

**GAO**

Report to the Chairman, Subcommittee  
on Trade, Committee on Ways and  
Means, House of Representatives

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September 1999

# INTERNATIONAL TRADE

## Implementation and Monitoring of the U.S.-Japan Insurance Agreements



**G A O**

Accountability \* Integrity \* Reliability

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**Abbreviations**

ACCJ	American Chamber of Commerce in Japan
ACLI	American Council of Life Insurance
AFLAC	American Family Life Assurance Company
AIG	American International Group
FSA	Financial Supervisory Agency
JFTC	Japan Fair Trade Commission
MOF	Ministry of Finance
MOFA	Ministry of Foreign Affairs
NEC	National Economic Council
USTR	U.S. Trade Representative
WTO	World Trade Organization



United States General Accounting Office  
Washington, D.C. 20548

National Security and  
International Affairs Division

B-283294

September 24, 1999

The Honorable Philip M. Crane  
Chairman, Subcommittee on Trade  
Committee on Ways and Means  
House of Representatives

Dear Mr. Chairman:

The Japanese insurance market is the world's second largest after the United States, with \$334 billion in annual premiums in Japanese fiscal year 1997. The foreign share of this market in Japan is 3.7 percent, compared to a foreign share of the U.S. insurance market of 10.7 percent in 1996.<sup>1</sup> In order to improve foreign access to the Japanese insurance market, the United States and Japan have signed two bilateral insurance agreements, in 1994 and 1996.<sup>2</sup> The United States had two key objectives in negotiating these agreements: (1) to ensure that Japan deregulated its primary insurance market, comprised of life and non-life (property/casualty) insurance and (2) to ensure that Japan provides U.S. companies with a reasonable period of time to compete in a deregulated primary sector before opening the "third" sector to increased Japanese competition where U.S. firms have a substantial presence. The third sector is comprised of specialized life and non-life products such as cancer, hospitalization, and personal accident insurance.

In light of concerns that have been raised with your Subcommittee about the agreements' implementation and the executive branch's actions related to enforcement of the agreements, you asked us to examine (1) the views of U.S. insurance companies operating in Japan regarding the agreements' implementation and impact on their ability to compete in the Japanese

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<sup>1</sup>For more information on the Japanese insurance market, see *U.S.-Japan Trade: The Japanese Insurance Market* (GAO/NSIAD-99-108BR, Mar. 15, 1999). This report provides details on the size of the Japanese insurance market, U.S. insurance company participation in and concerns regarding that market, and time lines of recent events affecting the market.

<sup>2</sup>These agreements, "Measures by the Government of the United States and the Government of Japan Regarding Insurance," October 11, 1994, and "Supplementary Measures by the Government of the United States and the Government of Japan Regarding Insurance," December 24, 1996, can be viewed from the following Department of Commerce World Wide Web site: <http://www.mac.doc.gov/japan/source/menu/menu.html> (cited Sept. 13, 1999).

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market; (2) the roles and efforts of the Office of the U.S. Trade Representative and the Departments of Commerce, State, and the Treasury in monitoring and enforcing the agreements, and U.S. government views on whether Japan has met its commitments under the agreements; and (3) U.S. insurance industry views on U.S. government monitoring and enforcement efforts. As you requested, we are also providing you with information on U.S. government actions related to one U.S. insurer and its Japanese partner, including the creation of a limited exception to the 1996 agreement and our views on certain aspects of this exception. (See app. IV).

In conducting our work, we prepared a survey that builds upon a similar survey we created in 1996 for all U.S. insurance providers operating in Japan. (See app. I). For this report, we surveyed the 13 U.S. majority-owned insurance companies operating in Japan. In addition, we surveyed the three U.S. brokers recently licensed in Japan.<sup>3</sup> Detailed company and broker survey results are discussed in appendix II. We also met with senior U.S. and Japanese government and industry officials in Japan and the United States.

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## Results in Brief

Our 1999 survey of the 13 U.S. insurance companies and 3 brokers in Japan revealed that all but 2 think that Japan has made moderate or better progress<sup>4</sup> overall in implementing the 1994 and 1996 insurance agreements. Our analysis of survey results shows that Japan has met most of its transparency (openness), procedural protection, and deregulation commitments. Overall, most U.S. companies reported that the agreements have had a positive effect on their ability to compete in Japan. This view is

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<sup>3</sup>Five of the 13 U.S. majority-owned insurers in Japan are life insurers, while 8 are non-life insurers. Three of these 13 companies are owned by American International Group (AIG), and 2 were owned by CIGNA Corporation at the time of our survey. CIGNA's property/casualty company in Japan was sold to ACE INA effective July 1999. Two U.S. insurance providers (American Family Life Assurance Company [AFLAC] and AIG) accounted for 81 percent of all U.S. insurance premiums generated in Japan in fiscal year 1997. Of the three brokers included in our survey, one is a British company whose shareholders have been primarily other U.S. companies since November 1998. Brokers are intermediaries between individuals or entities purchasing insurance products and insurance providers. Brokers provide another distribution channel for insurance products and promote competition in the marketplace.

<sup>4</sup>Specifically, in our survey these companies reported that Japan had implemented the provisions of the two agreements to a "moderate," "great," or "very great" extent.

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more positive than what companies reported in our 1996 survey.<sup>5</sup> Nevertheless, almost half the companies expressed concerns over Japan's implementation of key commitments such as expediting approval of insurance products and rates and limiting the activities of large Japanese companies in the specialized third sector.

The Office of the U.S. Trade Representative is the principal agency responsible for monitoring and enforcing the insurance agreements, with assistance primarily from the U.S. embassy in Tokyo. The U.S. Trade Representative also receives assistance from the Departments of Commerce and State, with a lesser level of assistance by the Departments of the Treasury and Justice. The U.S. Trade Representative and U.S. embassy monitoring efforts include obtaining information on the agreements' implementation from industry groups and individual U.S. insurance companies, as well as consulting with the Japanese government. In conducting their monitoring and enforcement work, U.S. government officials have noted Japanese progress in implementing the agreements. However, they have also identified a few issues, which are similar to those cited by some U.S. companies, where they believe Japan has not fully met its commitments. Japan, on the other hand, believes that it has fully implemented both agreements.

More U.S. insurance companies expressed favorable views of U.S. government actions to monitor the insurance agreements than reported favorable views of enforcement efforts. About half (7 of 13) of all U.S. insurers and 2 of the 3 brokers we surveyed reported that U.S. government efforts to monitor the agreements have been effective; with regard to enforcement, about one-third of the companies and no brokers reported that U.S. government efforts have been effective. Around one-third of the companies reported that U.S. government monitoring and enforcement efforts have been as effective as ineffective. Three major U.S. insurers expressed concerns over U.S. government monitoring and enforcement

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<sup>5</sup>Our 1996 survey of U.S. insurance companies operating in Japan found that while these companies reported that many provisions of the 1994 agreement had been implemented to varying degrees, the agreement had little effect on their ability to compete in the Japanese market. U.S. firms noted their continued inability to differentiate the types of coverage they could offer and to set the rates they could charge. For more information on the results of this survey, see *U.S.-Japan Trade: U.S. Company Views on the Implementation of the 1994 Insurance Agreement* (GAO/NSIAD/GGD-97-64BR, Dec. 20, 1996). Further, comparisons between the results of our 1996 and 1999 surveys are contained in appendix II.

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efforts concerning the protection of various U.S. company interests in the third sector.

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## Background

The first U.S.-Japan insurance agreement was signed on October 11, 1994, and was concluded under the United States-Japan Framework Agreement.<sup>6</sup> In negotiating the insurance agreement, the U.S. government sought to establish that deregulation of the large primary sector of the Japanese insurance market, where U.S. firms had experienced only limited success, would be required before deregulation of the smaller third sector, where foreign companies have a substantial presence, would occur. According to the Office of the U.S. Trade Representative (USTR), while the third sector accounted for roughly 5 percent of the total Japanese insurance market in Japanese fiscal year 1997, foreign market share for this sector was over 40 percent—much higher than in the traditional, primary insurance market. U.S. government and industry officials believed that the lack of U.S. company success in the larger primary sector was the result of a heavily regulated environment that did not allow for new market entry, product innovation, or price competition.

In the 1994 agreement, the United States met its negotiating objective of establishing that primary sector deregulation would be required before third sector deregulation would occur. Under the agreement, Japan agreed to avoid “radical change” in the third sector until foreign insurance companies were granted a “reasonable period” to compete in a significantly deregulated primary sector market, although the terms “radical change” and “reasonable period” were not defined in the agreement. The agreement recognized that Japan was in the process of reforming its insurance sector, noting that the reform would be based on promoting competition and enhancing efficiency through deregulation and liberalization. Consistent with this reform initiative, the agreement included specific commitments by Japan to deregulate the primary sector. For example, the agreement provided that insurance companies would be afforded greater flexibility in establishing the price (rate) they would charge to customers for certain product lines. In addition, the agreement stated that Japan would expedite and simplify the application review process for the approval of insurance

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<sup>6</sup>The United States-Japan Framework for a New Economic Partnership (“Framework Agreement”) was signed by the two countries in 1993. Under the agreement, the United States and Japan agreed to focus on eliminating sector-specific and structural market access barriers and addressing macroeconomic issues.

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products and rates by gradually introducing expedited approval systems for certain products. Japan also agreed to make its regulatory process more transparent by, for example, publishing and making publicly available the standards that insurance regulators will apply in reviewing applications for approval of new insurance products.

