

INTER-AFRICAN CONFERENCE ON INSURANCE MARKETS (CIMA)

Organization, Expectations, Challenges and Outlook

I- ORGANIZATION

A/ Treaty and Member States

Treaty Signature: July 10, 1992 in Yaoundé (Republic of Cameroon):
Signature of the Treaty establishing an integrated organization of the insurance industry in the African States.

Signatories: Benin, Burkina Faso, Cameroon, Central African Republic, Comoros, Congo, Côte d'Ivoire, Gabon, Equatorial Guinea, Guinea Bissau, Mali, Niger, Senegal, Chad and Togo.

New member: Guinea Bissau, April 14, 2002 in Yaoundé.

B/ CIMA's constituent bodies

B 1°/ Council of Ministers

This is the governing body of the Conference. It:

- ensures political coherence of the institutional mechanisms;
- establishes CIMA's budget;
- appoints members of the Regional Commission for Insurance Supervision (*Commission régionale de contrôle des assurances, CRCA*) and the managers of the General Secretariat;
- defines, modifies or augments common regulations;
- interprets the provisions of the Insurance Code;
- hears appeals filed by companies against decisions rendered by the CRCA;
- holds two (2) regular meetings each year.

The Chairmanship is occupied by each Member State in rotation.

It is composed of the Finance Ministers of CIMA's Member States.

B 2°/ Regional Commission for Insurance Supervision (Commission régionale de contrôle des assurances, CRCA)

CRCA is the regulatory body of the Conference. It:

- is responsible for documents-based and on-site monitoring of insurance companies;
- provides general oversight and helps organize national insurance markets;
- expresses an opinion on licensing requests from insurance companies and their managers. The granting of such licenses by the Ministry responsible for insurance is subject to this opinion;
- ensures that the provisions of the law are respected;
- possesses the widest sanctioning powers: e.g., warnings, reprimands, limitation or interdiction of some or all operations, all other limitations in the conduct of the statutory promotion, elimination or removal of the managers responsible, statutory transfer of the policy portfolio, revocation of licenses.

The Commission can also impose fines.

National insurance oversight bodies continue to exist alongside the CRCA. Each Member State has a National Insurance Directorate (*Direction Nationale des Assurances*, DNA). The DNA constitutes the relay point for the actions and decisions of the Commission. It has general and specific attributions defined in Annex II of the Treaty, which are:

- promotion of the insurance sector;
- safeguarding of the interests of insured parties and of beneficiaries of insurance and capitalization contracts;
- protection of savings held by insurance companies;
- serving as expert and advisor of first resort in the area of insurance vis-à-vis the national political authorities;
- general supervision of the market;
- enforcement of the single set of regulations within the national territory;
- study of insurance policies intended for the public, and approval thereof;
- monitoring of litigation between insurers or between insurers and insured parties or policy beneficiaries;
- communication to the Commission of all information on the status of companies and the market, so that the Commission can make the appropriate decisions;
- technical oversight of companies, the results of which it conveys to the Commission;
- exclusive responsibility for organization and monitoring of the activities of insurance intermediaries (e.g., brokers and general agents, etc.) and

technical experts who help handle claims and properly execute policy contracts;

- preliminary examination of license application dossiers submitted to the Commission.

The National Insurance Directorate (DNA) may also manage policy contracts underwritten by the State and ensure that their clauses are properly worded.

B 3°/ The General Secretariat

This is the organization's permanent body. It prepares, organizes, implements and monitors the work of the Council of Ministers and of the Regional Commission for Insurance Supervision (*Commission régionale de contrôle des assurances*, CRCA).

It possesses a cadre of inspectors (*commissaires contrôleurs*) who carry out documents-based and on-site monitoring tasks; their reports are submitted to the Commission.

- It should be emphasized that the dossiers submitted by the General Secretariat to the Council of Ministers are first examined by a committee of experts composed essentially of one representative per Member State and two representatives of the profession. The expert committee expresses an opinion on each of the questions figuring on the agenda of the Council of Ministers.

