as the assets constituting such reserves are required to be kept in the country in which the insurer is carrying on business:

- The fixed or initial deposit is the amount which an insurer must constitute and lodge with a prescribed institution in the country in which he is operating, prior to any operation in one or more branches of insurance;
- The adjustable deposit is a deposit which is adjusted according to the amount of business written by the insurer and is not allowed to count towards his technical reserves;
- The variable deposit is a deposit which is adjusted according to the amount of business written by the insurer but is allowed to count towards his technical reserves;
- The technical reserves are the amounts which the insurer sets aside to cover his liabilities under contracts of insurance.

their branches or agents have no adequate funds available in that country, to transfer to that country such amounts as they require to continue to meet the legal liabilities and/or contractual obligations arising from such transactions.

- c) In accordance with item F/1 of the List of Current Invisible Operations, the transfer of profits arising out of direct insurance operations shall be free. Profits shall be understood to mean the surplus available after providing for liabilities in respect of all legal and/or contractual obligations.

PART IV

D/7. Entities providing other insurance services¹².

Transactions and transfers relating to intermediation services, auxiliary services and representation services between a proposer in a Member and a foreign provider shall be free.

D/8. Private pensions¹³.

- Transactions and transfers relating to private pensions between a proposer in a Member and a foreign provider shall be free.
- Members in which contributions paid are allowed, totally or partially, as a deduction for tax purposes shall grant the same benefits whether the contract has been concluded with a provider established on their territory or abroad.”

Note: The Group decided to rectify the omission that occurred in the French version of the Council document entitled “Revisions to the insurance provisions of the Code of Liberalisation of Current Invisible Operations” and to replace “l’assureur étranger” by a French equivalent of the English wording “foreign provider”.

¹² a) Auxiliary services such as consultancy, actuarial, risk assessment and claim settlement services.

b) “Representatives: An insurer from one Member operating in another Member may appoint as his representative any person who is domiciled and actually resident in that other Member, irrespective of his nationality.”

“Representative Offices: An insurer from one Member shall be permitted to establish a representative office in another Member; a representative office shall be permitted to promote cross-border insurance services authorised in the host Member, on behalf of its parent enterprise.”

c) The item includes the cross-border provision of services by a foreign provider and the conditions for the establishment and operation of branches and agencies of foreign providers for the services covered by D/7.

¹³ a) Private pensions are defined as: products or services offered by any entities, other than insurance companies, authorised or otherwise permitted in its home country to provide pensions products or services, through funded schemes (even partly) and operating as a private (or assimilated) entity.

b) Private pensions apply both to pensions related to the exercise of a professional occupation by the proposer and to pensions that are not in any way connected to a professional occupation.

c) The item includes the cross-border provision of services by a foreign provider and the conditions for the establishment and operation of branches and agencies of foreign providers for the services covered by D/8.

APPENDIX 2

INTERPRETATIONS OF THE INSURANCE AND PRIVATE PENSIONS PROVISIONS OF THE CODE

Section		Interpretation
D	General: Insurance & private pensions	<p>The term “regulatory measures” designates all measures taken for the protection of policyholders, insured persons and beneficiaries. These measures include prudential safeguards in the stricter sense, i.e. rules on solvency, technical provisions and investments, as well as prudential measures in a broader sense, relating for example to contract law, intermediation, etc. They also include measures relating to promotion.</p> <p>Promotion covers promotional activities related to all activities covered by the insurance and private pensions provisions of the Code and is exclusive of individualised pre-contractual contacts between the proposer and the intermediary/insurance undertaking. Included under promotion are advertisements by media or Internet. Promotion should be distinguished from intermediation and underwriting. As Items D/1 to D/8 in the annex cover regulatory measures related to specific areas in the field of insurance, any reservation concerning measures in these areas are to be lodged with the specific item in question.</p> <p>The term “resident provider of a Member” designates a domestic provider as well as a branch established by a foreign provider in this Member’s territory. In case a foreign provider has a branch within a Member’s territory but carries out activities otherwise than by using this branch, these activities are deemed to be carried out by a non-resident provider.</p> <p>Cross-border provision of insurance and private pensions services covers transactions and transfers concluded both on the initiative of the insurer or the proposer (the latter denoted as “correspondence insurance”).</p>
D/1	Social security and social insurance	<p>The obligations of the Code do not restrict the right for a Member to impose an affiliation to their social security system under certain conditions of residence or activity on their territory.</p> <p>Item D/1 does not cover the supply of insurance related to government benefit arrangements, such as social security, by foreign companies.</p>
D/3	Life assurance	<p>Item D/3 covers the whole cross-border provision of insurance services, regardless of whether the insurance contract was placed abroad at the initiative of the insurer or the policyholder (the latter denoted as “correspondence insurance”).</p> <p>Item D/3 relates only to foreign insurers not established in the country of residence of the proposer, while restrictions to eventual reservations concerning the treatment of branches established in the country of residence of the proposer should be lodged in item D/6 of the Code and against the relevant provisions of the <i>Code of Liberalisation of Capital Movements</i>.</p>
D/4	Other insurance	<p>Item D/4 covers the whole cross-border provision of insurance services, regardless of whether the insurance contract was placed abroad at the initiative of the insurer or the policyholder (the latter denoted as “correspondence insurance”).</p> <p>Item D/4 relates to foreign insurers not established in the country of residence of the proposer, while restrictions to eventual reservations concerning the treatment of branches established in the country of residence of the proposer should be lodged in the item D/6 of the Code and against the relevant provisions of the <i>Code of Liberalisation of Capital Movements</i>.</p>