During subsequent negotiations in 1996, the two governments reached an interim understanding in September, in which Japan agreed to allow direct sales of automobile insurance to consumers by mail or telephone and established restrictions on sales by subsidiaries of large Japanese insurers of some third sector insurance products. The commitment to allow direct sales of automobile insurance is referred to in the final December 1996 agreement (discussed below), while third sector commitments were largely superseded by measures contained in the December 1996 agreement.

The second agreement was signed on December 24, 1996. This agreement was negotiated in response to U.S. insurance company concerns that the Japanese government was preparing to allow large Japanese insurers increased access to the third sector through their subsidiaries in violation of the 1994 agreement. The 1996 agreement further defined restrictions on third sector entry by Japanese companies, and it clarified when these restrictions would be lifted by more explicitly linking them to substantial deregulation of Japan's larger, primary sector. Specifically, the agreement listed five deregulation criteria for the primary sector that would have to be met by July 1, 1998, in order to start a 2.5-year countdown toward opening the third sector no later than 2001. These criteria reflected specific deregulation commitments in the agreement, such as allowing for greater pricing flexibility for automobile insurance and applying a system to expedite marketing of additional products. The two governments recognized that if, on July 1, 1998, there were disagreement about whether the criteria had been met, each side would be able to act in accordance with its own view of whether the criteria had been met. The U.S. government has stated that, in the case of disagreement over implementation, it can invoke various trade remedies.

On July 1, 1998, USTR announced that, in its view, Japan had not fully implemented key agreement commitments including two of the five primary sector deregulation criteria. As a result, USTR did not (and still does not) support initiation of the 2.5-year countdown to open the third sector to increased competition in 2001. The Japanese government stated that it believed it had fully implemented all commitments, including the five primary sector deregulation criteria. Thus, in its view the 2.5-year "clock"

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began on July 1, 1998, and restrictions on the ability of large Japanese insurance companies to operate in the third sector will be lifted on January 1, 2001.

The agreement also contains a commitment by Japan to take steps to increase the number of staff responsible for processing insurance applications.

In 1998, Japan enacted legal and regulatory changes that affected the insurance industry:

- Japan reorganized its financial regulatory system and created the Financial Supervisory Agency (FSA). Responsibility for licensing, application processing, surveillance, and inspection of the insurance industry was shifted from the Ministry of Finance (MOF) to FSA in June.
- Japan agreed to include most of the commitments contained in the 1996 agreement as part of its obligations in the World Trade Organization (WTO) financial services agreement. The WTO can therefore be a forum for resolving disputes related to these commitments. The commitments, which were codified in Japanese legislation that took effect on July 1, 1998, included deregulating the primary sector and restricting sales of certain third sector products by Japanese insurers.

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## **Companies Reported Most Commitments Met and Believe Agreements Improve Their Ability to Compete, but Some Concerns Remain**

In our January 1999 survey, almost all of the U.S. companies (12 of 13) and brokers (2 of 3) operating in Japan reported that overall, the Japanese government had implemented the 1994 and 1996 agreements to a moderate or greater extent. Our analysis of company responses to our survey indicates that the Japanese government has implemented most of its commitments to improve transparency and procedural protections and deregulate the insurance market. Most of the companies (10 of 13) and brokers (2 of 3) reported that both agreements had enhanced their ability to compete in Japan, and a few companies attributed increased sales and market share to actions taken by Japan under the agreements. Companies, however, reported that a few of the agreements' commitments in the areas of transparency, deregulation, and third sector protections had not been fully implemented.

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## Most Transparency and Procedural Protections Commitments Met

The 1994 agreement included specific commitments by the Japanese government to provide greater regulatory transparency and improve application processing procedures. Our analysis of company responses to our survey indicates that most of these commitments have been implemented. For example, most companies (10 of 13) reported that they have been given meaningful access to insurance regulators. Further, 10 companies reported that they had received equal treatment in insurance industry groups. Ten companies also reported that they were not required to coordinate their applications with other insurance providers (which may be potential competitors) and that acceptance of their applications had not been conditioned or delayed based upon whether they consulted with other insurance providers, which had been experienced by some U.S. companies in the past.

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## Most Deregulation Commitments Met

Our analysis of company responses to our survey indicates that Japan has implemented most of its deregulation commitments in the 1994 and 1996 agreements. Moreover, companies reported that several specific commitments had been fully implemented.<sup>7</sup>

As part of the 1996 agreement, the Japanese government agreed to meet five deregulation criteria: (1) processing applications for differentiated types of automobile insurance within a 90-day period, (2) further liberalizing commercial fire insurance, (3) expanding the “notification system,”<sup>8</sup> (4) removing the requirement to use insurance rates calculated by rating organizations, and (5) processing applications within a 90-day period for differentiated products or rates. The first four criteria apply only to non-life insurers, while the fifth criterion applies to both life and non-life insurers. According to the agreement, once all of these criteria are met, the 2.5-year countdown toward opening the third sector to increased competition will begin.

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<sup>7</sup>In these instances, the commitments were considered met by all companies expressing an opinion.

<sup>8</sup>Under Japan’s notification system, a company notifies to the government its intention to offer a specific product/rate in categories of risk that have been designated by Japan as eligible to use the system. The company then waits 90 days while the notification is reviewed by the government. If, after 90 days, no disapproval is received, the company can then consider the product/rate approved and begin to offer it.

In our January 1999 survey, companies reported that the Japanese government had largely met the five primary sector deregulatory criteria. All but one of the U.S. non-life companies expressing an opinion reported that Japan had met the four criteria that apply only to non-life products (processing of differentiated auto insurance within 90 days, further liberalization of commercial fire insurance, expansion of the notification system, and removal of the requirement to use rating organization rates). This one company reported that expansion of the notification system was incomplete.

Regarding the fifth criterion that requires approval of applications for differentiated products or rates within a standard 90-day processing period and applies to all insurance companies, over half of the companies (7 of 13), representing almost 60 percent of U.S. premiums in Japan, reported that the Japanese government had met this commitment.<sup>9</sup> This view is consistent with our survey data on application processing, which showed that of all approved applications submitted by U.S. insurance companies since completion of the 1996 agreement, 95 percent were approved within 90 days of submission, while 5 percent took more than 90 days to receive approval (though this information is insufficient for determining whether these last cases constitute violations of the agreement).<sup>10</sup>

In addition, the 1994 and 1996 agreements included commitments by the Japanese government to improve the distribution of insurance products through the approval of a direct response system (for example, marketing over the telephone) for automobile insurance and the licensing of brokers. We found that the Japanese government implemented these commitments.

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<sup>9</sup>Company shares (percentage) of total U.S. premiums generated in Japan were calculated using premium data for Japanese fiscal year 1997 (Apr. 1997-Mar. 1998). Two surveyed companies did not have sales in 1997 and were assigned a zero weight for computing the premium proportions.

<sup>10</sup>Under Japanese regulation, the 90-day period can be suspended if the agency responsible for processing applications requires a company to revise or supplement information on an application. For these cases, we have no information as to whether the 90-day period was suspended.

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**Japan's Deregulatory  
Actions Promote  
Opportunities for Some U.S.  
Firms**

Most companies reported that the overall deregulatory actions taken by Japan to implement both the 1994 and 1996 agreements had a generally positive effect on their ability to compete in Japan, and several cited specific examples of being able to introduce new products or rates that they viewed as beneficial. For instance, one non-life insurer reported that obtaining approval to offer a differentiated type of automobile insurance had a very positive effect on its ability to compete in Japan. Also, two companies viewed the increased liberalization of commercial fire insurance and the expanded notification system as positive.

Concerning Japan's actions to improve distribution channels for insurance, of the three non-life insurers who had received approval to offer automobile insurance through the direct response system, one reported that this method of distributing insurance products had a very positive effect on its ability to compete in Japan. In addition, two of the three brokers reported that the Japanese government's decision to recognize brokers had a very positive effect on their ability to compete in Japan, though about half of the insurance companies reported that this event had no effect. However, all brokers told us that they continued to face certain obstacles in Japan, including a lack of price and product differentiation, restrictions on the types of products they can offer, and restrictions on the structure of their business operations.

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**A Few Key Transparency  
and Deregulation  
Commitments Not Fully Met**

Several companies reported concerns regarding Japan's implementation of a few commitments in key areas. Concerning one transparency commitment, almost half of the companies (6 of 13) reported that the Japanese government had done little to publish and/or make publicly available licensing, product, and rate approval standards. Regarding Japan's deregulation commitments, five companies expressed a belief that Japan had not fully implemented its commitment to process applications for differentiated products within 90 days. Three companies reported cases where applications that were for new-to-market products or that used a new distribution channel took longer than 90 days to receive approval. Over half of the companies reported that in general Japan has done little to expedite and simplify the application review process. Further, regarding a commitment related to Japan's ability to meet its application processing requirement, all 13 U.S. companies indicated that Japan had not increased

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the number of staff responsible for processing applications. Company officials attributed problems with timely processing to this lack of staffing.<sup>11</sup>

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### Concerns Expressed Over Japan's Implementation of Certain Third Sector Protections

Under the 1994 agreement, the Japanese government committed to avoid “radical change” in the third sector until foreign, as well as small and mid-sized Japanese, insurers had had a reasonable period of time to compete in a deregulated primary sector. Six companies, representing over 80 percent of U.S. premiums, reported that the Japanese government had not taken sufficient action to avoid “radical change” in the third sector.

