

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

GPR/W/66/Add.1

6 March 1985

Special Distribution

Committee on Government Procurement

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

INSURANCE

Addendum

The present addendum compiles contributions from the European Economic Community in respect of Belgium, Denmark, the Federal Republic of Germany, the Netherlands and the United Kingdom, and a reply from the United Kingdom on behalf of Hong Kong.

I. COMMERCIAL IMPLICATIONS FOR CODE COVERAGE OF THE SERVICE

A. Definition of the insurance sector

(i) General definition

NETHERLANDS

Definition: Cover against payment of possible damage and other specified risks.

UNITED KINGDOM

A description of the nature of the insurance industry in the United Kingdom is contained in paragraphs 52-59 of Annex A of the United Kingdom's National Study of Trade in Services prepared in response to the recommendation made at the GATT Ministerial meeting in November 1982. For the relevant paragraphs see Annex I.

(ii) Definition of government procurement of insurance

BELGIUM

Since the State is self-insured, insurance contracts are very rare. The only important contracts are to be found in the building sector. Most of these are concluded not by the administration, but by the building contractor. Very often, the tender specifications require him to take out insurance against certain eventualities, leaving him free to choose the insurer.

DENMARK

Since the Danish Government normally is self-insured, insurance services are only bought by entities in exceptional cases. The total amount is negligible.

FEDERAL REPUBLIC OF GERMANY

The State acts as its own insurer and carries all risks directly.

IRELAND

The State acts as its own insurer and carries all risks directly.

UNITED KINGDOM

Most of the United Kingdom's GATT entities are part of Central Government. Central Government bodies do not normally take out commercial insurance. The risks for which the Government is liable are innumerable and widely distributed, but the financial losses maturing in any one year are small in relation to total Government expenditure. As a result it benefits Central Government to "carry its own insurance". There can, however, be circumstances where, because of the additional manpower costs of dealing with claims, or because of the additional "service element" to which the holder of an insurance policy can sometimes be entitled, there are advantages to a government body in taking out insurance. Nevertheless, as can be seen from the table below, the amount of commercial insurance taken out by United Kingdom Government bodies remains small. Although some small increase in the amount of commercial insurance is possible in future year, the commercial implication of including insurance in the Agreement would be comparatively insignificant.

UNITED KINGDOM ON BEHALF OF HONG KONG

The Government Supplies Department is Hong Kong's Code-covered entity. It awarded one insurance contract in 1984.

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

BELGIUM

Only one department concludes such contracts directly. These are "all-risk site" insurance and "ten-year responsibility" insurance. In 1983, a total of BF 29.8 million was spent on extending existing contracts (number of commitments: 51), and six new contracts were concluded for a total of approximately BF 2.8 million. Premiums amount to between BF 0.04 million and BF 13 million for "all risk" insurance and between BF 0.03 million and BF 11 million for "ten-year responsibility" insurance.

DENMARK

The total amount is negligible. See reply under A above.

FEDERAL REPUBLIC OF GERMANY

See reply under A above.

NETHERLANDS

Number of contracts - few.

Value of contracts awarded in 1981 by the State excluding the military amount to f. 41 million. No separate figures are available for central government but it is estimated that the annual value is at maximum f. 13 million. This is explained by the fact that the State acts as its own insurer except in the case of medical and air travel risks and from time to time transport risks.

UNITED KINGDOM

Significant figures for the fiscal year ending 5 April 1983 are:

<u>Entity</u>	<u>Number of Contracts</u>	<u>£m Value</u>	<u>Nature</u>
Ministry of Defence*	2	3.7	Third party vehicle risk and Employer's Liability risk
Royal Mint	7	0.033	Marine Transit Insurance
Department of Health & Social Security	2	0.74	Comprehensive insurance for cars, and third party insurance for invalid three-wheel vehicles
Northern Ireland Department	12	0.88	Third party vehicle insurance and Employer's Liability insurance

There are no import/export figures for these services.

UNITED KINGDOM ON BEHALF OF HONG KONG

The Government Supplies Department awarded one insurance contract in 1984.

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

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

BELGIUM

All contracts have been concluded in accordance with general legislation on government procurement.

NETHERLANDS

Mainly selective procedure but also single tender, occasionally brokers are used.

*The Ministry of Defence arranges insurance for a number of other Government departments.

UNITED KINGDOM

In general these are similar to those used in determining the award of supply contracts (e.g. price, quality, reliability), but inevitably in a service contract greater emphasis may be put on non-price factors.

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

NETHERLANDS

Origin is defined by address of the firm.

UNITED KINGDOM

No problems in defining origin.

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

NETHERLANDS

Two cases can be distinguished: (i) the supplier insures and the premium is included in the price. In this case the government plays no rôle since the contracting parties are the supplier and the insurer; (ii) the government awards an insurance contract and here sub-contracting can arise.