D/6	Conditions of establishment and operation of branches and agencies of foreign insurers	<p>Item D/6 applies to services in connection to both insurance and reinsurance activities. According to European legislation, an authorisation is necessary for branches established in a Member and belonging to undertakings whose head offices are outside the EU. The requirements for such undertakings are not deemed to be globally superior to those imposed on insurers from EU jurisdictions, so that reservations based on the EU legislation are thus not necessary (i.e., equivalency of treatment). A similar conclusion was reached as concerns Switzerland whose requirements are very comparable to the ones of the EU.</p> <p>As regards branches of reinsurance companies, the same principles apply. Insofar as the setting up of a national reinsurance undertaking is subject to a licensing procedure, the requirement of an authorisation for the establishment of a branch by a foreign reinsurer is not as such contrary to the obligations of the Code and does thus not call for a reservation, if the conditions for this authorisation are not globally superior to the ones applicable to national reinsurers.</p> <p>The existence of registration or licensing requirements for general managers of foreign branches and agencies in the field of insurance are not contrary to the Code insofar as these requirements are not globally superior to those applicable to domestic providers.</p>
D/7	Entities providing other insurance services	<p>Item D/7 applies to services in connection to both insurance and reinsurance activities.</p> <p>The scope of Item D/7 covers:</p> <ul style="list-style-type: none"> • both the activities of entities providing other insurance services under the establishment regime and the freedom to provide cross-border services; and, • all activities under the freedom to provide services whether service provision is on the initiative of the provider or the beneficiary of the service. <p>Auditing services are not to be considered as other insurance services, since similar services are provided to all kinds of firms and are not specific to insurance. No reservation is thus needed in this respect.</p> <p>The enumeration of auxiliary services in the footnote of Item D/7 in Annex I to Annex A is considered to be exhaustive, the auxiliary services covering thus only consultancy, actuarial, risk assessment and claims settlement services.</p> <p>Following the new chapter D on prudential considerations, the existence of regulatory measures, including licensing requirements, in the field of intermediation, auxiliary and representation services are not contrary to the Code insofar these measures do not discriminate against non-resident providers of such services. No reservations are thus needed for regulatory but not discriminatory measures.</p> <p>The existence of registration or licensing requirements for the provision of services of Item D/7 is not contrary to the obligations of the Code insofar that this registration is not subject to conditions globally superior to those applicable to domestic providers.</p>
D/8	Private pensions	<p>The provisions of Item D/8 should:</p> <ul style="list-style-type: none"> • cover the activities of entities other than insurance companies whether under the establishment regime or under the freedom to provide cross-border services; • cover all activities under the freedom to provide services contracted between a proposer in one Member and an entity established in another Member whether on the initiative of the entity concerned or on the initiative of the proposer; and, • apply both to pensions related to the exercise of professional occupation by the proposer and to pensions that are not in any way connected to a professional occupation.

		<p>The term “transfer” employed in the first bullet point of Item D/8, similar to the Items D/3 paragraph 1 and D/4 paragraph 4, is to be interpreted in the sense of transfers of premiums and benefits arising from the pension contracts. Portfolio transfers from a resident provider to a non-resident provider are not dealt with under Item D/8.</p> <p>The existence of registration or licensing requirements for private pension fund managers and trustees are not contrary to the Code insofar as these requirements are not globally superior to those applicable to domestic providers.</p>
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APPENDIX 3

NEW MEMBERS' RESERVATIONS TO THE REVISED INSURANCE AND PRIVATE PENSIONS PROVISIONS OF THE CODE

DECISION OF THE COUNCIL ACCEPTING NEW MEMBERS' RESERVATIONS TO THE INSURANCE AND PRIVATE PENSIONS PROVISIONS OF THE CODE OF LIBERALISATION OF CURRENT INVISIBLE OPERATIONS

THE COUNCIL

Having regard to Articles 1 c), 2 d), and 5 a) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Code of Liberalisation of Current Invisible Operations;

Having regard to revisions to the insurance provisions of the Code of Liberalisation of Current Invisible Operations;

Having regard to the Report, prepared by the Insurance and Private Pension Committee and the Investment Committee, on the examination of Members' reservations to the revised insurance and private pensions provisions of the Code of Liberalisation of Current Invisible Operations;

DECIDES:

The reservations of Member countries lodged on insurance and private pension provisions of the Code of Liberalisation of Current Invisible Operations should read as follows:

AUSTRALIA

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation, which includes the activity of promotion, does not apply if the contract has been established at the proposer's initiative. The proposer shall not be deemed to have taken the initiative if he or she has been contacted by an insurance undertaking, or by a person mandated by that undertaking, with a view to establishing an insurance contract.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 1

Remark

The reservation in paragraph 1, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out the insurance.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

Remark

The reservation in paragraph 4, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out the insurance.