N.B: The CIMA Treaty has opted to preserve the following institutions as autonomous bodies:

The International Insurance Institute (*Institut international des assurances*, IIA) in Yaoundé, which specialized in insurance training;

The Regional Reinsurance Company (*Compagnie commune de réassurance des états membres de la CICA*, CICA-RE.) This is the common reinsurance agency of the Member States.

II- MAIN OBJECTIVES

- a) create conditions conducive to the healthy and balanced development of insurance companies;
- b) foster investment in the economy of their country or the region, general technical and mathematical provisions, by means of insurance and reinsurance operations;

c) foster the creation of a broader and more integrated market under the most favorable technical conditions for insurance;

d) train managers and technicians in the insurance field.

In order to better understand CIMA's objectives, one should recall the mindset and situation that prevailed on markets and within oversight agencies shortly before CIMA's creation.

A/ Oversight of insurance agencies prior to the creation of CIMA

A 1-Status of regulations and structures

Insurance business conducted in each country was subject to the oversight of the State in question.

Provisions for this oversight, which was entrusted to the Minister of Finance, were set out in a legal text dating, in most cases, from the early 1960s.

Indeed, in most countries, the insurance business was regulated in a rudimentary, incomplete and archaic manner.

Contract law was based on the French law of July 13, 1930. Regulation of insurance intermediaries was practically non-existent.

Solvency requirements, when they existed, were limited solely to investments. The notion of a solvency margin was unknown.

Procedures for the safeguarding and rehabilitation of companies were seldom envisaged.

Finally, there were no defined accounting rules applicable to insurance companies.

From a structural standpoint, oversight of the insurance business, which was generally situated within a larger General Directorate -- e.g., of the Treasury, of Taxation or one including banking -- was bereft of material and human resources.

Added to this was the erosion of the authority of national oversight mechanisms, due to all sorts of pressures, and particularly those exerted by companies in difficulty, which were hostile to rehabilitation measures.

A 2- Status of national markets

The loss of credibility of the national oversight authority and the dearth of legal, material and human resources resulted, in most of our countries, in a more or less generalized lack of oversight of insurance companies and intermediaries.

A lack of discipline and professionalism then arose, as evidenced by disorderly competition (e.g., suicidal rate wars and sales on credit), excessive overhead, and ill-adapted, costly reinsurance. These ills caused profound imbalances within companies, imbalances which were exacerbated by nearly-negative rates of return on investments and fanciful damage awards by courts, especially in cases involving physical injuries resulting from traffic accidents.

The resulting financial deterioration affected almost all companies, some of which went bankrupt.

In sum, at the time that the CIMA Code went into effect in 1995, the CIMA market as a whole suffered from a deficit of about 38.12 percent in the coverage of regulated commitments. The reorganization of the insurance sector thus emerged as the primary task awaiting CIMA.

It was in this context, then, and with the help of nascent democratic trends, that governments felt a need to establish a rule of law capable of ensuring the legal and financial security of investments and of consumers, by promoting a legal and regulatory environment conducive to business development.

The movement thus set in motion was closely linked to the economic integration process resolutely embarked upon by the African States.

Thus, the following organizations were created at about the same time as CIMA:

- the Organization for the Harmonization of Business Law in Africa (*Organisation pour l'harmonisation du droit des affaires en Afrique*, OHADA);
- the Inter-African Conference on Social Security (*Conférence Interafricaine de la Prévoyance Sociale*, CIPRES), which deals with social security issues;
- The Observatory for Economics and Statistics in Sub-Saharan Africa (*Observatoire statistique africain*, AFRISTAT), which gathers and analyses economic and financial statistics.

In short, CIMA is an international organization whose main objective is the creation of a wider and healthier market, which is the first step toward the establishment of a single insurance market. In order to achieve this goal, it relies

upon a single set of laws and a single oversight authority to which all of the fourteen Member States have transferred nearly all of their powers.

It seems opportune at this point to provide a brief overview of the Insurance Code, which is the working tool of the Commission and of the National Insurance Directorates.

B/ CIMA Code

The CIMA Code is an attempt to adapt to socio-cultural constraints and to the requirements of international standards.