UNITED KINGDOM

In general, contracts are with brokers who in turn place the business with the markets. We are not able to say authoritatively whether the successful underwriters use re-insurance to spread the risk, but, as market leaders are normally selected, it seems doubtful whether they would think it necessary to do this.

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

NETHERLANDS

Insurance contracts are open-ended and are usually for a period of years with often provision for intermediate revisions. Thus it is difficult to determine the value of a contract.

UNITED KINGDOM

The contracts are for a discrete service.

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

NETHERLANDS

See under D.1.

UNITED KINGDOM

Contracts are usually for a fixed term and for periods in excess of one year.

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

NETHERLANDS

See under D.1.

UNITED KINGDOM

No.

- E. Further characteristics of government procurement of this service, such as:

1. What is the range of typical values of government contracts in this area? Do the bulk of purchases typically exceed a certain value?

NETHERLANDS

There is no such thing as a typical contract thus it is difficult to speak of the value and time necessary to conclude such contracts. The value of the contract is not large.

UNITED KINGDOM

As can be seen from the figures, the number of contracts tend to be small, and the values for a large department such as the Ministry of Defence tends to be high.

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

NETHERLANDS

See under E.1.

UNITED KINGDOM

From three to six weeks.

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

NETHERLANDS

No particular barriers.

UNITED KINGDOM

There are no specific qualifications for foreign access to Government contracts. The requirements for operating in the insurance field in the UK are set out in paragraphs 52-59 of the UK National Study of Trade in Services referred to under I.A above (see Annex I).

ANNEX I
UNITED KINGDOM
INSURANCE

Insurance companies

52. The Insurance Companies Act 1982 and the associated Regulations impose controls in the interests of policyholders which aim at ensuring the solvency of insurance companies, and, in the case of life insurance companies, ensuring that they will be able to meet the reasonable expectations of their policyholders. Insurance companies are to a large extent free to establish their own policy terms and premium rates and to invest their funds as they choose, subject to constraints that result from the solvency requirements of the legislation.

53. A company wishing to carry on any class of insurance business in the UK has to obtain authorization for that class from the Secretary of State. (The powers under the Act are exercised by the Secretary of State; in practice this is the Secretary of State for Trade and Industry.) Before granting an authorization the Secretary of State has to be satisfied that the company has adequate financial resources, that it has an acceptable scheme of operations covering the first three years, and that the persons who will hold important positions in the company or in relation to the company's business in the UK do not appear to be unfit to do so. A company whose head office is outside the UK must also have a general representative resident in the UK. A company whose head office is not in a member State of the European Community must make the required deposit, unless its authorization in the UK is limited to reinsurance business, in which case no deposit is required.

54. It is a requirement for insurance companies to have assets which exceed liabilities by a specified margin - the margin of solvency. Detailed accounts have to be submitted annually to the Secretary of State, and these are examined with a view to detecting insolvency or the risk of future insolvency.

55. UK insurance companies legislation implements the provisions of the European Community non-life insurance establishment Directives, which harmonize insurance supervision requirements in the Community. The UK has also implemented the Directives on reinsurance and co-insurance.

Lloyd's

56. Lloyd's is an association of underwriters, the members of which are permitted to carry on insurance business. Lloyd's is a self-regulating body governed by Lloyd's Act 1982. It is not subject to detailed supervision by the Secretary of State under the provisions applicable to insurance companies, but a certificate of solvency for each member and a statistical report on the business of Lloyd's as a whole must be submitted to him annually.

57. The governing body of Lloyd's, the Council, comprises sixteen working members, eight external members and four nominated independent outsiders appointed with the approval of the Governor of the Bank of England. The Council has power to make bye-laws and regulations, and to take disciplinary action against members, and is concerned with the efficient operation of the market.

Insurance brokers

58. The Insurance Brokers (Registration) Act 1977 provides for the registration of insurance brokers and for the regulation of their business practices and professional standards. Insurance intermediaries wishing to use the title "insurance broker" or certain other titles specified in the legislation must register (if an individual) or enrol (if a corporate body) with the Insurance Brokers Registration Council. The Council has a membership of twelve elected insurance brokers and five other members nominated by the Secretary of State. It has drawn up a code of conduct for brokers, established standards of experience and qualification needed for registration and enrolment, and laid down rules on a variety of matters, in particular concerning financial disciplines, professional indemnity insurance and disciplinary procedures. The Council also has a compensation scheme for making grants to policyholders who may have suffered loss as a result of insurance brokers' neglect, fraud or other dishonesty. The code of conduct and the rules of the Council are subject to the approval of the Secretary of State.

59. Unregistered insurance intermediaries are free to carry on their business in the UK provided they do not use the reserved titles. The UK has implemented the EC Directive on insurance agents and brokers.