D/5 Reinsurance and retrocession

Annex I to Annex A, Part II, D/5

D/6 Conditions for establishment and operation of branches and agencies of foreign insurers

Annex I to Annex A, Part III, D/6

Remark

The reservation applies only to foreign life insurers, which are not allowed to operate by way of branches in Australia.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation only applies to the provision of services by non-resident actuaries, including their promotional activities.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8, second bullet point

AUSTRIA

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation, which includes the activity of promotion, applies only to compulsory third-party liability insurance for aircraft, except for insurance of international commercial air transport, and for road vehicles by foreign insurers other than undertakings headquartered in the EU or branches established in Austria. The reservation concerning the activity of promotion applies to all classes.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation in paragraph 1, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken the initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out insurance.

The reservation in paragraph 1 does not apply to undertakings headquartered in the EU nor to branches established in Austria.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 6

Remark

The reservation in paragraph 4, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken the initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out insurance.

The reservation in paragraph 4 does not apply to undertakings headquartered in the EU nor to branches established in Austria.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation, which includes the activity of promotion, does not apply to service providers headquartered in the EU nor to branches of service providers in Austria.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation on the first bullet point, which includes the activity of promotion, does not apply to providers headquartered in the EU.

BELGIUM

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation applies only to damages to or loss of commercial land vehicles used for international business transports and all liability arising out of their use, these land vehicles comprising railway rolling stock and road vehicles by foreign insurers other than undertakings headquartered in the EU or branches established in Belgium.

The reservation does not apply to the insurance of risks located in Belgium and related to the use of railway rolling stock (hull and liability), if the contract has been established at the proposer's initiative. The proposer shall not be deemed to have taken the initiative if he or she has been contacted by an insurance undertaking, or by a person mandated by that undertaking, with a view to establishing an insurance contract.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation in paragraph 1 does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out the insurance.

The reservation does not apply to undertakings headquartered in the EU, except for the reservation in paragraph 3, which applies to all undertakings not established in Belgium.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

Remark

The reservation in paragraph 4 does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out the insurance.

This reservation does not apply to undertakings headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7.

Remark

The reservation applies only to intermediation and actuarial services by service providers not headquartered in the EU.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation on the first bullet point does not apply to providers headquartered in the EU.

CANADA

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

A federal excise tax of 10 percent is applicable on net premiums paid to non-resident insurers or exchanges in regard to a contract against a risk ordinarily within Canada, unless such insurance is deemed not to be available in Canada. The excise tax is also applicable on net premiums payable with regard to a contract entered into, through a non-resident broker or agent, with any insurer authorized under the laws of Canada or of any province to carry out the business of insurance.

Contracts of life insurance, personal accident insurance, sickness insurance and insurance against marine risks are not subject to the 10 percent federal excise tax.

The reservation does not apply if the policy has been taken out at the proposer's initiative and the contract is concluded and serviced in the jurisdiction of the foreign insurer.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 2

Remark

This reservation applies to private pension plans that qualify for tax preferences under Canadian tax law, including the situation where a pension plan purchases an annuity to settle an obligation to a plan beneficiary.

For other insurance and insurance-related services, the reservation does not apply if the policy has been taken out at the proposer's initiative and the contract is concluded and serviced in the jurisdiction of the foreign insurer.

D/4 All other insurance

Annex I to Annex A, Part I, D/4

Remark

The reservation does not apply if the policy has been taken out at the proposer's initiative and the contract is concluded and serviced in the jurisdiction of the foreign insurer.

D/5 Reinsurance and retrocession

Annex I to Annex A, Part II, D/5

Remark

The reservation does not apply if the policy has been taken out at the proposer's initiative and the contract is concluded and serviced in the jurisdiction of the foreign insurer.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

This reservation is limited to private pension plans that qualify for tax preferences under Canadian tax law.

CZECH REPUBLIC

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation, which includes the activity of promotion, applies only to compulsory third-party liability insurance for road vehicles by foreign insurers other than undertakings headquartered in the EU or branches established in the Czech Republic.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 1

Remark

The reservation, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative.

The reservation does not apply to undertakings headquartered in the EU.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

Remark

The reservation, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative.

The reservation does not apply to undertakings headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation, which includes the activity of promotion, does not apply to service providers headquartered in the EU.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation on the first bullet point, which includes the activity of promotion, does not apply to occupational pension products offered by undertakings headquartered in the EU.

DENMARK

D/3. Life assurance

Annex I to Annex A, Part I, D/3, paragraph 3

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8 second bullet point

FINLAND

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation applies only to compulsory third-party liability insurance for road vehicles by foreign insurers other than undertakings headquartered in the EU or branches established in Finland.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation in paragraph 1 applies only to occupational pensions products offered by insurers.