In order to take both of these parameters into account, the Council has already had to modify eight-four (84) Articles, out of a total of 445 Articles.

The Code consists of six (6) books:

- Book I, on policy contracts, regulates relations between the insurer and the insured, and generally protects the interests of the latter;
- Book II, on compulsory insurance, deals in particular with general-liability automobile insurance, for which it sets out rules. Its specificity is that it establishes a scale of compensation for physical injury, capping damage awards to victims and their assigns.
- Book III deals with insurance companies;
- Book IV covers accounting rules applicable to insurance companies;
- Book V covers general agents, brokers and other insurance and capitalization intermediaries;
- Book VI deals with specific insurance agencies.

CIMA's Insurance Code addresses in Book III the solvency of insurance companies in the interest of the insured and of policy beneficiaries.

By virtue of this fact, it regulates the life-cycle of insurance companies, from their licensing and normal operations to their liquidation.

B 1- Licensing

The Code requires any insurance company wishing to operate in a CIMA Member State to obtain a license. It sets out clearly the conditions to be fulfilled in order to achieve this.

The requirement of a minimum capital base and of a coherent and credible activity program based on financial statements projected over three years is crucial, and ensures the solvency of the enterprise over that time period.

The Code requires highly detailed information on stockholders, documentation of the integrity of administrators (Article 328-4), and of the academic and professional qualifications of managers as well as of their integrity, for which it prescribes licensing like that of the insurance company itself (Article 329).

Along the same lines, managerial changes are also subject to the authorization of the Minister responsible for insurance in the country in question, after the issuance of a certified opinion by the Commission for Insurance Supervision (Article 306).

The same is true, in the area of company oversight, of a transfer of shares exceeding 20 percent of the capital or resulting in the acquisition of majority voting rights. Such oversight requires not only that the new acquirer be provided with detailed and in-depth information, but also the prior authorization of the Minister in charge of the insurance sector.

Regarding foreign companies, i.e., those that are not headquartered in the countries in which they are seeking a license, the CIMA Code requires, in addition to the documentation and information requested from a company based in a Member State, the designation of a General Correspondent -- a natural person authorized to speak for the company at the local level -- as well as a certificate issued by the relevant administrative authority attesting to the fact that the company is constituted and operates in its home country in accordance with the laws of that country.

B 2- Governance of the insurance company

In the area of corporate governance, CIMA regulations are more explicit with regard to mutual companies (*sociétés mutuelles*), for which it sets out the modalities of their constitution, the legally-mandated declarations, their administration, the roles and responsibilities of members of their Boards of Directors and Auditors, and the functioning of their General Assemblies.

On the other hand, the governance of a public limited insurance company (*société anonyme d'assurance*) is less defined by CIMA regulations. While the regulations do contain fragmentary references to the licensing of managers, capital, the special relationship with the Auditors, and documents issued, they say nothing about the various constituent bodies of the company, their way of operating or their responsibility.

Thus, for all matters related to a special area of the law not covered by CIMA regulations, the oversight authority shall refer to the Uniform Act of the OHADA, which is applicable to the general area of business law.

B 3- Solvency of a functioning insurance company

Although the legislation allows for the existence of foreign companies (Article 328-6 of the CIMA Code), they no longer exist on the CIMA market.

Nevertheless, the legislation requires all companies operating on CIMA territory (be they companies established under national law (*sociétés de droit national*) or branch offices) to cover their regulated commitments in accordance with the same rules.

On the other hand, foreign companies are not subject to the solvency margin requirement, even though this is not explicitly stated in the CIMA Code.

a) Assets

The regulations of CIMA member countries establish the rules pertaining to the localization (Article 335), valuation (Article 335-11; 335-12 and 335-13), diversification (Article 335-1) and dispersion (Article 335-4) of a portion of the asset side of the balance sheet at least equal to the debt vis-à-vis the insured parties and policy beneficiaries, to which are added the debt vis-à-vis the State, personnel, the security deposits of agents, insured parties and third parties, and a welfare provision for employees and agents. Finally, it defines the minimum liquidity level for a life/capital insurance company (Article 335-2) as well as for a loss/damage insurance company (Article 335-1) and sets the limits for admissibility of premium arrears for the coverage of regulated commitments. (Article 335-3).

b) Liabilities

CIMA legislation enumerates and defines the various technical provisions. It also defines the methods for calculating them.

