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British Insurance Law Association

"DEREGULATION - A CONTINENTAL INSURER'S VIEW"

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Esteemed British colleagues:

I. I thank you very much for your invitation and for the opportunity you have given me to be with you today and to reflect on our profession.

Countries and the times generate catchwords that at a given moment are widely used, occasionally without knowing the why or wherefore. One of them that is currently very popular is "deregulation", a word that is becoming a symbol of confrontation wi governamental interventionism. It was first utilised in the United States when that nation decided to "find itself" and update its industrial and financial institutions. It has passed on to Great Britain, and it is now entering the rest of Europe, with a goal of economic liberalisation that is not always precisely adhered to.

The original subject of this talk, "self-regulation", seemed too limited to me, so I chose to change it to "deregulation". When I began preparing it, I also thought that this word was limited. Therefore, I'm going to speak "openly", in order to say what I think, mainly regarding the legal aspects of insurance, with some closing remarks on Spanish insurance legislation, which is assuredly undergoing upheaval.

In a certain way, there is a resemblance between the terms "deregulation", "self-regulation", "divesture" and simply "freedom". Deregulation is a tendency to eliminate administrative restrictions on economic activity, which favours some companies, although it might limit their freedom. Self-regulation is the creation of internal standards of self-control by individual businesses or business associations, mainly in regard to solvency and quality of service, avoiding a "regulation dynamics" on the part of the government. London is an example of the "tendency toward self-regulation", although in some ways this is now a questionable assumption. On the other hand, the Continent and the United States are examples of "regulation", as is my country.

Divesture is also related to this "movement". In Great Britain it has given rise to the denationalisation of large businesses, and in the United States, to the breaking up of inherent monopolies -

such as the famous case of ATT - in order to promote competition. On a personal level, let me say that MAPFRE itself is carrying out a "divesture" plan, which we call MAPFRE System/85, with the total separation of its activities in three main areas (Life, Automobile and General Insurance/Reinsurance) without common services, subject only to budget and auditing control and to minor procedural restrictions; thus we will cease being a "group" in order to become a "galaxy" in some way like Japanese Zaitbatsu.

As you will see, the three terms converge into two objectives: the search for "freedom" in economic activity, and the elimination of a bureaucracy that destroys the vitality of businesses, changing corporations into simple "dinosaurs".

II. The subject of "deregulation" is political inasmuch as it affects the dynamics of social structure; it is economic inasmuch as the balanced development of national wealth and the creation of powerful instruments of economic management depend on it; and it is sociological inasmuch as it affects the organisation and structure of social life. It is also juridical, and you are the jurists who - taking into account the social reality and major political tendencies of a country - must construct the "legal principles" of our institution, not merely the administrative standards that Government officers produce. In this regard, I must point out the permanent present and future uncertainty within the Anglosaxon concept of law, which ties in with Roman law in its permanent "social" construction stemming from custom and jurisprudence, and the Continental concept, partly of Germanic origin and expanded in the Napoleonic Code, "regulatory", with detailed standards for activities of a particularly economic nature. Both "deregulation" and "self-regulation" are pro-Anglosaxon and anti-Continental reactions.

Regarding the political aspect, "deregulation" represents a reaction against statism, whether it comes from Marxist-influenced ideology or from the natural pragmatic result of bureaucrats having aspired toward "more power" and "wider influence" throughout all times, all governments, and definitely all countries.

In an "intuitive-trascendental" way, "deregulation" recognises the great effort necessary to confront the problems of the free man, that could be specially fruitful if it utilises individual energy without any interference. It signifies a shift of social responsibility from the government's heavy and rigid apparatus to society as a whole, allowing many more people to become "decision makers" than in a centralised system. Even though it may seem paradoxical, this increases governmental authority, while paralysed statism reduces it, owing to the weight of the bureaucratic load and its internal struggles contrary to the general interests of society.

"Deregulation" is to a large extent identified with "debureaucratisation" which, by its rigidity, hinders adaptation to new needs, especially important in an age of "dizzying change". "De-

regulation", with its possible limits and the problems it may cause, is a symptom, and in a certain way a symbol, of freedom that always implies risk and responsibility. So that this freedom may be exercised, a legal system is called for, not only "regulations" that generally are anti-juridical, as well as an effective, independent, and competent Court system an indispensable item in order to reach the highest plane of freedom compatible with prudence. There's nothing strange about some novice dictator - even in a formally democratic system - trying to accomodate, weaken, buy out and subjugate judicial power.