The reservations in paragraphs 1 and 3 do not apply to undertakings headquartered in the EU.

D/6* Conditions for establishment and operation of branches and agencies of foreign insurers

Annex I to Annex A, Part III, D/6, General remark

Remark

The reservation applies only to occupational pension products offered by undertakings not headquartered in the EU and to statutory employment pension insurance.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation applies only to intermediation services.

The reservation does not apply to service providers headquartered in the EU nor to branches of service providers in Finland.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation does not apply to providers headquartered in the EU.

FRANCE

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation, which includes the activity of promotion, applies only to damages to or loss of cargo carried by road, rail and inland waterways and to commercial land vehicles (comprising railway rolling stock, road vehicles and waterways units) used for international business transports and all liability arising out of their use, covered by foreign insurers other than undertakings headquartered in the EU or branches established in France.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation in paragraph 1, which includes the activity of promotion, does not apply where the beneficiary resides in a member country other than the country of residence of the proposer and the commitments of the insurer are to be performed solely outside that country.

The reservations in paragraphs 1 and 3 do not apply to undertakings headquartered in the EU or to branches established in France of undertakings not headquartered in the EU.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

Remark

The reservation, which includes the activity of promotion, does not apply where the risks covered concern persons resident in a Member country other than the country of residence of the proposer, property located or registered in a Member country other than the country of residence of the proposer or liabilities incurred by such persons or in respect of such property.

The reservation in paragraph 4 does not apply to undertakings headquartered in the EU.

D/6* Conditions for establishment and operation of branches and agencies of foreign insurers

Annex I to Annex A, Part III, D/6

Remark

The branches of insurance undertakings not headquartered in the EU are subject to special authorisation in respect of their representative and to specific requirements relating to the deposit, withdrawal and transfer of funds.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation applies only to intermediation services, including relating promotional activities.

The reservation does not apply to insurance intermediation service providers headquartered in the EU nor to branches of such service providers in the EU.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation, which includes the activity of promotion, does not apply to providers headquartered in the EU.

GERMANY

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation applies only to compulsory third-party liability insurance for aircraft, except for insurance of international commercial air transport, and for road vehicles by foreign insurers other than undertakings headquartered in the EU or branches established in Germany.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation in paragraph 1 does not apply if the policy has been taken out at the proposer's initiative.

The reservations in paragraphs 1 and 3 do not apply to undertakings headquartered in the EU.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 6

Remark

The reservation in paragraph 4 does not apply if the policy has been taken out at the proposer's initiative nor to undertakings headquartered in the EU.

The reservation in paragraph 6 applies to all non-life insurance contracts taken by individuals as proposers and to sickness, accident and third party liability contracts taken by corporate proposers.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation does not apply to auxiliary services and representation services not directly linked to the role or administration of insurance policies.

The reservation does not apply to service providers headquartered in the EU nor to branches of service providers in Germany.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation does not apply to providers headquartered in the EU.

GREECE

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 1

Remark

The reservation does not apply to undertakings headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation applies only to intermediation services by service providers not headquartered in the EU.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8, first bullet point

Remark

The reservation does not apply to providers headquartered in the EU.

HUNGARY

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation applies to promotional activities and to compulsory third-party liability insurance for aircraft, railway, ships and road vehicles by foreign insurers other than undertakings headquartered in the EU or branches established in Hungary.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation on paragraph 1, which includes the activity of promotion, does not apply to risks located abroad or to undertakings headquartered in the EU.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

Remark

The reservation, which includes the activity of promotion, does not apply to risks located abroad or to undertakings headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation, which includes the activity of promotion, applies only to intermediation and consultancy services by service providers not headquartered in the EU.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation includes the activity of promotion.

ICELAND

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 1

Remark

The reservation in paragraph 1, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken the initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out insurance.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

Remark

The reservation in paragraph 4, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken the initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out insurance.

D/8 Private pensions

Annex I to Annex A, Part IV, D/8

IRELAND

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservations in paragraphs 1 and 3 do not apply to undertakings headquartered in the EU

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 6.

Remark

The reservation in paragraph 4 does not apply to undertakings headquartered in the EU concerning insurance classes and modalities listed in law 142/91 of 17 June 1991.

D/6 Conditions for establishment and operation of branches and agencies of foreign insurers*

Annex I to Annex A, Part III, D/6, paragraph 1 - General

Remark

The reservation does not apply to branches of undertakings headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation does not apply to insurance/reinsurance intermediaries headquartered in the EU.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation on the first bullet point does not apply to providers headquartered in the EU.

ITALY

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation, which includes the activity of promotion, applies only to c.i.f. exports, railway rolling stock and other transport and all liability arising out of their use, road transport risks and all liability arising out of their use by foreign insurers other than undertakings headquartered in the EU or branches established in Italy.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation in paragraph 1, which includes the activity of promotion, does not apply where the beneficiary resides in a member country other than the country of residence of the proposer and the commitments of the insurer are to be performed solely outside that country.