The level of reinsurance credit to be deducted from the technical provisions is limited to cash deposits lodged by re-insurers with the assignor (Article 335-5).

In general, the accounting plan, which constitutes Book IV of the CIMA Code, details all the items on the asset side of the balance sheet of an insurance company operating in our region.

It provides model formats for statistical and accounting statements to be submitted by insurance companies.

In addition, Book V of the Code sets out the rules applicable to insurance intermediaries (e.g., brokers and general agents), the qualifications required of them, conflicts of interest, the assurances that they must offer to guarantee the security of the insured parties (financial guarantee: Article 524 of the Code) and to protect themselves.

This is the case for brokers, who must be insured against the monetary consequences of acts arising from their professional activity.

This legal mechanism pertaining to intermediaries was augmented, as of September 25, 2002, by an instruction manual on the oversight of insurance intermediaries. It will be complete with the addition of a Code of Professional Ethics, the development of which will be on the agenda for the 2004 fiscal year.

B 4 - Liquidation

As of April 24, 1999, CIMA legislation extends the Commission's oversight authority to include insurance companies undergoing liquidation. It is involved in the choice of the liquidator as well as in overseeing the conduct of the liquidation up to the point of closure.

III- CHALLENGES AND ACHIEVEMENTS OF CIMA

One of the greatest qualms, at the time that CIMA was being created, had to do with the coordination of activities between the National Insurance Directorates (within the Member States) and the Commission. Then, doubts were entertained as to whether the National Directorates would apply the Commission's decisions in the field. Finally, would the Commission be able to perform regular and adequate monitoring to the satisfaction of all States?

A- Coordination of tasks

The first misgiving was all the more justified since a reading of the statutory texts reveals that there was a certain overlap between the purviews of the National Insurance Directorates and those of the Commission. The same is true of the organization and monitoring of markets, the licensing process for insurance companies, monitoring of policy contracts, etc.

In practice, coordination of interventions has proved to be excellent, even in spheres of activity confined exclusively to the Commission or to the Council of Ministers. This is the case, for example, in the regulatory arena, in which the States were limited to the role of enforcers. In actual practice, the National Insurance Directorates are closely involved in drawing up legislation, through the comments that they are called upon to make on drafts prepared by the

General Secretariat, as well as through their participation in the Experts Committee.

The complementarity of the roles of the National Insurance Directorates and the Commission is particularly evident in the area of licensing

When a company requests an initial license or a license extension for one of the branches provided for under the regulations, it must submit to the Minister and to the Commission a dossier as described in the Insurance Code, including in particular an activity program covering its first three fiscal years.

The National Insurance Directorate pre-processes the dossier -- including verification of the authenticity of the attached documentation, the extent to which statistical data conform to market averages, and the project's feasibility given market conditions – and then conveys it to the Commission.

The Commission then processes the dossier and convenes with a representative of the relevant Minister.

If the judgment of the Commission is favorable, the company and the Minister are notified to that effect. This judgment is binding upon the Minister.

In the event of an unfavorable decision, the company has fifteen (15) days in which to submit its comments. If the Commission's decision is still unfavorable, the company may file an appeal with the Council of Ministers. If the Commission's decision is favorable, it is the Minister's responsibility to grant the license in the format stipulated by the relevant State.

B- Enforcement of measures taken by the Commission

Under the Treaty, the Commission possesses complete jurisdiction over rehabilitation measures, the friendly or statutory transfer of portfolios, and sanctions. All of these measures and sanctions are applicable to all companies, be they those of a Member State or foreign companies.

The measures and sanctions applied by the Commission are implemented in the field by the National Insurance Directorates (DNA). Contrary to any misgivings there may have been, the DNAs have thus far acquitted themselves of this responsibility with integrity.

C- Have CIMA's constituent bodies done their jobs, despite the problem of distance?