In strictly economic terms, "deregulation" is a positive factor, because it reactivates the tools for the creation of wealth, shielding them from privileges or de facto oligopolies, and forces them to focus on their own goal of social improvement and increase of wealth, a decisive act in order to confront the generalised demand for greater purchasing power.

"Deregulation" has special importance when new areas of competition arise, such as with the "universalisation" of the circulation of capital and of the (manual and intellectual) labour force, which does not need to migrate in order to break into the marketplace with products created at a reduced labour cost and also - even though it may shame us - under managerial and organisational systems that are more efficient than those we have established in western society.

In sociological terms, the consequences of "deregulation" are not as positive, since they impose systems of "unlimited social friction" by which each year one must reaccomplish the gains of the previous year and by which, in a pleasant or harsh fashion, everyone is permanently against everyone else. Whatever the government, humanity is always in a debate between continuous dynamic action and heartfelt aspirations to the status quo, to preserving what it has, and to "keeping others from keeping us from resting" and not letting them place our image and physical or social heritage in danger. The balance point, when it is attained, allows a country to prosper and elevate itself above its rivals.

Neither is "continous movement" viable here. Friction from active and passive forces hinders market competition and the continuity of revolutions. This no doubt inspired Mao's theory of the "permanent internal revolution" with the "Cultural Revolution" as an example, an undertaking more titanic than any other in the free world, because there is nothing as conservative as the structures that revolutionaries create.

This is not the moment to follow these digressions, though neither would it be proper to avoid them. We can only do best what we have to do, or what we can do, if we delve endlessly into the phenomena of human life, and most especially into those of a general nature that can help us attain a "pragmatic policy in order to aspire toward a humble future".

III. Regarding insurance in the United States, the country that created the concept, "deregulation" mainly affects the banking industry, both with important repercussions for insurance, as indirect as they may be, except for a greater ease in recent years in linking life and general insurance firms. The liberalising of the banking industry facilitates its multi-implantation and its relationships with other financial institutions, such as insurance. This can have an economic impact, since insurance companies and bankers are going to be submitted to influence and reciprocal interference by dint of the following: "savings products" with objectives that in some degree are similar to those of life assurance; increased shareholder exchange between companies of one kind or another, and especially the mutual utilisation of territorial networks.

Because of this, one important aspect for insurance companies is the repercussion that is going to take place in the distribution of new services precisely at a moment when the boundaries between central and territorial activities are becoming blurred.

All of this, aided by advances in data processing, opens up completely new horizons to insurance companies, either in a positive or negative sense, that to some degree will have repercussions of a different sort in every European country, owing to its current institutional situation. At any rate, an alternative is going to be posed, one which I have often been asked about. Which is preferable for an insurance or banking organisation, to go into "foreign territory" and consolidate its activity and its operating insurance networks and financial sphere, or to remain highly specialised in its own area, as insurance or banking professionals, concentrating its efforts in order to offer the best service at the lowest cost? I'm not a banker, and I can't answer on their behalf, but as an insurance man my opinion is clearly on the side of superspecialisation, which reveals details that are not evident to those who do "package" work, even within the insurance business itself.

Therefore, networks highly-specialized in efficient and sophisticated service will spring up, ones that will compete very favourably with the "complex service networks". In the possible - I don't know whether probable - "new, unlimited Europe", the "distribution revolution" will be decisive. It can change our professional outlook, although I don't believe this will happen soon.

I think that Great Britain finds itself in a different situation. Its strength in many institutions and in insurance has been through "self-regulation"; now, as a result of scandals in its "international reinsurance market" and of legislation by the EEC, it is being affected by "regulation" in areas that it had previously avoided. But this forms part of a process of adaptation that is going to put an end to habits we have all acquired; in some cases it will hurt us, and its effects are not always homogeneous. For example, freedom of services benefits British insurance companies, though to gain this they may have to do business in life assurance with specialised firms.