The 1996 agreement included specific commitments by the Japanese government to prohibit or substantially limit large Japanese insurers' subsidiaries from marketing certain third sector products in the life and non-life areas. In the life insurance area of the third sector, Japan committed to prohibit Japanese subsidiaries from selling stand-alone medical and stand-alone cancer insurance.<sup>12</sup> Two U.S. life insurance companies in Japan reported that the Japanese government had not met this commitment. One U.S. life insurance company reported that the Japanese government had failed to prevent Yasuda Fire and Marine, a large Japanese company, from selling stand-alone cancer insurance through its relationship with INA Himawari, a life insurance subsidiary in Japan of the U.S. company CIGNA Corporation. (See app. IV for detailed information on certain USTR actions related to these companies.) Another U.S. life insurance company reported that a Japanese insurer, Tokyo-Anshin, was effectively selling stand-alone cancer insurance even though the company offers it as a rider to a base life insurance policy.

In the non-life insurance area, seven restrictions on sales by Japanese subsidiaries were put in place by the 1996 agreement, primarily to protect the existing sales networks of foreign insurers for personal accident insurance. Among U.S. non-life companies expressing an opinion, all

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<sup>11</sup>USTR officials have noted that the Japanese government has increased its staff responsible for processing insurance applications since our survey.

<sup>12</sup>While sales of stand-alone products in these areas were prohibited in the 1996 agreement, medical and cancer benefits can be sold as riders to a base policy, provided that the rider-to-base policy ratio is within prescribed limits. An insurance “rider” is a policy modification or addition to a larger insurance policy. In this case, the underlying insurance being sold is a life insurance policy.

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reported that Japan had met most commitments in this area, though three companies reported that the Japanese government had not complied with one commitment—restricting sales of personal accident insurance endorsed by interindustry associations.

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## **USTR Is the Principal Monitoring Agency; Believes Japan Has Made Progress, but Has Not Met Certain Key Agreement Commitments**

The U.S. government has given the insurance agreements high-level attention and monitors them on an ongoing basis. USTR is the principal U.S. government agency responsible for monitoring and enforcing the insurance agreements. The U.S. embassy in Tokyo also plays a major role, with the Departments of Commerce and State providing additional assistance. The Departments of the Treasury and Justice play much less active roles. USTR officials reported that they hold interagency meetings at least once every 2 months, and more often as issues arise, to discuss the status of the insurance agreements. USTR and the U.S. embassy in Tokyo rely mainly on industry groups and individual companies for information on the status of the agreements' implementation. USTR attempts, but is not always able, to thoroughly verify the accuracy or completeness of industry data on implementation. In monitoring the agreements, USTR has determined that Japan has made progress in deregulating its insurance industry but has identified key commitments that remain unmet.

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## **USTR Plays Lead Role in Monitoring and Enforcement**

USTR's Japan Office, the office with primary responsibility for monitoring and enforcing the insurance agreements, currently has a total staff of four permanent employees and one temporary employee from the State Department, twice the amount of people that it had 4 years ago. However, the lead USTR official for Japan insurance issues announced his departure in September 1999. This office is responsible for monitoring approximately 20 trade agreements negotiated under the current and previous administrations that cover diverse issues such as telecommunications and autos and auto parts. USTR's Offices of the General Counsel and Services, Investment, and Intellectual Property also provide assistance with the insurance agreements when necessary.

USTR has estimated that its efforts, combined with those of the U.S. embassy in Japan, constitute about 80 percent of total U.S. government efforts to monitor and enforce the Japanese insurance agreements. According to USTR, these two agencies confer on the agreements almost daily. USTR also estimated that the Commerce Department contributes about an additional 10 percent of U.S. government monitoring and enforcement efforts and reported that the Treasury Department's role is

limited.<sup>13</sup> According to our survey, U.S. insurance companies in Japan have communicated most frequently with staff from the U.S. embassy in Tokyo and USTR regarding the agreements.

According to our survey, six U.S. insurers, which account for over 80 percent of all U.S. premiums generated in Japan, believed that USTR does not have sufficient resources (personnel, funding, and so on) to monitor and enforce the insurance agreements. USTR officials reported that two Japan Office employees have worked part-time on insurance and that more people are needed to work on insurance and other U.S.-Japan trade issues. Moreover, a 1998 USTR document noted that the U.S. Trade Representative spent more time on Japan insurance during much of 1998 than on any other single issue.

### U.S. Agencies Meet at Least Bimonthly to Discuss Insurance Agreements

USTR has reported that coordination among U.S. government agencies to monitor the insurance agreements takes place about every 2 months and becomes more frequent prior to consultations with Japan. Meetings are called as needed rather than being regularly scheduled in advance, a circumstance that USTR officials view as typical for the agency. According to a USTR official, there are no minutes or records of decisions for these meetings. Typically, the Deputy Assistant U.S. Trade Representative for Japan notifies about a dozen other U.S. government officials of meetings on insurance.<sup>14</sup> An exception to the usual working-level nature of the process occurred in the spring and summer of 1998. Spurred by congressional interest, the process was elevated to a more senior level, and more agencies participated during two interagency reviews of the activities of one U.S. insurance company and its Japanese partner. One of these reviews reached the Cabinet level.

USTR officials have stated that it is difficult to get all agency representatives to consistently attend meetings because these agencies' offices have to focus on too many other issues to spend much time on the

<sup>13</sup>The U.S. and Foreign Commercial Service, the overseas operations of the Department of Commerce, is not involved with monitoring and enforcing the insurance agreements in Tokyo.

<sup>14</sup>These officials usually include an economic officer at the U.S. embassy in Tokyo; two other USTR officials; two Commerce Department officials; two State Department officials in Washington, D.C.; and one official each from the Treasury Department, the Justice Department, the International Trade Commission, and the National Economic Council.

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U.S.-Japan insurance issue. One USTR official noted that, as a result of budget pressures and declining staff levels, agencies choose to focus on issues where they have the lead. In addition, a lack of personnel with technical insurance industry knowledge and frequent personnel turnover in certain agencies limit the understanding of issues among the interagency participants. (Insurance is not regulated at the federal level in the United States.) Decisions typically depend on consensus among those participating, rather than on formal clearance with each official on the meeting notification list.

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### U.S. Government Monitoring and Enforcement Efforts Rely Heavily on Private Sector Information

For monitoring and enforcing the agreements, USTR and the U.S. embassy in Tokyo rely primarily on information provided by U.S. insurance companies and industry groups, as well as on information collected by officials at the U.S. embassy in Tokyo from Japanese sources.<sup>15</sup> For example, USTR relied heavily on information provided by the U.S. insurance industry in Japan to make its July 1, 1998, decision that the Japanese government had not met key primary sector deregulation criteria stipulated in the 1996 agreement. (See app. III for further information on USTR's key monitoring and enforcement decisions.) USTR officials report that while neither USTR nor the U.S. government in general possess the resources or technical capabilities to independently investigate or verify this type of information, the agency does make an effort to do so by consulting with experts and industry analysts.

USTR officials and an economic officer at the U.S. embassy in Tokyo report that one large U.S. insurance provider is a key source of information on the Japanese insurance market. This company provides the U.S. government with information on the insurance industry and identifies and provides details on problems with the agreements' implementation. The embassy official speaks with representatives from this provider several times a week. According to USTR, without this company's assistance, much of what the U.S. government has accomplished in encouraging deregulation of the Japanese insurance market would not have been possible. USTR and embassy officials also gather information from several other U.S. insurance companies; the embassy official speaks with representatives from these

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<sup>15</sup>USTR also receives information from the Japanese government during bilateral consultations. This information includes data on product approvals and insurance premiums for foreign and Japanese insurance providers.

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companies about once a week or once every few weeks in order to obtain as complete a perspective as possible on various issues.

In addition to using information from individual companies, USTR relies on several industry groups to identify and explain insurance issues. These groups include the American Chamber of Commerce in Japan (ACCJ),<sup>16</sup> the American Council of Life Insurance (ACLI), the Coalition of Service Industries, the International Insurance Council, and the Foreign Non-Life Insurance Association (which is located in Japan). Company participation in these groups varies, and no one group has a membership that includes all U.S. participants in the Japanese insurance market. Some U.S. insurance companies have noted that even the associations to which they belong do not always capture their views on insurance issues. However, USTR officials maintain that they solicit competing viewpoints in cases where companies are in disagreement. Further, insurance experts at the state level from the National Association of Insurance Commissioners have joined USTR in meetings with Japan on insurance issues. For example, the association hosted working-level consultations between the U.S. and Japanese governments in April 1999. The support of these technical experts helped create a dialogue between U.S. and Japanese regulators on new ways to ease the product approval process.

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**U.S. Government  
Recognizes Progress in  
Insurance Deregulation, but  
Has Identified Unmet  
Japanese Commitments**

As part of its monitoring efforts, the U.S. government has reported that Japan has made some progress in deregulating the primary insurance sector. According to a recent U.S. embassy document on Japan's insurance reforms, there is evidence that deregulation has been taking hold, with new entrants into the life and non-life primary sectors, stronger linkages between foreign and Japanese firms, and examples of product and price competition. However, in July 1998 (and again in April 1999) USTR reviewed the state of implementation and determined that Japan has not implemented certain deregulation actions called for in the 1996 agreement. Specifically, USTR stated that the Japanese government has not fully implemented its obligations regarding the reform of rating organizations that have historically established prices for major non-life insurance products, and regarding the timely processing of new product and rate applications. As a result, USTR does not support initiation of the 2.5-year countdown toward opening the third sector. In addition, USTR said that

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<sup>16</sup>The ACCJ insurance subcommittee of the financial services committee is the source of insurance information for USTR.