The reservations in paragraphs 1 and 3 do not apply to undertakings headquartered in the EU except for non occupational pension funds instituted by insurance companies.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 6.

Remark

The reservation on paragraph 4, which includes the activity of promotion, does not apply where the risks covered concern persons resident in a Member country other than the country of residence of the proposer, property located or registered in a Member country other than the country of residence of the proposer or liabilities incurred by such persons or in respect of such property.

The reservations in paragraphs 4 and 6 do not apply to undertakings headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation, which includes the activity of promotion, applies to intermediation, actuarial and loss adjustment services.

For non-EU citizens, actuarial and loss adjustment services can only be carried out by natural persons resident in Italy.

For EU-citizens, actuarial and loss adjustment services can only be carried out by natural persons whose residence or professional domicile is in Italy.

For intermediation services, the reservation does not apply to service providers headquartered in the EU or to branches of such service providers in Italy.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation, which includes the activity of promotion, does not apply to autonomous, occupational pension funds headquartered in the EU.

JAPAN

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation in paragraph 1 does not apply where the risks covered concern persons resident in another Member.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 6.

Remark

The reservation on paragraph 4 does not apply where the risks covered concern persons resident in a Member other than the country of residence of the proposer, property situated or registered in a Member other than the country of residence of the proposer or liabilities incurred by such persons or in respect of such property.

The reservation on paragraph 6 applies only to premiums paid by individuals.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7.

Remark

The reservation does not apply to intermediation services, auxiliary services, and representation services provided by insurance brokers whose registration to promote insurance services is accepted by the Prime Minister under the Insurance Business Law of Japan.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

KOREA

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation applies only to the promotional activity of foreign insurers supplying cross border services.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation on paragraph 1 applies only to group insurance.

The reservation on paragraph 1 with respect to the promotional activities by foreign insurers supplying cross-border services applies to all cross-border life insurance operations.

The reservation on paragraph 3 applies only to pensions products offered by insurance companies.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

Remark

The reservation applies only to insurance contracts entered into in Korea by residents for risks other than those relating to aviation, long-term accidents, travel and hull.

The reservation with respect to the promotional activities by foreign insurers supplying cross-border services applies to all other cross-border insurance operations.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation applies to the representative office's activities except for research on market information.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation also includes the promotional activities of foreign providers supplying cross-border private pension services.

LUXEMBOURG

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation applies only to damages to or loss of commercial land vehicles used for international business transports and all liability arising out of their use, these land vehicles comprising railway rolling stock and road vehicles by foreign insurers other than undertakings headquartered in the EU or branches established in Luxembourg.

The reservation does not apply to the insurance of the above mentioned risks other than third party motor liability, if the contract has been established at the proposer's initiative. The proposer shall not be deemed to have taken the initiative if he or she has been contacted by an insurance undertaking, or by a person, whether mandated by that undertaking or not, with a view to establishing an insurance contract.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation in paragraph 1 does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken the initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out insurance.

The reservations in paragraphs 1 and 3 do not apply to undertakings headquartered in the EU.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 6

Remark

The reservation in paragraph 4 does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken the initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out insurance.

The reservations in paragraphs 4 and 6 do not apply to undertakings headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation applies only to intermediation services.

The reservation does not apply to service providers headquartered in the EU nor to branches of service providers in Luxembourg.

MEXICO

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation does not apply to:

- hull insurance of ships, aircraft and any other vehicles which do not have a registration in Mexico nor are the property of individuals domiciled in the Mexico;
- liability insurance derived from events that may not take place in Mexico;
- insurance on goods transported neither from nor to Mexico.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 1.

Remark

The reservation in paragraph 1 does not apply if the policy has been taken out at the proposer's initiative; the proposer should not be contacted by a foreign insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out insurance.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 6

Remark

The reservation in paragraph 4 does not apply for risks that may only happen outside Mexico.

D/6 Conditions for establishment and operation of branches and agencies of foreign insurers

Annex I to Annex A, Part III, D/6

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation does not apply to the provision of services by branches of service providers in Mexico.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

NETHERLANDS

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 2

Remark

The reservation only applies to occupational pensions products.

The reservation does not apply to undertakings headquartered in the EU.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation on the first bullet point does not apply to providers headquartered in the EU.

NEW ZEALAND

D/6 Conditions for establishment and operation of branches and agencies of foreign insurers

Annex I to Annex A, Part III, D/6

Remark

Non-resident financial institutions require the consent of the Overseas Investment Office of Land Information New Zealand to establish or acquire (or acquire a 25% or more ownership or control interest in the securities of) a branch or business, where the branch or business being established or acquired is worth more than NZ\$100 million and/or involves the acquisition of certain “sensitive” land.

NORWAY

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation in paragraph 1, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative; the proposer is not considered to have taken the initiative if she/he has been contacted by the insurance undertaking or by a person, whether mandated by the undertaking or not, for the purpose of taking out insurance.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

Remark

The reservation, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative.