In Europe, important structural changes must be foreseen as a consequence of the absorption of insurance companies by those of a different country, and especially by "non-insurance" businesses and organisations. In this regard, I think that the socio-political balance of a country advises that most part of its leading insurance companies be national, and that their decision-making affecting their policyholders be carried out inside the country, freely and without compulsion or protectionism, which is only justified - definitely here - in small, poor countries, although some of them might bemoan the fact that limits have been placed on them. I also think that those who implement the latest insurance decisions should be insurance companies, and that it is not advisable for them to be within a conglomerate of varying interests, some contradictory to the policyholders' interests, a situation that generally impedes management both of state-owned concerns and of those dependent on a different managerial sector.

A "deregulated" government does not allow intervention in these two areas, which could be a negative factor, above all in the development of countries of modest means. Among those of "some importance", as I consider mine to be, legal discrimination is not justified, though an overwhelming foreign invasion could produce an imbalance. Therefore, the existence of insurance companies that cannot be manipulated from abroad, either by multinational groups or by other managerial activities, is "positive". This has been a conscientious objective during my almost thirty years as a MAPFRE General Manager, which has attained a sizeable importance by Spanish standards, and whose totality is fully controlled by MAPFRE Mutual Insurance, who always holds - directly or indirectly - ownership of more than 50% of the stock in all the companies under our name, as a result of which it will never be dependent on anyone outside of Spain or outside of the insurance business.

This type of orientation, which must not be limited to a mutual structure, will arise together with insurance companies of a co-operative or institutional nature or ownership that will progress more than their competitors. I label this phenomenon "institutionalisation", a gradual consequence of market evolution, in which the responsible public "votes" by its insurance decisions, and tends toward those who offer more guarantees of "responsible and independent continuity", drawing nearer to those who - perhaps due to their origin, or their "business culture", or their will - identify best with the problems and evolving needs of individual policyholders.

In this regard, I want to point out the importance of the figure of the "leading insurance company" and the "institutional insurance company" in the national marketplace. The leader is one who influences a national marketplace by its decisions and guidelines, as a whole or in part, owing to its share of the market, or its special dimension in one branch or in a geographical area.

The institutional company is one that has achieved stability and general recognition, owing to its conditions of ownership, its long-term existence, and its influence on society, leading it to be considered as an unalterable, nonmanipulatable, and organic part of economic and social life. It is difficult for a foreign insurance company to be institutional, since one almost inevitable requirement for this consideration is that decisions be implemented within the country and not outside of it.

The concepts of institutional and leading insurance companies are normally mixed together; both are important in this context of "deregulation". For legal or simply de facto reasons, many legislatures favour large insurance companies. "Deregulation" causes them to lose privileges and offers them no protection, though it does not attack, but rather defends them, staving off their paralysis, their transformation into dinosaurs that with their negative influence reduce market efficiency and harm the policyholders.

Protection of the public in our institution and others like it is achieved by a balance between the desired flow of institutionalisation and the spur of competition; this keeps one from resting on his laurels or suborddinating public interest to the comfort or selfishness of business and its leaders. It of course must not be an exact science, but rather the natural consequence of a healthy, well-balanced social life that can react quickly in cases of abuse of power, and anticipate them as much as possible.

If a market without the stability and influence of institutional and leading insurance companies is unsatisfactory, so much more is the case when it is "controlled" by them as they rest on their power, which hinders the defence of general interests by dominating associations, influencing public authority and, in short, abusing their "strength". Therefore, governmental insurance companies can be especially "negative" in our institution, because institutional power itself is "amassed" with the power of the state which is their owner.

IV. In keeping with this forum and my audience here, I'd like to refer to the influence of "deregulation" on insurance law, to which it should bring a breath of fresh air as a renovating factor, developing an institutional law going beyond "commercial law" that has, up till now, been dominant in the area of insurance relations. This is a challenge for those of you in London who could be "leaders" in legal insurance matters within a humanity undergoing the greatest amount of interaction in its history.

The true goal of "deregulation" is to defeat the great two-headed hydra of bureaucracy: the Government, which aspires to regulate all activity meticulously, and that part which the big insurance companies have for some time been creating while relying on their preferential market situation.