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Japan violated third sector protections by licensing a cancer insurance product to a large Japanese insurance company. (For more information on how the U.S. government reached these conclusions, see app. III.)

The Japanese government has stated that it has fully implemented both agreements, including all deregulation actions. Therefore, on July 1, 1998, Japan began its countdown of the 2.5-year period before opening the third sector to increased competition. Further, Japan reports that the approval of the cancer insurance product under dispute is not an agreement violation but conforms to limitations negotiated by Japan and the United States.

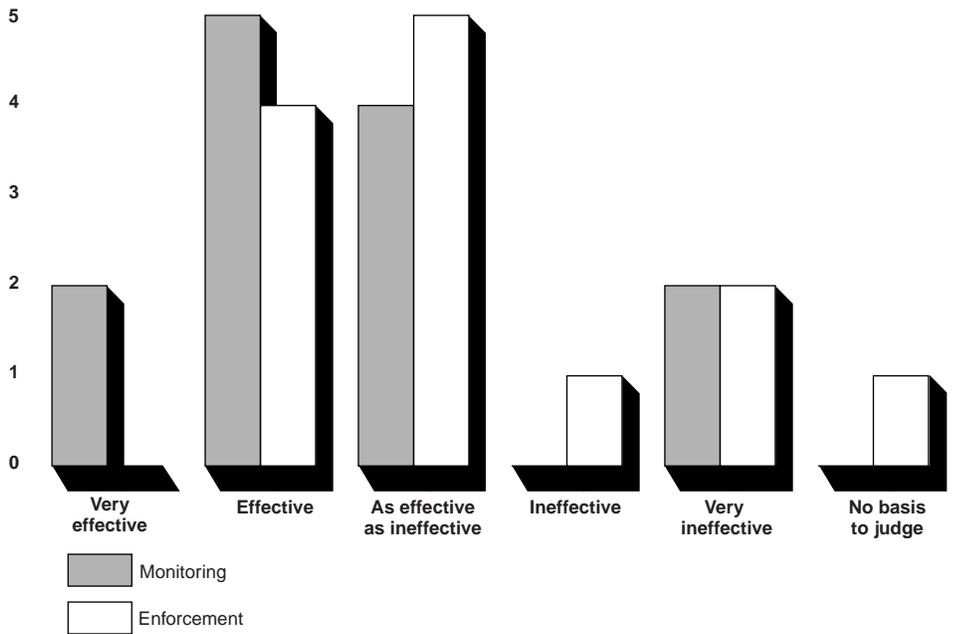
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**U.S. Insurance Industry  
Views U.S.  
Government  
Monitoring Efforts  
More Favorably Than  
Enforcement Actions**

More U.S. insurance companies expressed favorable views of U.S. government actions to monitor the insurance agreements than reported favorable views of enforcement efforts. As shown in figure 1, 7 of the 13 U.S. insurance companies operating in Japan, accounting for about 50 percent of U.S. premiums, reported that, overall, the U.S. government had been effective or very effective in monitoring the agreements. Four companies, representing 13 percent of U.S. premiums in Japan, believed that the U.S. government had been effective in enforcing the agreements. Four companies reported that U.S. government monitoring efforts had been as effective as ineffective. Five companies provided this neutral response regarding enforcement efforts.

**Figure 1: U.S. Company Views on U.S. Government Monitoring and Enforcement Efforts**

6 Number of companies



Note: Data in the graph does not include brokers.

Source: GAO analysis of company survey results.

Most companies expressed satisfaction with U.S. government efforts concerning the insurance agreements, particularly in situations involving U.S. government interaction with U.S. industry. For example, nine companies reported that the U.S. government had sought input from industry on the status of agreement implementation to a great or very great extent. Further, seven companies stated that the U.S. government had given thorough consideration to implementation issues identified by industry to a great or very great extent. Ten companies reported that the U.S. government had represented the U.S. insurance industry in Japan generally or very adequately. Companies providing these responses represented around 40-50 percent of U.S. premiums in Japan.

However, U.S. insurance companies that account for a large percentage of U.S. premiums in Japan expressed a lower level of satisfaction with other

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aspects of U.S. government monitoring and enforcement efforts, specifically in terms of timeliness, accuracy of information, and consistency of government policy. Six companies, which accounted for over 80 percent of U.S. premiums in Japan, reported that the U.S. government had not acted upon agreement implementation concerns in a timely manner. Further, seven companies, which also accounted for over 80 percent of U.S. premiums in Japan, reported that the information provided to them by the U.S. government on implementation had not been clear and accurate. Finally, five companies, accounting for almost 90 percent of U.S. premiums in Japan, reported that U.S. government policy actions regarding the agreements had not been consistent over time. The largest U.S. insurance company in Japan expressed a strong level of dissatisfaction with a U.S. government decision that Japan's failure to prevent certain activities of a competing firm was not violating a third sector restriction in the 1996 agreement.

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## Agency Comments

We obtained oral comments on a draft of this report from officials from USTR, including the General Counsel and staff from the Japan Office. USTR declined the opportunity to provide an overall assessment of the report. USTR and an official at the U.S. embassy in Tokyo provided several technical comments, which we incorporated into the report as appropriate.

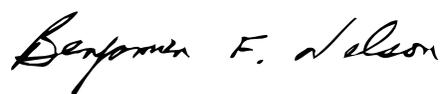
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As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies of this report to interested congressional committees and to Ambassador Charlene Barshefsky, the U.S. Trade Representative; the Honorable William M. Daley, Secretary of Commerce; the Honorable Madeleine K. Albright, Secretary of State; the Honorable Lawrence H. Summers, Secretary of the Treasury; the Honorable Janet Reno, Attorney General; the Honorable Lynn Bragg, Chairman of the International Trade Commission; the Honorable Jacob Lew, Director, Office of Management and Budget; and to the firms we contacted in preparing this report. Copies will also be made available to others upon request.

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If you or your staff have any questions about this report, please contact me at (202) 512-4128. Other GAO contacts and staff acknowledgments are listed in appendix VI.

Sincerely yours,

A handwritten signature in cursive script that reads "Benjamin F. Nelson".

Benjamin F. Nelson, Director  
International Relations and Trade Issues

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# Questionnaire on the Status of Implementation of the U.S.-Japan Insurance Agreements

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We distributed a questionnaire to 13 insurance companies (5 life and 8 non-life companies) and three insurance brokers operating in Japan that are either wholly or majority U.S. owned.<sup>1</sup> We obtained a 100-percent response rate to the questionnaire. The questionnaire contains four sections: (1) implementation/impact of the 1994 U.S.-Japan insurance agreement, (2) implementation/impact of the 1996 U.S.-Japan insurance agreement, (3) the combined implementation/impact of the 1994 and 1996 agreements, and (4) monitoring and enforcement of the agreements. We also administered a supplemental questionnaire that was only distributed to the 13 companies. The supplemental questionnaire asked for detailed information concerning applications companies had submitted.<sup>2</sup>

Some of the questions in the questionnaire only applied to non-life companies, while others only applied to life companies, and these questions are noted in the attached questionnaire. Also, brokers were asked fewer questions than the companies because some of the commitments in the agreements did not pertain to them. For each question in the following questionnaire and supplemental questionnaire, we have displayed the company responses. The broker responses are displayed in parenthesis next to company responses.

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<sup>1</sup>The companies are (1) American Family Life Assurance Company of Columbus (AFLAC); (2) American Life Insurance Company (owned by American International Group [AIG]); (3) Prudential Life Insurance Company, Ltd.; (4) INA Himawari Life Insurance Company, Ltd. (90 percent owned by CIGNA at the time of our survey, but now 61 percent owned by CIGNA and 39 percent owned by Yasuda Fire and Marine); (5) GE Edison Life (90 percent owned by GE Capital); (6) AIU Insurance Company (owned by AIG); (7) CIGNA Accident and Fire Insurance Company, Ltd. (now owned by ACE INA); (8) American Home Assurance Company (owned by AIG); (9) Lumbermens Mutual Casualty Company (Kemper); (10) Liberty Mutual Insurance Company (Liberty International); (11) Unum Japan Accident Insurance Company; (12) Federal Insurance Company (Chubb); and (13) Allstate Property and Casualty Insurance Japan Company, Ltd. The three brokers are J&H Marsh & McLennan, Japan; Ltd.; AON Risk Services, Japan, Ltd.; and Willis Corroon Japan, Ltd. Willis Corroon is a British-registered company, with majority U.S. shareholders.

<sup>2</sup>The supplemental questionnaire was not provided to brokers because they do not submit insurance applications.

**Appendix I  
Questionnaire on the Status of  
Implementation of the U.S.-Japan Insurance  
Agreements**

United States General Accounting Office



**Insurance Company Questionnaire on the  
Status of the Implementation of the U.S.-Japan Insurance Agreements**

**Introduction**

The U.S. General Accounting Office, an independent agency of the U.S. Congress, has been asked to review Japan's progress in implementing the two U.S.-Japan insurance agreements signed in 1994 and 1996, company views on the impact of the agreements, and the monitoring and enforcement efforts of the responsible U.S. government agencies. As part of this review, we are collecting information from companies currently active in the Japanese insurance market. We are sending this questionnaire to your company, as well as to other U.S. insurance companies and brokers, to obtain information on your experiences since the agreements were signed.

The questionnaire should be answered by the person most familiar with your company's operations in Japan as some of the questions are of a detailed nature. Questions focus on the issues mentioned above: actions taken by the Government of Japan to implement the agreements, company views on impact of the agreements, and the efforts of U.S. government agencies to monitor and enforce the agreements. We are also requesting additional information in the "Supplemental Questions" attachment to the questionnaire, for which you will need to consult your company's records to complete. This attachment may be returned to us either separately or with your completed questionnaire.