Since February 15, 1995, the date on which the Insurance Code went into effect, the Council of Ministers, at the suggestion of the General Secretariat and in order to take market realities into account, has proceeded to modify eighty-four (84) Articles out of a total of 449 Articles.

It has had to examine and reject six (6) appeals to revoke sanctions imposed by the Commission, of which five deal with license revocations and one with the placement of an insurance company under temporary administration.

In addition, the Council has issued legal opinions in response to about twenty requests for interpretation of certain Articles of the Insurance Code.

As for the Commission, over the same period it has had CIMA's inspectors perform nearly two hundred twenty (220) on-site supervisions of insurance companies operating in member countries, for an average of fewer than thirty companies per year, out of a current total of one hundred eight (108) companies operating in the territory where it has jurisdiction.

These supervisions were carried out by a corps of five (5) inspectors, whose numbers were recently increased to seven (7).

The result is that, at present, an inspector is responsible for more than fifteen companies. This average might be acceptable were it not for the fact that the companies in question are generally ones in difficulty.

This monitoring has nonetheless enabled the Commission to gauge the financial status of companies and, if necessary, and subsequent to adversary proceedings, to implement rehabilitation or preservation measures or to impose sanctions in accordance with regulations.

C-1 Preservation and rehabilitation measures taken

In order to preserve the interests of the insured parties and policy beneficiaries, the following measures have been taken:

- a) Companies placed under permanent oversight

Nine (9) companies have been placed under permanent oversight. This restriction is to be lifted as soon as the company re-establishes satisfactory operating conditions.

b) Companies placed under provisional administration

The Commission has suspended the managers of ten (10) companies and has appointed provisional administrators empowered to administer and manage the companies in question.

c) Companies placed under a financing or recovery plan

The Commission has placed sixty-three (63) companies under either a financing or a rehabilitation plan, according to whether their problem was an inadequate solvency margin or a failure to cover regulated commitments.

C-2 Sanctions

If a company is not operating in accordance with regulations, the Commission imposes sanctions, which can range from a warning to license revocation.

The Commission has issued three (3) warnings and three (3) reprimands to the managers of certain companies.

In addition, it has totally revoked the licenses of sixteen (16) insurance companies whose stockholders were unable to come up with ways to restore their companies' solvency.

Over the same period, it has issued favorable judgments in response to forty-eight (48) licensing requests.

C-3 Results obtained

Overall, the market has achieved equilibrium over the last two fiscal years. Indeed, the operation of CIMA's insurance market has generated a net profit of CFAF 8.4 million, representing 2.6 percent of its turnover in 2001. Management ratios are showing definite improvement. The claims/premiums ratio went from 68.3 percent in 2000 to 56.2 percent in 2001, with no sign of any under-provisioning. The loading rate (commission + overhead), which stood at over 46 percent in 1995, went from 34.4 percent in 2000 to 34 percent of premiums issued in 2001. For nearly five years, market turnover has been growing steadily at 7 percent, a rate well above the economic growth rate for the region, which is about 3.5 percent.

From the standpoint of solvency, the rate of coverage of regulated commitments, although still in deficit, has been increasing steadily. It went from 95 percent in 2000 to 96.7 percent in 2001, as compared to 61.88 percent in 1995.

The surplus solvency margin of the CIMA market went from CFAF 79.6 billion in 2000 to CFAF 67.8 billion, or the equivalent of 103,360,434 euros, in 2001. Thus, there has been a 14.8 percent decrease.

Nevertheless, in 2001 the amount of the margin -- CFAF 109.5 billion, or 166,931,674 euros -- still represented over two and one-half times the legally mandated margin (which is CFAF 41.6 billion, or 63,418,792 euros).

It should be pointed out that appropriate oversight of the market by CIMA, in combination with greater professionalism on the part of managers due to more rigorous eligibility criteria for those posts, has generated this sampling of results observed over the past few years.

The renewed credibility of the insurance sector may explain, if only partially, the sustained growth in turnover since 1996.

To sum up, the Member States of the Inter-African Conference on Insurance Markets (CIMA) are, as you undoubtedly know, small countries with very scant resources.