Of course, both heads get along splendidly, negotiating their respective spheres of "influence and power" at the cost of service to clients and public. In order that this goal be possible, two factors that condition a theoretical, unlimited freedom are necessary:

- Contractual insurance law built on a basis of experience and, as much as possible, on jurisprudence; inspired by the search for fairness in contractual relations between policyholders and insurance companies, and with protection of the weakest.

- Insurance company solvency, withouth which the insurance contract is nothing but a gambler's farce whereby the policyholder always pays in advance, and the insurance company only pays if he's lucky.

But "deregulation" as a dynamic current has its limits. The world is not a globe of pure oxygen in which all kinds of experiments are possible. Our reality is extremely imperfect, impure, I fear, to a great extent. That is precisely why laboratory experiments that tyrants, ideologists, or revolutionaries sometimes wish to submit us to, end in failure. The pure Cambodian communism only led to an immense bloodbath; by the same token, experiments by the foolish economists of "absolute economic freedom" have had disastrous results, as we have recently seen in Latin America.

If a social group is not completely "deregulated" (I don't dare suppose what would happen if it were), it is absurd to strive for total freedom only in one sector. British, Spanish, European, and world-wide insurance - especially that of the smaller countries - clearly exists in a well-regulated society, in which each part relies on the others, and where an isolated experiment cannot go very far. In many cases, regulation is a social necessity exacerbated by the reduced dimensions of the community itself.

A great power like the United States, with an enormous advantage owing to its "combination of technological development and economic latitude", can undertake experiments that fail in other countries. In the long run, "deregulation" of the airlines and telephone systems seems very positive, though of course this causes problems and intermediate victims. However, in Spain some of these attempts would be simply impossible; even in your country, the "deregulation" of the London Stock Exchange is presenting more problems than were foreseen, and there are those who doubt that it can be completely carried out.

Besides the elimination of national administrative regulations and the disappearance of minimum rates, the "deregulation" of insurance implies the shattering of institutional and political boundaries, in a true "extraterritorial explosion" of an activity that, due to its dynamics and intrinsic needs, tends toward an international diffusion.

Is the complete freedom of all European insurance activities foreseeable in the near future? Will the internal forces of each nation consent to it? Can any country, especially the small and

insecure ones, theoretically allow an activity as socially ingrained as is insurance to depend upon far-off countries whose ultimate motives are totally alien to their national interests? Or should national interests not be allowed to exist?

I think that Spanish insurance has been adequately immunised against this danger, but should this desirable native leadership become lost with absolute free competition, possibly some sort of public pressure would arise in order to avoid it, or nationalisation, as has already happened in France and Portugal.

Therefore, I personally do not believe that European "deregulation" should, within the next few years, go much beyond a widespread freedom of rates and the prudent application of EEC guidelines, but without the disappearance of the various national insurance divisions, nor should it be possible for a German insurance company to open an office in southern France or Ireland the same as it can in Lower Saxony. This is the struggle - not always hidden - that is taking place today in the EEC and whose outcome, I predict, will be as I am pointing out. Financial and other regulations, difficult to modify, are sure to impede that "pure market" in our profession, which at one time seemed possible.

I am occasionally asked if I fear the "market opening" that our country's entry into the Common Market will bring, and my answer is no. For many years now, the main European insurance companies have been operating in Spain, with a great deal of freedom and with no discrimination. I'm afraid that many of them are losing money, which is to say, dumping is taking place to some extent. This has not, for example, kept those insurance companies that are entirely Spanish from developing quite satisfactorily and from substantially widening their share of the market. Should Spain be admitted next year into your community, are Royal, Commercial Union, Zurich, Winterthur, U.A.P., Allianz, Generali and RAS - who now operate in our country - going to function any differently? I assume this will not happen; as of now, their share of the market is shrinking. The four leading Spanish insurance companies (La Union y el Fenix, Catalana, Mutua Madrileña and Mapfre) have gone from a market share of 14.6% in 1977 to 15.6% in 1983; the non-Spanish ones cited have gone from 11.5% to 10.9% during the same period. My company nas gone from 3.7% in this same time, to a probable 5.3.% in 1984.