Most of the questions in this survey can be answered by checking slots or filling in a blank; a few questions request a short narrative answer. We have enclosed a copy of the two insurance agreements for your reference in completing the

questionnaire. The various sections and subsections of the agreements are indicated at various points in the questionnaire headings and in many of the individual questions.

Please base your responses on your company's direct experience. If you are uncertain about the response to a question, please check the "No basis to judge" option.

Your responses and all company information you provide will be treated confidentially. Responses will not be used in any way that will identify you or your company. Please return your completed questionnaire to GAO by **February 10, 1999**. We ask that the "Supplemental Questions" attachment, which may take more time to complete, be returned by **February 19, 1999**. You may mail your questionnaire and attachment to the following address:

U.S. General Accounting Office  
301 Howard Street, Suite 1200  
San Francisco, CA 94105-2252  
ATTN: José Peña/Leslie Holen

A return envelope is provided for your convenience, but can only be used if you are returning the questionnaire and attachment via the U.S. Postal Service. If you are returning them from an overseas office, you may fax them to Leslie Holen or José Peña at (415) 904-2111. If you have any questions, please call Leslie at (415) 904-2277 or José at (415) 904-2268.

*Thank you for your assistance, your participation is important to our study.*

Please complete the following:

Company: \_\_\_\_\_

Person responsible for completion: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

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**Appendix I  
Questionnaire on the Status of  
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**PART I: 1994 AGREEMENT**

**PART I**

**1994 Agreement: Measures by the Government of the United States and the Government of  
Japan Regarding Insurance, October 11, 1994**

**Note: Broker responses in parenthesis.**

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**PART I: 1994 AGREEMENT**

**Transparency and Procedural Protections [Section III]**

**Compilation, Publication, and Standardization of Measures of General Application [Section III (2)]**

1. To what extent, if at all, has the Government of Japan published and/or made publicly available licensing, product, and rate approval standards, since the agreement was signed on October 11, 1994? [Section III(2)a(i)] (*Check one.*)
- 1. 0(1) To a very great extent
  - 2. 1 To a great extent
  - 3. 4 To a moderate extent
  - 4. 5 To some or little extent
  - 5. 1 To no extent
  - 
  - 6. 2(2) No basis to judge
  - 7. 0 Not applicable

**Advisory Groups [Section III(6)]**

2. Since the agreement was signed in October 1994, when the Government of Japan establishes or regularly seeks recommendations from any Japanese group (i.e., council, association, or other group) related to the provision of insurance, to what extent, if at all, has a representative from your company (1) attended any of the group's meetings and/or (2) submitted statements to the group? (*Check one box in each column.*)

Extent to which a <b>representative from your company</b> has:	
attended any of the group's meetings.	submitted statements to the group.
1. 1 To a very great extent	1. 1 To a very great extent
2. 0 To a great extent	2. 0 To a great extent
3. 4(1) To a moderate extent	3. 4 To a moderate extent
4. 4 To some or little extent	4. 4(1) To some or little extent
5. 2(2) To no extent	5. 2(2) To no extent
-----	-----
6. 2 No basis to judge	6. 2 No basis to judge
7. 0 Not applicable	7. 0 Not applicable

**Appendix I  
Questionnaire on the Status of  
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**PART I: 1994 AGREEMENT**

3. Since the agreement was signed in October 1994, when the Government of Japan establishes or regularly seeks recommendations from any Japanese group (i.e., council, association, or other group) related to the provision of insurance, to what extent, if at all, has an association or organization representing your company's view (1) attended any of the group's meetings and/or (2) submitted statements to the group? (Check one box in each column.)

Extent to which an association or organization representing your company's view has:	
attended any of the group's meetings.	submitted statements to the group.
1. 1 To a very great extent	1. 1 To a very great extent
2. 1 To a great extent	2. 1(1) To a great extent
3. 6 To a moderate extent	3. 5 To a moderate extent
4. 3(1) To some or little extent	4. 4(1) To some or little extent
5. 1(1) To no extent	5. 1(1) To no extent
-----	-----
6. 1(1) No basis to judge	6. 1 No basis to judge
7. 0 Not applicable	7. 0 Not applicable

Participation in Industry Groups [Section III(7)]

4. In general, for any trade and/or rating association(s) to which your company belongs, is your company accorded privileges and opportunities equal to those accorded to Japanese member firms? [Section III(7)b] (Check one.)

1. 10(1) Yes  
2. 1 No  
-----  
3. 1 No basis to judge  
4. 1(2) Not applicable, not a member

Access to Insurance Regulatory Information [Section III(8)]

5. Since the agreement was signed in October 1994, has the Government of Japan accorded your company meaningful and fair opportunities to be informed of, comment on, and/or exchange views with Japanese officials regarding insurance laws, ordinances, and/or regulations? [Section III(8)b] (Check one.)

1. 10 Yes  
2. 2(1) No  
-----  
3. 1(2) No basis to judge  
4. 0 Not applicable

**Appendix I  
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**PART I: 1994 AGREEMENT**

(B) 6. Would you say that your company's level of access to information on regulatory changes in the insurance sector has gotten better, worse, or stayed about the same since the agreement was signed in October 1994? [Section III(8)c] *(Check one.)*

- 1. 1 Much better
- 2. 3 Somewhat better
- 3. 6(3) About the same
- 4. 0 Somewhat worse
- 5. 1 Much worse
- 
- 6. 2 No basis to judge
- 7. 0 Not applicable

Procedural Protection for Notifications and Applications [Section III(9)]

7. <sup>1</sup>Since the agreement was signed in October 1994, to what extent, if at all, has the Government of Japan: *(Check one box in each row.)*

	Very great extent	Great extent	Moderate extent	Some or little extent	No extent	No basis to judge	Not applicable
safeguarded information considered secret in connection with your company's applications or notifications for insurance licenses, products, or rates? [Section III(9)a]	1	4	3	0	0	5	0
accepted multiple applications for license or product approval (e.g., rate and form) at the same time? [Section III(9)b]	1	5	3	1	1	1	1
<u>not</u> required your company to coordinate or consult with any other insurance providers, insurance associations, or other third parties regarding your notification and/or applications (including product, rate, or license approvals)? [Section III(9)c]	5	5	1	1	1	0	0
<u>not</u> conditioned or delayed the acceptance, processing or approval of your company's notification or application (including product, rate, or license approval) based on whether you consulted or coordinated with other insurance providers, insurance associations, or third parties? [Section III(9)d]	5	5	2	0	0	1	0

<sup>1</sup>Question 7 not included in broker questionnaire.

**Appendix I  
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**PART I: 1994 AGREEMENT**

Transparency and Procedural Protections Summary [Section III]

8. Overall, do you believe the actions taken by the Government of Japan to improve transparency and procedural protections for notifications and applications have had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan, since the agreement was signed in October 1994? (*Check one.*)
- 1. 0 Very positive effect
  - 2. 3(1) Generally positive effect
  - 3. 7(1) No effect
  - 4. 1(1) Generally negative effect
  - 5. 0 Very negative effect
  - 
  - 6. 2 No basis to judge
  - 7. 0 Not applicable

Deregulation Measures [Section IV]

Product and Rate Approval [Section IV(1)]<sup>1</sup>

9. Overall, to what extent, if at all, do you believe that the Government of Japan has implemented steps to expedite and simplify the application review process for the approval of insurance products and rates since the agreement was signed in October 1994? [Section IV(1)b(i)] (*Check one.*)
- 1. 0 To a very great extent
  - 2. 1 To a great extent
  - 3. 4 To a moderate extent
  - 4. 7 To some or little extent
  - 5. 0 To no extent
  - 
  - 6. 1 No basis to judge
10. <sup>2</sup>Overall, to what extent, if at all, do you believe that the Government of Japan has expanded the types of non-life products that your company can offer using the flexibility provided by benchmark or free rates, since the agreement was signed in October 1994? [Section IV(1)b(ii)] (*Check one.*)
- 1. 0 To a very great extent
  - 2. 1 To a great extent
  - 3. 3 To a moderate extent
  - 4. 2 To some or little extent
  - 5. 0 To no extent
  - 
  - 6. 0 No basis to judge
  - 7. 2 Not applicable

<sup>1</sup>Note: Questions 9 through 12 were not included in broker questionnaire.

<sup>2</sup>Responses represent non-life insurers only.

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**PART I: 1994 AGREEMENT**

11. Since October 1994, has your company submitted any applications for product approval using data collected outside of Japan? [Section IV(1)b(iii)] *(Check one.)*

- 1. 8 Yes
- 2. 5 No → → → **(Skip to question 13.)**

12. Were the data supporting the applications accepted by the Government of Japan? [Section IV(1)b(iii)] *(Check all that apply.)*

- 1. 8 Yes
- 2. 0 No
- 3. 1 Pending<sup>1</sup>

Radical Change in the Third Sector [Section IV(1)d]

13. <sup>2</sup>In your opinion, has the Government of Japan taken sufficient action to avoid radical change in the third sector since the agreement was signed in October 1994? [Section IV(1)d] *(Check one.)*

- 1. 3(1) Yes
- 2. 6 No
- 
- 3. 2(1) No basis to judge
- 4. 1(1) Not applicable

14. Overall, do you believe that the efforts by the Government of Japan to avoid radical change in the third sector have had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan since the agreement was signed in October 1994? [Section IV(1)d] *(Check one.)*

- 1. 0 Very positive effect
- 2. 5 Generally positive effect
- 3. 2(2) No effect
- 4. 2(1) Generally negative effect
- 5. 1 Very negative effect
- 
- 6. 1 No basis to judge
- 7. 2 Not applicable

<sup>1</sup>One of the eight companies submitted two applications using data collected outside of Japan; one of the applications was approved and the other was pending. The remaining seven of eight companies submitted one application using data collected outside of Japan.