The reservation does not apply to insurance related to exploration for, exploitation, storage or pipeline transport of submarine natural deposits or non-life insurance contracts regarding domestic companies with an activity of at least 10 man-labour years or annual sales of at least NOK 50 million.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation includes the activity of promotion.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation includes the activity of promotion.

POLAND

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation applies to promotional activities and to compulsory third-party liability insurance for aircraft and for road vehicles by foreign insurers other than undertakings headquartered in the EU or branches established in the Republic of Poland.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 1

Remark

The reservation on paragraph 1, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative or to insurance undertakings headquartered in the EU.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

Remark

The reservation on paragraph 4, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative or to insurance undertakings headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation applies only to intermediation and actuarial services, including related promotional activities.

The reservation does not apply to intermediation service providers headquartered in the EU or to branches of foreign intermediation or actuarial service providers in Poland.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation on the first bullet point, which includes the activity of promotion, applies only to the social security operations of the so-called Open Pension Funds and to the activities of foreign providers not headquartered in the EU.

The reservation on the second bullet point does not apply to providers fulfilling specific requirements of Polish labour and social law.

PORTUGAL

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation, which includes the activities on promotion, does not apply to undertakings headquartered in the EU or to branches established in Portugal.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1, 2 a) and 3

Remark

The reservation in paragraph 1, which includes the activities of promotion, does not apply to undertakings headquartered in the EU.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 6

Remark

The reservation on paragraph 4 includes the activity of promotion and does not apply to undertakings headquartered in the EU.

D/6 Conditions for establishment and operation of branches and agencies of foreign insurers

Annex I to Annex A, Part III, D/6 – General

Remark

The reservation applies to the fact that the parent company of the branch has to have been incorporated for more than five years.

The reservations do not apply to parent undertakings headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation applies only to intermediation services, including its promotional activities.

The reservation does not apply to intermediation service providers headquartered in the EU.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation, which includes the activity of promotion, does not apply to providers headquartered in the EU.

SLOVAK REPUBLIC

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation, which includes the activity of promotion, applies only to insurance of third party motor liability by foreign insurers other than undertakings headquartered in the EU or branches established in the Slovak Republic.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 1

Remark

The reservation, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative.

The reservation does not apply to undertakings headquartered in the EU.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

Remark

The reservation, which includes the activity of promotion, does not apply if the policy has been taken out at the proposer's initiative nor to undertakings headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation applies only to intermediation services, including its promotional activities.

The reservation does not apply to service providers headquartered in the EU, to branches of non-EU service providers in Slovakia nor to non-EU natural persons established or resident in the Slovak Republic.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation, which includes the activity of promotion, does not apply to non-mandatory private pension products offered by providers headquartered in the EU.

SPAIN

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation applies only to damages to or loss of commercial land vehicles used for international business transports and all liability arising out of their use. These land vehicles comprising railway rolling stock and road vehicles cannot be insured by foreign insurers other than undertakings headquartered in the EU or branches established in Spain.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 3

Remark

The reservation in paragraph 1 does not apply where the beneficiary resides in a member country other than the country of residence of the proposer and the commitments of the insurer are to be performed solely outside that country.

The reservations in paragraphs 1 and 3 do not apply to undertakings headquartered in the EU or to branches established in Spain of undertakings not headquartered in the EU.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 6

Remark

The reservation in paragraph 4 does not apply where the risks covered concern persons resident in a member country other than the country of residence of the proposer, property situated or registered in a member country other than the country of residence of the proposer or liabilities incurred by such persons or in respect of such property.

The reservations in paragraphs 4 and 6 do not apply to undertakings headquartered in the EU or to branches established in Spain of undertakings not headquartered in the EU.

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation applies only to intermediation services.

The reservation does not apply to service providers headquartered in the EU nor to branches of service providers in Spain.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

Remark

The reservation does not apply to providers headquartered in the EU or to branches established in Spain of undertakings not headquartered in the EU.

SWEDEN

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation, which includes the activity of promotion, applies only to compulsory third-party liability insurance for road vehicles by foreign insurers other than undertakings headquartered in the EU or branches established in Sweden.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 3

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8, second bullet point.

SWITZERLAND

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation applies only to compulsory third-party liability insurance for aircraft and for road vehicles.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 1

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraph 4

D/7 Entities providing other insurance services

Annex I to Annex A, Part IV, D/7

Remark

The reservation applies only to legal protection insurance claim settlement services, which must have a permanent establishment in Switzerland.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

TURKEY

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation does not apply to:

- hull insurance to be provided for aircrafts, ships, and helicopters purchased with foreign debt, exclusively limited to the debt amount and applicable for its term until the foreign debt is paid up, or limited to the period of financial leasing if the same items are brought into Turkey via financial leasing obtained from abroad,
- liability insurance of ships,
- insurance of ships and yachts registered with the Turkish International Maritime Registry,
- transportation insurance of imported and exported goods.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 3

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 6

Remark

The reservation on paragraph 4 does not apply to motor vehicle, health, illness and personal injury insurance concluded abroad freely by persons travelling abroad.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8, second bullet point.