But in spite of the fact that national, institutionalised insurance companies are making advances against foreign companies, substantial changes can take place in the future, at least in Spain, since modifications in the structure of insurance will not come from the evolution of policyholders'wishes, but rather from the acquisition of national companies by foreign companies or other institutions. Years ago, Commercial Union acquired important shares in Continental insurance, and today it seems that Allianz has come to control the large Italian insurance company RAS, and in 1984 B.A.T. has made great inroads in the "multinationalisation" process of British insurance and maybe banking.

In the future, I consider the liberalisation of the movement of capital and business investments to be more important than a direct implantation; in my opinion, this is the only way a European consolidation can come about. This, on the other hand, does not call for EEC standards except in regard to the international transfers of business funds and the possible Europeanisation of investments and monetary backing by insurance companies. Once more I shall point out the foreseeable importance of a mutual or institutional type of insurance company, such as Norwich Union and Cooperative Insurance Society - and many others in your country, I should think - that by their nature will lose neither the "rights to their decision-making ability" nor by the same token, their independence, as long as they maintain the possibility of absorbing or controlling other firms.

V. Following the above observations, I shall briefly outline those areas of insurance law where I foresee changes in the European future:

- Protection against operations that threaten the stability of an insurance company with high assets in order to subordinate it to interests outside of insurance, to reduce its liquidity, or direct its investments toward speculative ends, an area with special repercussion in countries of modest resources who could be stripped of their insurance assets and where absolute freedom would not be admittable within the society.

- Maintaining of internal static and dynamic solvency by means that allow for the detection of managerial errors before they affect policyholder's rights, with greater demands for liability - including criminal - on the management of insurance firms, even interfering with the behaviour of insurance managers in order to authorise a company, something contrary to the sprit of "self-regulation", but which the greater interests of the public could advise.

- Modification of some contractual relations of insurance with greater uniformity among countries with common interests and greater protection of consumers'interests, including punitive measures for those who use legal ploys in order to avoid contractual obligations, as is done in the United States.

- An increase in civil liability of individuals and corporations, because even though the right of liability is independent of that of insurance, one must keep in mind its indirect repercussion on the public, since each indemnity criterion affects the cost of insurance coverage.

- Greater clarity in relations between insurer and reinsurer, and among reinsurers themselves, in instances of reinsurance vis-à-vis the policyholder (for example, in determining coverage premiums for high risks and when dealing with major accidents), in the determination of currency-exchange differences, and in late-payment arrears and settlement deductions, all pertaining

to a "private right to reinsurance" of an eminently international nature that will facilitate the security and fairness of transactions and the precise calculation of assigned and acceptable risk.

- A precise definition of "agency relations" indispensable in the insurance and reinsurance trade, which calls for powers of risk acceptance, receipt of funds, and accident settlement. The numerous legal cases, precisely in London, that deal with agency relations and subscription limits confirm this need for partial reform as a result of the technological revolution in communications and the current mechanics of reinsurance.

In which of these areas is "self-regulation" possible, including internationally? This is a question that concerns many of us in our profession during these times, and it seems likely that it will continue to do so.

VI. RECENT DEVELOPMENTS IN SPANISH INSURANCE LAW

In recent years, Spanish insurance law has been undergoing widespread reform, to some extent as a consequence of the political change that has been taking place in Spain, though also as a consequence of much earlier planning. I shall comment on the more important aspects.

1. The regulation of insurance contracts was covered in certain articles of the Civil and Commercial Law of 1889 and 1885, as well as in administrative decrees, until the Insurance Contract Law ("Ley de Contrato de Seguro") of 1980 was enacted, with norms that clearly tend toward the protection of policyholders as the weakest contracting party, establishing the principle of the primacy of law. This contrasted with the principle of freedom in contractual agreements that prevailed earlier, which had left the field open to the "general conditions" of the insurance policies, often uniform for the entire market and subject to prior approval by the Insurance Department. This Law nullifies clauses that contradict its norms, accepting as valid only those that are most beneficial to the policyholder.

   In the regulation of claims, two changes stand out: the insurer's obligation to pay the minimum liable amount as compensation within forty days of the claim, and a certain form of "punitive damages", should compensation not be made within three months following the accident, with an increase -except when there is just cause - of 20% per year, in addition to normal interest payment for delay.