<sup>2</sup>One company did not respond to this question.



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**PART I: 1994 AGREEMENT**

**Government Corporations [Section V]**

17. Since the agreement was signed in October 1994, to what extent, if at all, do you believe the allocation of premium shares under public corporation insurance programs is being made using fair, transparent, non-discriminatory, and competitive criteria? [Section V(1)] *(Check one.)*
- 1. 0 To a very great extent
  - 2. 0 To a great extent
  - 3. 2 To a moderate extent
  - 4. 4(2) To some or little extent
  - 5. 3 To no extent
  - 
  - 6. 1(1) No basis to judge
  - 7. 3 Do not participate

**Competition [Section VI]**

18. Since the agreement was signed in October 1994, to what extent, if at all, has (1) the Government of Japan vigorously enforced the Anti-Monopoly Act (AMA) in the insurance sector and (2) the Japan Fair Trade Commission (JFTC) vigorously dealt with violations of the AMA with respect to trade associations, including self-regulatory organizations (such as the Life Insurance Association and the Marine and Fire Association)? *(Check one box in each column.)*

<p>Extent to which the Government of Japan vigorously enforced the AMA in the insurance sector (Section VI(3)a)...</p> <ul style="list-style-type: none"> <li>1. 0 To a very great extent</li> <li>2. 3 To a great extent</li> <li>3. 3(1) To a moderate extent</li> <li>4. 3(1) To some or little extent</li> <li>5. 2 To no extent</li> <li>-----</li> <li>6. 2(1) No basis to judge</li> </ul>	<p>Extent to which the JFTC has vigorously dealt with violations of the AMA with respect to trade associations, including self-regulatory organizations (Section III(10)b)...</p> <ul style="list-style-type: none"> <li>1. 0 To a very great extent</li> <li>2. 3 To a great extent</li> <li>3. 4(1) To a moderate extent</li> <li>4. 2(1) To some or little extent</li> <li>5. 1 To no extent</li> <li>-----</li> <li>6. 3(1) No basis to judge</li> </ul>
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19. Since the agreement was signed in October 1994, do you believe the antitrust enforcement actions taken by the Government of Japan have had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan? *(Check one.)*
- 1. 0 Very positive effect
  - 2. 3(1) Generally positive effect
  - 3. 9(2) No effect
  - 4. 0 Generally negative effect
  - 5. 0 Very negative effect
  - 
  - 6. 1 No basis to judge

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**PART I: 1994 AGREEMENT**

20. Since the agreement was signed in October 1994, to what extent, if at all, do you believe Keiretsu practices and case agents limit your company's ability to compete in the Japanese insurance market? [Section VI(1)a] (Check one box in each row.)

	Very great extent	Great extent	Moderate extent	Some or little extent	No extent	No basis to judge
Keiretsu practices	3(2)	3(1)	3	2	0	2
Case agents	3(3)	2	3	2	0	3

**Overall Impact of the 1994 Agreement**

21. Overall, do you believe that the 1994 U.S.-Japan bilateral agreement on insurance has had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan? (Check one and explain your response.)

- 1. 0 Very positive effect
- 2. 8(2) Generally positive effect
- 3. 3(1) No effect
- 4. 0 Generally negative effect
- 5. 1 Very negative effect
- 6. 1 No basis to judge

Please explain your response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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**PART II: 1996 AGREEMENT**

**PART II**

**1996 Agreement: Supplementary Measures by the Government of the United States and the  
Government of Japan Regarding Insurance, December 24, 1996**

**Note: Broker responses in parenthesis.**

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**PART II: 1996 AGREEMENT**

**Deregulation in the Primary Sectors [Section I]**

**Direct Response System (*Tsushin-Hanbai*) for Automobile Insurance (Section I(1)a) and Automobile Insurance with Differentiated Rates (Section I(4)a)**

22. <sup>1</sup>Since the agreement was signed on December 24, 1996, has your company submitted an application to (1) use the direct response system (*Tsushin-Hanbai*) for automobile insurance and (2) differentiate rates, forms, and distribution of products based on risk factors for automobile insurance? (Check one box in each column.)

<p>Has your company submitted an application to use the direct response system (<i>Tsushin-Hanbai</i>) for automobile insurance...(Section I(1)a)</p> <p>1. 3 Yes 2. 3 No ----- 3. 2 Not applicable</p>	<p>Has your company submitted an application to differentiate rates, forms, and distribution of products based on risk factors for automobile insurance...(Section I(4)a)</p> <p>1. 3 Yes 2. 4 No ----- 3. 1 Not applicable</p>
---	---

→ → → (If both "not applicable," skip to question 24.)

23. <sup>2</sup>Since the agreement was signed in December 1996, has (1) the direct response system (*Tsushin-Hanbai*) for automobile insurance and (2) the ability to differentiate rates, forms, and distribution of products based on risk factors for automobile insurance had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan? (Check one box in each column.)

<p><sup>3</sup>Has the direct response system (<i>Tsushin-Hanbai</i>) for automobile insurance had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan...</p> <p>1. 1 Very positive effect 2. 0 Generally positive effect 3. 2 No effect 4. 1 Generally negative effect 5. 0 Very negative effect ----- 6. 2 No basis to judge</p>	<p><sup>3</sup>Has the ability to differentiate rates, forms, and distribution of products, based on risk factors for automobile insurance had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan...</p> <p>1. 1 Very positive effect 2. 0(1) Generally positive effect 3. 1(1) No effect 4. 1 Generally negative effect 5. 0 Very negative effect ----- 6. 3(1) No basis to judge</p>
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<sup>1</sup>Responses represent non-life insurers only.

<sup>2</sup>Responses to direct response system represent non-life insurers only. Responses to differentiated automobile insurance reflect non-life insurers and brokers only.

<sup>3</sup>Seven companies should have provided responses to question 23, however one of these seven did not provide a response.

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Questionnaire on the Status of  
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**PART II: 1996 AGREEMENT**

Expanding Scope of Advisory Rate System for Loading Rates of Commercial Fire Insurance [Section I(2)a]

24. <sup>1</sup>Overall, do you believe the Government of Japan's provision to expand the scope of the advisory rate system for loading rates of commercial fire, by lowering the minimum amount per contract, has had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan? [Section I(2)a] (*Check one.*)
- 1. 0 Very positive effect
  - 2. 2(2) Generally positive effect
  - 3. 4(1) No effect
  - 4. 0 Generally negative effect
  - 5. 0 Very negative effect
  - 
  - 6. 0 No basis to judge
  - 7. 2 Not applicable, do not offer

<sup>1</sup>Responses represent non-life insurers and brokers only.

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**PART II: 1996 AGREEMENT**

Notification System [Sections IV(1)b(iv) and IV(1)c of the 1994 agreement and Sections I(1)c and I(2)b of the 1996 agreement]

25. <sup>1</sup>Based on your experience, has the Government of Japan implemented the notification system for the following products (regardless of whether any notifications submitted by your company were rejected)? [Sections I(1)c and I(2)b of 1996 agreement and Sections IV(1)b(iv) and IV(1)c of the 1994 agreement] (Check one box in each row.)

	Yes	No	Don't know	Not applicable, do not offer
1. hull insurance	4	0	0	4
2. cargo insurance <sup>2</sup>	4	0	0	3
3. aviation insurance	3	0	0	5
4. medical malpractice liability insurance	4	0	0	4
5. advanced loss of machinery profit insurance	4	0	2	2
6. delayed start of construction insurance	4	0	2	2
7. civil engineering completed risks insurance	5	0	1	2
8. nuclear energy insurance	3	0	0	5
9. umbrella liability insurance	5	1	0	2
10. environment liability insurance	3	0	1	4
11. erection insurance	5	0	1	2
12. moveable comprehensive insurance	5	1	0	2
13. computer comprehensive insurance	5	1	0	2
14. boiler and turbo-set insurance	4	0	1	3
15. transit insurance	5	1	0	2
16. credit card theft insurance	5	1	0	2
17. general liability insurance	5	1	0	2
18. construction all-risk insurance	5	0	1	2
19. surety bonds	4	0	1	3
20. other large commercial insurance Specify: One company specified directors and officers insurance. One company specified fire insurance.	2	0	1	2

<sup>1</sup>Responses represent non-life insurers only.

<sup>2</sup>One company did not provide a response for this product.

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**PART II: 1996 AGREEMENT**

26. <sup>1</sup>Overall, do you believe the notification system for the products listed above has had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan? (*Check one.*)
- 1. 0 Very positive effect
  - 2. 2 Generally positive effect
  - 3. 4 No effect
  - 4. 0 Generally negative effect
  - 5. 0 Very negative effect
  - 
  - 6. 0 No basis to judge
  - 7. 2 Not applicable, do not offer above products

**Rating Organizations** [Section I(3)]

27. <sup>2</sup>Has the Government of Japan eliminated the obligation for members of the following rating organizations to use **rates** calculated by the organization, while allowing members to use the statistical **data** collected by the rating organization for the purpose of calculating rates, since the agreement was signed in December 1996? [Section I(3)a] (*Check one box in each row.*)

	Yes	No	Do not know	Not applicable, not a member
a. The Fire and Marine Insurance Rating Association of Japan	6(1)	0	1	1(2)
b. The Automobile Insurance Rating Association of Japan	7(1)	0	1	0(2)

**90 Day Approval of Applications** [Section I(3)c & d]

On July 1, 1998, the Government of Japan implemented legislation specifying that MOF would approve, within the standard processing period of 90 days after submission, applications allowing for insurance providers to differentiate, based on risk insured, the rates, forms, and distribution of products, without regard to whether such applications used rates calculated by the rating organizations. Prior to July 1, 1998, the MOF welcomed, and would approve, within the standard processing period of 90 days after submission, such applications for products in major product categories in the life and non-life sectors that also provide for the flexibility to differentiate based on risk insured.