UNITED KINGDOM

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraph 3

Remark

The reservation applies only to retirement annuity contracts, personal pension contracts or arrangements and similar types of provision for retirement.

D/6 Conditions for establishment and operation of branches and agencies of foreign insurers

Reservations concerning operations between residents of BERMUDA and non-residents

Annex I to Annex A, Part III, D/6 – General and Controlled investments and deposits

D/7 Entities providing other insurance services

Reservation concerning operations between residents of BERMUDA and non-residents

Annex I to Annex A, Part IV, D/7

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

UNITED STATES

D/2 Insurance relating to goods in international trade

Annex I to Annex A, Part I, D/2

Remark

The reservation is limited to the insurance of maritime vessels built under federally guaranteed mortgage funds, and to the application of a one percent federal excise tax on premiums paid under life insurance, sickness and accident policies, or annuity contracts, and of a four percent federal excise tax imposed on premiums paid under policies of casualty insurance or indemnity bonds, covering U.S. risks that are paid to companies not incorporated under U.S. law.

D/3 Life assurance

Annex I to Annex A, Part I, D/3, paragraphs 1 and 2

Remark

The reservation is limited to the application of a one percent federal excise tax on premiums paid under life insurance, sickness and accident policies, or annuity contracts, and of a four percent federal excise tax imposed on premiums paid under policies of casualty insurance or indemnity bonds, covering U.S. risks that are paid to companies not incorporated under U.S. law.

D/4 All other insurance

Annex I to Annex A, Part I, D/4, paragraphs 4 and 5

Remark

The reservation is limited to the application of a one percent federal excise tax on premiums paid under life insurance, sickness and accident policies, or annuity contracts, and of a four percent federal excise tax imposed on premiums paid under policies of casualty insurance or indemnity bonds, covering U.S. risks that are paid to companies not incorporated under U.S. law.

D/5 Reinsurance and retrocession

Annex I to Annex A, Part II, D/5

Remark

The reservation is limited to the application of a one percent federal excise tax on reinsurance of contracts relating to life insurance, sickness and accident policies, or annuity contracts, and contracts on policies of casualty insurance or indemnity bonds, on U.S. risks covered by companies not incorporated under U.S. law.

D/6 Conditions for establishment and operation of branches and agencies of foreign insurers

Annex I to Annex A, Part III, D/6

Remark

The reservation is limited to not permitting foreign insurance branches to provide surety bonds for US government contracts.

D/8 Private Pensions

Annex I to Annex A, Part IV, D/8

APPENDIX 4

INFORMATION ON SUB-NATIONAL MEASURES IN CANADA AND THE UNITED STATES

NOTE BY CANADA

REGULATORY FRAMEWORK IN CANADA

The supervision of insurance activities in Canada is shared by the federal and provincial governments. On an asset basis, 90 per cent of all life insurance companies and 88 per cent of all property and casualty insurance companies operate under federal authority. Foreign insurers can obtain licences and charters from either the federal authorities or the provincial authorities. But foreigners entering on branch basis must first obtain a federal registration before they can obtain a provincial licence. Insurance companies receiving authorisation from federal authorities can operate in all Canadian provinces.

At the federal level, there are no special restrictions on establishment of new businesses, either branches or subsidiaries. Acquisitions of existing insurance undertakings above a certain size are nonetheless subject to the review procedures of the Investment Canada Act. In addition, Canada's foreign entry policy encourages the entry of foreign insurers into Canada as a means of promoting competition in the financial services sector. Foreign insurers have the flexibility to participate in the Canadian insurance market by either establishing a Canadian branch or investing in a Canadian subsidiary.

Canada has no foreign ownership restrictions on insurance companies, and the ownership rules provide all investors with the same flexibility to invest -- they do not distinguish between foreign and domestic investors. Any fit and proper person may own 100% of a small insurer (equity of less than CDN\$2 billion).

Insurers with equity of CDN\$2 billion or more must have 35% of the voting shares widely-held and listed on a recognized Canadian stock exchange, unless the insurer has received an exemption from this requirement from the Minister. Bill C-57, which received Royal Assent in 2005, increased the flexibility of insurers to seek this exemption.

Large demutualized life insurers (i.e., companies with surplus and minority interests of CDN\$5 billion or more at the time of demutualization) must be widely held. These limits are designed to protect the safety and soundness of the largest institutions while providing flexibility for all other institutions in order to encourage new entrants into the market.

Historically, Canada did have some restriction on foreign ownership, including a maximum of 25% foreign ownership of domestic life insurance companies. These restrictions were progressively lifted in the 1990s and were eliminated altogether in 1994 pursuant to the Uruguay Round of trade negotiations.

The provinces have jurisdiction in all matters pertaining to provincially-incorporated companies, and also have responsibility towards federally-registered companies licensed in their respective provinces in

matters such as licensing of agents, contract law and policyholder relations. A prudential supervisor for insurance has been established in each province and territory in Canada.