   The regulation of Bond and Credit insurance is remarkably insufficient, with only one article defining its purpose and applying the general norms of the law that in certain cases are completely inadequate for this type of insurance. The establishment of the right of life policyholders to a surrender after two premium annuities, instead of the three required in most countries, is debatable.

2. Third Party Liability Insurance undergoes a change in 1980 Insurance Contract Law. Article 76 has been labeled "terrible" by a commission of jurists upon determining that injured parties or their heirs can take "direct action against the insurer" in order to force compliance with the obligation to indemnify, without prejudicing the insurer's right to claim restitution from the policyholder should the compensable damage or injury be due to fraudulent behaviour on behalf of the latter. Against this direct action, the insurer can only oppose the exclusive fault of the third party and any point of defense he may have against him. This norm, with precedent in the Compulsory Automobile Insurance Act, led to the prediction of a dramatic increase in accident claims and costs; three years experience has not confirmed this fear.

   The General Law for the Defence of Consumers and Users of 1984 ("Ley General para la Defensa de los Consumidores y Usuarios") has recently had an effect on this insurance, substantially modifying the concept of liability outside of the contract established in article 1902 of the old Spanish Civil Code, changing the concept of liability by fault to one of "risk-originated liability" with two practical consequences for insurers: an important increase in liability for manufacturers, importers, and sellers or suppliers of goods or services, with a higher limit of five hundred million pesetas; and an important future expansion of the field of liability insurance, which will be placed on levels similar to those of other western nations, naturally with the same problems.

3. The "control" of insurance activity was, up till very recently, regulated by the Law of 1954, which never came to be the object of a "Reglamento", hence a 1912 "Reglamento" continued in effect. At the time, this Law represented an important advance, but for more than the past twenty years the need has been felt for a regulation in three main areas: the demand for greater financial guarantees from insurance companies, liberalisation of administrative barriers, and reinforcement of the authority available to the Insurance Department in cases of companies whose condition is unsound or insolvent.

   Since 1974, many bills prepared by the Ministry of Finances, have been introduced without the new laws having been enacted. When the current Socialist government took office in October of 1982, one bill was being debated in Parliament; this was substituted by another one with no substantial difference, that was finally enacted on August 2, 1984. For the most part, it is what in Spain is called a "Law of Principles" ("Ley de Bases") that must be developed by the Government by means of a "Reglamento" within one year. I shall comment on some of its important aspects.

- Increasing the scope of activities by regulating, in one part, managerial, representative or administrative personnel within the companies coming under the law; professionals who subscribe to the documents established in the law; reinsurance intermediaries and adjusters; in other part, different kinds of "benefit funds" previously under the control of the Labour Ministry.

- Requiring that companies dealing with life assurance do not handle other types of insurance, though respecting the situation of those who are now operating in all branches.

- Authorising Mutual companies to accept reinsurance.

- Entitling insurance companies to be Pension Funds administrators (an area pending legal regulation).

- Introducing the concept of Insurance Cooperatives with regulations similar to those of Mutual Companies, which appears to respond more to a concession of a political nature than to an actual need.

- Establishing new minimum capital for insurance firms: five hundred million pesetas for professional reinsurers, three hundred and twenty million for the area of life insurance, a hundred and sixty million for the remaining branches, and lower figures for operating only in certain branches. These current and quite prudent figures sharply contrast with the twenty-five million pesetas in the 1954 Law for operating in all branches. Furthermore, the law adheres to the demand for a minimum margin of solvency within EEC guidelines.

- Definitively eliminating the necessity for prior approval of policies and rates for all branches, save for initial authorisation of the company, retaining the requirement that prior notice be given to the Insurance Department. This is going to be very important, being a clear case of "deregulation".

- Inexplicably, the law does not contain - as did some of its earlier drafts - the obligation to undergo an audit, nor the requirement by the Insurance Department for consolidated "financial statements" of affiliated companies, although these are items that could be developed within the "Reglamento" of the Law on the principles established by the Bank of Spain dealing with the requirement of a consolidated audit of a prestigious auditing firm.