<sup>1</sup>Responses represent non-life insurers only.

<sup>2</sup>Responses represent non-life insurers and brokers only.

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28. <sup>1</sup>To what extent, if at all, has the Government of Japan implemented the 90 day approval of applications for differentiated products? [Section I(3)c & d] (*Check one.*)
- 1. 1 To a very great extent
  - 2. 3 To a great extent
  - 3. 4 To a moderate extent
  - 4. 2 To some or little extent
  - 5. 1 To no extent
  - 
  - 6. 2 No basis to judge
  - 7. 0 Not applicable

Rating Organizations and 90 Day Approval of Applications Summary [Section I(3)]

29. <sup>2</sup>Overall, do you believe the Government of Japan's reform of rating organizations has had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan? [Section I(3)] (*Check one.*)
- 1. 0 Very positive effect
  - 2. 3(2) Generally positive effect
  - 3. 3 No effect
  - 4. 1 Generally negative effect
  - 5. 0 Very negative effect
  - 
  - 6. 1 No basis to judge
  - 7. 0(1) Not applicable
30. <sup>1</sup>Overall, do you believe the Government of Japan's approval of differentiated products within the standard processing period of 90 days has had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan? [Section I(3)] (*Check one.*)
- 1. 1 Very positive effect
  - 2. 5 Generally positive effect
  - 3. 5 No effect
  - 4. 1 Generally negative effect
  - 5. 0 Very negative effect
  - 
  - 6. 1 No basis to judge
  - 7. 0 Not applicable

<sup>1</sup>Questions 28 and 30 not included in broker questionnaire.

<sup>2</sup>Responses represent non-life insurers and brokers only.

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Deregulation in the Primary Sectors Summary [Section I]

31. Overall, do you believe the deregulatory actions taken by the Government of Japan to implement the 1996 agreement have had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan? (*Check one.*)
- 1. 0 Very positive effect
  - 2. 7(2) Generally positive effect
  - 3. 4(1) No effect
  - 4. 1 Generally negative effect
  - 5. 0 Very negative effect
  - 
  - 6. 1 No basis to judge

Entry Into the Third Sector by Subsidiaries [Section II]

Non-life Subsidiaries of Life Insurance Providers [Section II(1)]

Non-life subsidiaries of life insurance providers were to be permitted to sell personal accident insurance from January 1, 1997, subject to the restrictions listed below in question 32. These measures were intended to avoid radical change in the third sector for small to medium and foreign insurance providers.

32. <sup>1</sup>Since January 1, 1997, has the Government of Japan prevented sales by non-life subsidiaries of life insurance firms of: [Section II(1)] (*Check one box in each row.*)

	Yes	No	Do not know	Not applicable, do not offer
1. personal accident insurance based on a single policy and/or endorsed by non-profit inter-industry associations or foundations for managers of corporations?	0	3	3	2
2. domestic and overseas travel accident insurance through travel agents?	4	0	2	2
3. personal accident insurance for students marketed through or endorsed by schools?	4	0	2	2
4. personal accident insurance through direct response methods?	3	0	3	2
5. in the case of co-insurance, <u>group personal accident insurance</u> , when the subsidiary is not acting as lead manager among co-insurers?	5	0	1	2
6. in the case of sole underwriting or when a subsidiary is a lead manager among co-insurers, <u>group personal accident insurance</u> to a group, which has had in effect the preceding six months, a policy for the same or a substitute group personal accident insurance product by a small to medium and/or foreign insurance provider?	4	1	1	2
7. maturity refund personal accident insurance?	5	0	1	2

<sup>1</sup>Responses represent non-life insurers only.

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33. <sup>1</sup>Considering your responses to question 32, what effect overall, if any, have the government actions, or lack of actions, had on your company's ability to compete in Japan? [Section II(1)]  
(Check one.)

- 1. 0 Very positive effect
- 2. 3 Generally positive effect
- 3. 1 No effect
- 4. 1 Generally negative effect
- 5. 0 Very negative effect
- 
- 6. 2 No basis to judge
- 7. 1 Not applicable

Life Subsidiaries of Non-life Insurance Providers [Section II(2)]

In order to avoid radical change in the business environment in the third sector, life subsidiaries of non-life insurance providers will not be allowed to sell stand-alone cancer insurance and stand-alone medical insurance.

34. <sup>2</sup>Since the agreement was signed on December 24, 1996, has the Government of Japan prevented sales by life subsidiaries of non-life insurance firms of: [Section II(2)] (Check one for each category.)

	Yes	No	Do not know	Not applicable, do not offer
1. stand-alone cancer insurance. <sup>3</sup>	1	2	0	1
2. stand-alone medical insurance. <sup>3</sup>	1	2	0	1

35. <sup>2</sup>Considering your responses to question 34, what effect overall, if any, have the government actions, or lack of actions, had on your company's ability to compete in Japan? [Section II(2)]  
(Check one.)

- 1. 0 Very positive effect
- 2. 0 Generally positive effect
- 3. 1 No effect
- 4. 2 Generally negative effect
- 5. 0 Very negative effect
- 
- 6. 0 No basis to judge
- 7. 2 Not applicable

<sup>1</sup>Responses represent non-life insurers only.

<sup>2</sup>Responses represent life insurers only.

<sup>3</sup>One company did not respond to this question.

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Ratio of Cancer or Medical Rider Benefits [Section II(2)]

Under the agreement, the Ministry of Finance was to maintain the limit regarding the ratio of cancer or medical rider benefits to base policy benefits that was in existence before implementation of the new Insurance Business Law on April 1, 1996 for life subsidiaries of non-life insurance providers.

36. <sup>1</sup>Since the agreement was signed, has the Government of Japan maintained this limit? [Section II(2)] (*Check one.*)

2 Yes      1 No      1 Do not know      1 Not applicable, do not offer

37. <sup>1</sup>For those cases in which you are aware that the Government of Japan has not maintained the limit, what effect has this had on your company's ability to compete in Japan? [Section II(2)] (*Check one.*)

- 1. 0 Very positive effect
- 2. 0 Generally positive effect
- 3. 0 No effect
- 4. 1 Generally negative effect
- 5. 0 Very negative effect
- 
- 6. 1 No basis to judge
- 7. 2 Not aware of any cases
- 8. 1 Not applicable

<sup>1</sup>Responses represent life insurers only.

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Criteria for Terminating Measures to Avoid Radical Change [Section II(3)]

38. In your opinion, has the Government of Japan met the criteria listed below, which would initiate the two-and-one-half year clock to open the third sector? [Section II(3)] (*Check one box in each row and explain any "no" response.*)

	Yes	No	Do not Know
1. MOF has approved, within the standard 90 day processing period, applications for differentiated automobile insurance.	7	0	6(3)
2. MOF has lowered the minimum insured amount per contract required for application of the advisory rate system for commercial fire insurance.	7(2)	0	6(1)
3a. MOF has put into effect the notification system. <sup>1</sup>	8	0	5(2)
3b. MOF has allowed, within the standard period of 90 days, marketing of products notified to MOF (i.e., did not reject the notifications).	7	1	5(3)
4. MOF has implemented necessary legal changes to eliminate obligations for members of a rating organization to use rates calculated by the rating organization.	8(1)	0	5(2)
5. MOF has approved within the standard 90 day processing period, applications for differentiated products or rates.	7	5	1(3)

Please explain any "no" response(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

39. What effect, if any, has the MOF's noncompliance with any of the above criteria had on your company's ability to compete in Japan? (*Check one.*)

- 1. 0 Very positive effect
- 2. 0 Generally positive effect
- 3. 2 No effect
- 4. 4(2) Generally negative effect
- 5. 0 Very negative effect
- 6. 1(1) No basis to judge
- 7. 6 Not applicable, MOF has complied with the above criteria

**Other Issues** [Section III]

Requests to MOF to Determine Status of Applications [Section III(2)]

Under the 1996 agreement, the Government of Japan stipulated that if an insurance provider has submitted documents to MOF related to insurance products or rates, and which the company considers to be an application, the insurance provider may make a request to the MOF to determine its status. The MOF will respond without undue delay to such requests and indicate whether it considers the documents to constitute a formal application.

<sup>1</sup>One broker did not respond to whether this specific criterion had been met.