With respect to cross-border trade in insurance, some restrictions apply to foreign insurance companies. These restrictions are aimed solely at protecting consumers. Consumers, however, are free, at their own initiative, to take out insurance abroad. With respect to marine insurance, which may be provided on a cross-border basis, the federal government has amended the relevant sections of the Insurance Companies Act to give insurers that exclusively provide marine insurance the option to be subject to federal prudential oversight.

Federal and provincial supervisory authorities work in close co-operation. The Canadian Council of Superintendents of Insurance meets twice yearly to pool information and co-ordinate federal and provincial legislation. It is assisted by sub-committees working on issues of particular interest to the supervisory authorities, but is not endowed with supervisory powers.

NOTE BY THE UNITED STATES

This is a basic overview of the U.S. state level insurance regime, including special focus on elements relating to the revised Insurance Provisions of the Code of Liberalization of Current Invisible Operations.

In 2005 (latest statistics available), regarding the insurance sector, cross-border imports (representing the difference between premiums earned minus claims paid) reached \$ 28.5 billion, with the reinsurance sector having accounted for close to 90 percent of such imports (U.S. Bureau of Economic Analysis).

In 2004 (latest statistics available), U.S. purchases from U.S.-based insurance affiliates of foreign companies totalled \$ 81.3 billion, with non-life (property/casualty) insurance carriers accounting for 64 percent of the total; life insurance carriers, 34 percent; and agencies, brokerages, and other insurance-related activities, 2 percent (U.S. Bureau of Economic Analysis).

The U.S. insurance services sector is regulated primarily at the state level. U.S. state insurance commissioners coordinate through the National Association of Insurance Commissioners (NAIC) and pursue a number of initiatives to harmonize or make uniform regulatory requirements among the U.S. states and facilitate multi-state insurance operations. Regarding authorizations, insurance companies, agents, and brokers must be licensed under the law of the state in which the risk they intend to insure is located. However, all U.S. states accept a Uniform Certificate of Authority (UCAA) form thereby facilitating licensing of insurers and reinsurers that seek to do business in one or more states. In addition, once an insurer establishes operations in its state of domicile, other U.S. states rely on that state regulatory for primary financial oversight responsibilities, facilitating licensing in other states. In addition, the U.S. states all use the same standards for reviewing solvency of licensed suppliers (utilizing a risk-based capital approach).

Here is additional information relating to specific elements of the revised insurance provisions of the Code:

D/2. Insurance relating to goods in international trade.

D/4. All other insurance – specific to the cited sub-sectors below.

D/5. Reinsurance.

The U.S. states in general are open to cross-border trade (and related transfers) of certain types of insurance, where protection of the consumer is not at issue, e.g., reinsurance and retrocession; and marine, aviation and transport insurance. This treatment would be extended whether the insurance contract was placed abroad at the initiative of the insurer or the policyholder. Some U.S. states also have liberalized cross-border trade of “commercial lines” (large industrial placements) and “surplus lines” insurance.

D/3. Life assurance.

D/4. All other insurance (except for MAT, commercial lines and surplus lines as mentioned above).

The U.S. state insurance regulators generally believe that cross-border trade and transfers of such insurance services would raise consumer protection concerns and therefore would not generally allow cross-border trade in these areas.

D/7. Entities providing other insurance services.

A few states apply residency or citizenship requirements to brokers or suppliers of other services auxiliary to insurance. Pursuant to the Gramm-Leach-Bliley Act, and in an effort to streamline the licensing of insurance agents and brokers, all states but one have passed the Producer Licensing Model Act (PLMA) or other similar licensing laws. A system of reciprocal licensing is being implemented whereby a resident producer may obtain a non-resident license through a uniform application process. Information on U.S. state licensing requirements can be found at www.nipr.com.

D/6. Conditions for establishment of branches and agencies of foreign insurers.

The U.S. states in general are very welcoming of branches of foreign insurance companies. The NAIC has established a model law in this area which is used by many states as the basis for regulation of branches. For branches, operations are limited in principle to writing premiums based on the capital deposited in each state in which it intends to do business although in practice this requirement is often waived. Currently thirteen states do not yet have the regulatory regime to enable branching for insurance¹⁴ but they readily accord such rights if the company has been licensed in another U.S. state (port of entry).

General comment: Whether for cross-border trade or for branches, U.S. state insurance regulators and the NAIC maintain high standards of transparency regarding the development of new or amending existing regulations pertaining to insurance. Licensing of foreign and domestic suppliers is conducted on a speedy basis. Each of the state insurance regulators maintains a website which can be accessed directly or through links on the NAIC website (www.naic.org). In addition, the NAIC develops and maintains compilations of the state regulations specific to certain lines of insurance business. These can be obtained from the NAIC at minimal cost.

¹⁴ Arkansas, Arizona, Connecticut, Georgia, Kansas, Maryland, Minnesota, Nebraska, New Jersey, North Carolina, Tennessee, Vermont, Wyoming and for reinsurance branches, also Pennsylvania.