The scarcity of human and financial resources was not conducive to the emergence of an effective national oversight function. The involvement of the same men and women in the spheres of financial, economic and political decisionmaking presents a serious obstacle to the independence of a regulatory agency at the national level.

The transfer of national regulatory powers to a single, distant, community-wide body that is not answerable to any government in particular, but instead to the Council of Ministers, i.e., to all of the member governments, undoubtedly provides a guarantee of CIMA's independence.

In addition, the pooling of financial resources for what is essentially a common oversight program, implemented by a corps of sworn-in inspectors selected at the regional level solely on the basis of their competence, ensures greater efficacy in terms of the level of technical competence.

It also guarantees the confidentiality required of any financial regulatory agency.

Moreover, a single body of legislation that endeavors faithfully to adhere to the criteria of the International Association of Insurance Supervisors (IAIS), and which applies to all Member States and all companies, be they branch offices of international groups or companies of which the majority of stock is held at the national or regional level, is a guarantee not only of transparency for those operating in the insurance sector and other economic investors in the region, but also of fairness.

The diversity of the membership of the General Secretariat and of the corps of inspectors, as well as the wide and diverse make-up of the Regional Commission for Insurance Supervision (CRCA), provides additional assurance that the decisions rendered will be equitable.

However, even though the distancing of the oversight authority from the market is a great advantage in the specific case of CIMA's Member States, it necessarily becomes costly in terms of the on-site supervision missions that are essential for totally effective oversight of the sector.

IV- OUTLOOK

A/ Human and financial capacities

In order to maintain an acceptable level of market oversight, CIMA's human and technical resources will need to be developed over the next three years. Thus, the number of inspectors will need to increase from seven (7) to ten (10), at least three of whom will need to be actuaries.

Over the medium term, it will be necessary to increase the volume of on-site supervisions in order to maintain pressure on the markets. Thirty supervisions per year for a total of 108 companies are obviously not enough. This is a budgetary effort that the States must make quickly in order to maintain our organization's credibility.

B/ Studies and measures

From a technical standpoint, the General Secretariat is currently engaged in a process of reflection on the gradual introduction of a single insurance market, which is the ultimate goal of CIMA. With this in mind, two draft legal texts, one tending to advocate a single licensing regime and the other a co-insurance system at the regional level, will be presented at the next meeting of the Council of Ministers.

We are convinced that regional-level co-insurance for major risks that exceed national coverage capacities, combined with a considerable increase in the

capital base of insurance companies, is the only way to achieve significant premium retention in the CIMA zone.

Moreover, the complete relaxation of legislation in the area of undifferentiated investment of assets outside the risk-underwriting country, but still within other member countries of the zone, will be an important step toward the creation of the single market envisaged for the year 2010.

That, however, is a policy decision to be made by the Ministers, and an area in which the banking sector is considerably more advanced than our industry.

While waiting for that to occur, we have been trying for the past two years to promote the adoption of a harmonized fiscal policy applicable to the insurance business in all Member States.

In addition, given the weight of older insurance groups in the markets and the emergence of new groups, the General Secretariat is concerned with promoting the adoption of oversight standards geared to assessing the coverage of regulated commitments and the solvency margin at the group level.

Finally, the General Secretariat plans within the next few years to institute a minimum level of oversight of reinsurers.

The idea will be to monitor the solvency of regional reinsurers, such as AFRICA-RE (the African reinsurer), CICA-RE and even SEN-RE (the Senegalese reinsurer), which profit from legal cessions of local companies, and to ask company managers to demand financial rating certificates from other international reinsurers who operate within CIMA territory.

This should be seen not as a market protection measure, but instead as a precaution.

Indeed, given the harsh conditions that have prevailed for nearly two fiscal years in the international reinsurance sector (e.g., fee hikes, coverage limitations, exclusions, etc.), local ceding companies could be sorely tempted to resort to unreliable reinsurers.

It goes without saying that all these studies and measures mean that a regional organization must engage in broad-based consultations in order to arrive at a consensus of Member States, while at the same time remaining faithful to international standards and practices, where these exist.

Thank you.