4. Along with the publication of the Law, a "Royal Decree-Law" has been enacted that creates a Commission empowered to liquidate firms undergoing difficulties, and to advance payments to policyholders and accident victims in proportion to the assets of the insurance company being liquidated. The Commission can issue bonds that will be underwritten by insurance companies; in order to amortise these bonds and finance their expenses of the Commission, a 0.5% surcharge has been established for all insurance premiums except life.

Almost a year ago I proposed a more generous formula - which my most illustrious colleagues opposed - in order to guarantee policyholders and victims of certain kinds of accidents that their claims with some limitations would be paid even when the insurance company is insolvent. This would have required a surcharge of 1% or 1.5%. In my opinion, the formula adopted does not solve the serious present problems, and it will have a negative repercussion on the future of the Spanish insurance market.

5. The new Insurance Law has also introduced some changes in regard to insurance agents, and for the first time in Spain it has regulated the activity of reinsurance agents, which until now have not been subject to any specific legal provisions. The operation of insurance agents was regulated by a 1969 law and its 1971 "Reglamento" which limited the profession to individuals. Now the creation of companies for that purpose is authorized, with the requirement that the manager be an "approved agent" and that all of the shareholders be individuals with no "conflicts of interests".

6. In Spain, insurance activity is carried out by private insurers, but there are some cases of public insurers. The main ones are the "EMPRESA NACIONAL DE SEGUROS AGRICOLAS", the "COMPAÑIA ESPAÑOLA DE CREDITO A LA EXPORTACION" and the "CONSORCIO DE COMPENSACION DE SEGUROS". The latter is a public insurance institution on which I'd like to comment. Its origins go back to the Spanish Civil War (1936-1939), which produced a large number of claims in the non-private insurance branches, whereas the majority of insurance policies only covered the risk of mutiny or popular uprising, but not war.

   Currently, the Consorcio operates in three wide areas: catastrophic risk coverage; insuring risks of passengers using public transportation; insurance for Government vehicles and compensation for victims of traffic accidents of unknown origin or for insolvency of insurance companies. Present surcharges for coverage of catastrophic risk or property risks vary between three per cent and fifteen per cent of the premium according to the branch.

   At this time, the operations of the Consorcio are under thorough review. Recent catastrophic events that have taken place in my country (flooding in the Basque Country and in the Southeast) have led to uncertainty as to whether certain risks were covered or not by the Consorcio.

   On the other hand, strong competion and a parallel reduction of premiums for major industrial risks that have taken place during recent years have affected the Consorcio's income, which consists of a surcharge on the premium paid by policyholders. There was even a chance that the Consorcio would apply the rule of average in compensating the victims of these two great catastrophes, although at last, for political reasons, generous compensations were paid.

7. In Spain, Life Insurance has had a very limited development. In 1983, Life Insurance premiums represented only 0.23% of the gross national product, vis-à-vis 3.46% in the United Kingdom, 2.72% in the United Stes and 2.36% in West Germany. A part of this meager development was attributed to the insurance companies themselves (high rates and inadequate plans for high levels of inflation), but there have been external factors, the most important being a discriminatory tax regulation of Life Insurance, burdened down with a 5% tax on premiums, a situation that will apparently be remedied by the introduction into Spain of the Value Added Tax, which will, it appears, exempt this insurance from taxation.

   There currently exists a growing demand for Life Insurance that coincides with a concern for some difficulties arising in government Social Security, by which retirement pensions could foreseeably have to be reduced. The passing of a law regulating Pension Funds must have some effect on this situation, if the reiterated promises of the government are carried out. As far as is known, their management is reserved for insurance companies when a determined level of investment yield or predetermined capital has been assured, with freedom to create "management companies" for non-insured public funds. In my opinion, this future law will only have a significant repercussion if the tax regulation of Pension Funds is satisfactory and if it is coordinated with an extraordinarily complex and difficult Social Security reform, which I do not see as very probable.

I thank all of you for your attention. I only want to add that as I was preparing this talk on deregulation, I was strongly reminded of my father, who died twenty-seven years ago, a great lawyer and unorthodox politician who considered administrative law to be the source of evil in modern society. At the time I didn't understand his opinion, but I think its trace can be found in my remarks today, as is found in the entire "deregulation" current that is "invading" the Western society.

I trust you've clearly understood me; if not, I admire your patience.

IHL/eb
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