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40. <sup>1</sup>To what extent, if at all, has MOF responded without undue delay to your company's requests, and indicated whether it considers the documents to constitute a formal application? [Section III(2)] (*Check one.*)
- 1. 1 To a very great extent
  - 2. 1 To a great extent
  - 3. 4 To a moderate extent
  - 4. 0 To some or little extent
  - 5. 2 To no extent
  - 
  - 6. 2 No basis to judge
  - 7. 3 Not applicable

Staffing at the MOF/Financial Supervisory Agency (FSA) [Section III(3)]

41. Based on your company's experiences, has the MOF, and subsequently the FSA, increased, maintained the same level of, or decreased the number of staff dedicated to the processing of applications for insurance products and rates, since the agreement was signed in December 1996? [Section III(3)] (*Check one.*)
- 1. 0 Increased
  - 2. 3 Maintained the same level
  - 3. 10(1) Decreased
  - 
  - 4. 0(2) No basis to judge

**Overall Impact of the 1996 Agreement**

42. Overall, do you believe that the 1996 U.S.-Japan bilateral agreement on insurance has had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan? (*Check one and explain your response.*)
- 1. 1 Very positive effect
  - 2. 8(2) Generally positive effect
  - 3. 0(1) No effect
  - 4. 2 Generally negative effect
  - 5. 1 Very negative effect
  - 
  - 6. 1 No basis to judge

Please explain your response: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup>Question 40 not included in broker questionnaire.

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**PART III: 1994 and 1996 AGREEMENT**

**PART III**

**Overall Questions on Implementation and Impact of the 1994 and 1996 U.S.-Japan  
Insurance Agreements**

**Note: Broker responses in parenthesis.**

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**PART III: 1994 and 1996 AGREEMENT**

43. Overall, to what extent, if at all, has the Government of Japan implemented the provisions of the 1994 and 1996 U.S.-Japan bilateral agreements on insurance? *(Check one.)*

- 1. 2 To a very great extent
- 2. 4 To a great extent
- 3. 6(2) To a moderate extent
- 4. 1 To some or little extent
- 5. 0 To no extent

-----  
6. 0(1) No basis to judge

44. To what extent, if at all, have the deregulatory actions taken by the Government of Japan increased your company's ability to differentiate your product rates, differentiate your product forms, and distribute insurance products? *(Check one box in each row.)*

Extent to which the deregulatory actions taken by the Government of Japan increased your company's ability to...	Very great extent	Great extent	Moderate extent	Some or little extent	No extent	No basis to judge
differentiate product rates	1	0	7	3(1)	0	2(2)
differentiate product forms	1	2	7	1(1)	0	2(2)
distribute insurance products	1	2(1)	2	2(1)	2	4(1)

45. Overall, do you believe that the 1994 and 1996 U.S.-Japan bilateral agreements on insurance have had a positive effect, a negative effect, or no effect on your company's ability to compete in Japan? *(Check one and explain your response.)*

- 1. 2 Very positive effect
- 2. 8(2) Generally positive effect
- 3. 0(1) No effect
- 4. 0 Generally negative effect
- 5. 1 Very negative effect

-----  
6. 2 No basis to judge

Please explain your response: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

46. What other key issues, if any, have had an impact on how the 1994 and 1996 U.S. Japan bilateral agreements on insurance have affected your company's ability to compete in Japan?

\_\_\_\_\_  
\_\_\_\_\_

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**PART III: 1994 and 1996 AGREEMENT**

47. What effect do you believe that the 1994 and 1996 U.S.-Japan bilateral agreements on insurance will have on your company's ability to compete in Japan over (1) the next 2 years and (2) the next 5 years? (Check one box in each row and explain your response.)

Effect the 1994 and 1996 U.S.-Japan bilateral agreements on insurance will have on your company's ability to compete in Japan over...	Very positive effect	Generally positive effect	No effect	Generally negative effect	Very negative effect	No basis to judge
the next 2 years	1	10(1)	0(1)	1(1)	0	1
the next 5 years	1(1)	6(2)	0	4	0	2

Please explain your response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Impact of Agreements on Sales and Market Share

Primary Sector

48. Have your annual direct premium sales (in yen) or market share in the primary sector increased, remained the same, or decreased in the time period beginning just before the 1994 agreement was signed up until now? (Your best estimate will suffice. Check one box in each column.)

<sup>1</sup> Have your <u>annual direct premium sales</u> (in yen) in the <u>primary</u> sector increased, remained the same, or decreased in the time period beginning just before the 1994 agreement was signed up until now... 1. 8(1) Increased 2. 0(1) Remained the same 3. 2 Decreased ----- 4. 0 Do not know 5. 3(1) Not applicable	Has your <u>market share</u> in the <u>primary</u> sector increased, remained the same, or decreased in the time period beginning just before the 1994 agreement was signed up until now... 1. 6 Increased 2. 2 Remained the same 3. 2 Decreased ----- 4. 0 Do not know 5. 3 Not applicable
--	---

→ → → → → (If both "do not know" or "not applicable," skip to question 50.)

<sup>1</sup>Brokers were asked if their annual commissions had increased, decreased, or remained the same. Brokers were not asked about their market shares.

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49. To what extent, if at all, would you attribute this change in annual direct premium sales or market share in the primary sector to actions taken by the Government of Japan under the agreements? (Check one box in each column.)

<p><sup>1</sup>Extent you attribute this change in <u>annual direct premium sales</u> in the <u>primary</u> sector to actions taken by the Government of Japan under the agreements...</p> <p>1. 1 To a very great extent 2. 0(1) To a great extent 3. 1(1) To a moderate extent 4. 2 To some or little extent 5. 4 To no extent ----- 6. 2 No basis to judge</p>	<p>Extent you attribute this change in <u>market share</u> in the <u>primary</u> sector to actions taken by the Government of Japan under the agreements...</p> <p>1. 1 To a very great extent 2. 0 To a great extent 3. 2 To a moderate extent 4. 1 To some or little extent 5. 4 To no extent ----- 6. 2 No basis to judge</p>
---	--

Third Sector

50. Have your annual direct premium sales (in yen) or market share in the third sector<sup>3</sup> increased, remained the same, or decreased in the time period beginning just before the 1994 agreement was signed up until now? (Your best estimate will suffice. Check one box in each column.)

<p><sup>2</sup>Have your <u>annual direct premium sales</u> (in yen) in the <u>third</u> sector increased, remained the same, or decreased in the time period beginning just before the 1994 agreement was signed up until now...</p> <p>1. 8 Increased 2. 1 Remained the same 3. 0 Decreased ----- 4. 0 Do not know 5. 4(3) Not applicable</p>	<p>Has your <u>market share</u> in the <u>third</u> sector increased, remained the same, or decreased in the time period beginning just before the 1994 agreement was up until now...</p> <p>1. 6 Increased 2. 2 Remained the same 3. 1 Decreased ----- 4. 0 Do not know 5. 4 Not applicable</p>
---	--

→ → → → → (If both "do not know" or "not applicable," skip to question 53.)

<sup>1</sup>Brokers were asked to what extent they attributed the change in annual commissions to the actions taken by the Government of Japan under the agreements. Brokers were not asked about their market shares.

<sup>2</sup>Brokers were asked if their annual commissions had increased, decreased, or remained the same. Brokers were not asked about their market shares.

<sup>3</sup>The third sector life insurance products include hospitalization, cancer and nursing. The third sector non-life insurance products include personal accident, nursing care, and overseas travel.

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**PART III: 1994 and 1996 AGREEMENT**

51. To what extent, if at all, would you attribute this change in annual direct premium sales or market share in the third sector to actions taken by the Government of Japan under the agreements? (Check one box in each column.)

<p>Extent you attribute this change in <u>annual direct premium sales</u> in the <u>third</u> sector to actions taken by the Government of Japan under the agreements...</p> <p>1. 0 To a very great extent 2. 1 To a great extent 3. 4 To a moderate extent 4. 1 To some or little extent ----- 5. 3 To no extent 6. 0 No basis to judge</p>	<p>Extent you attribute this change in <u>market share</u> in the <u>third</u> sector to actions taken by the Government of Japan under the agreements...</p> <p>1. 0 To a very great extent 2. 1 To a great extent 3. 3 To a moderate extent 4. 2 To some or little extent ----- 5. 3 To no extent 6. 0 No basis to judge</p>
---	--

52. <sup>2</sup>Based on your experience, have subsidiaries (life subsidiaries of non-life companies and non-life subsidiaries of life companies) operating in the third sector had a positive effect, a negative effect or no effect on your company's sales and market share in the third sector, since the 1994 agreement was signed in October 1994? (Check one box in each column.)

<p>Have subsidiaries in the third sector had a positive effect, a negative effect or no effect on your company's <u>sales</u> in the third sector...</p> <p>1. 0 Very positive effect 2. 1 Generally positive effect 3. 5 No effect 4. 1 Generally negative effect 5. 0 Very negative effect ----- 6. 2 No basis to judge</p>	<p>Have subsidiaries in the third sector had a positive effect, a negative effect or no effect on your company's <u>market share</u> in the third sector...</p> <p>1. 0 Very positive effect 2. 1 Generally positive effect 3. 5 No effect 4. 1 Generally negative effect 5. 0 Very negative effect ----- 6. 2 No basis to judge</p>
---	--

<sup>1</sup>Brokers were asked to what extent they attributed the change in annual commissions to the actions taken by the Government of Japan under the agreements. Brokers were not asked about their market shares. The three brokers we surveyed, however, skipped question 51 because they responded "not applicable," to question 50.

<sup>2</sup>Question 52 not included in broker questionnaire.

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**PART IV: MONITORING AND ENFORCEMENT**

**PART IV**

**U.S. Government Efforts to Monitor and Enforce the 1994 and 1996 U.S.-Japan Insurance  
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**Note: Broker responses in parenthesis.**

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**PART IV: MONITORING AND ENFORCEMENT**

53. Since the 1996 agreement was signed on December 24, 1996, about how many times has a representative from your firm communicated (e.g., face-to-face meetings, phone conversations, faxes, etc.) with the following U.S. government agencies on issues related to monitoring and enforcing the 1994 and 1996 U.S.-Japan insurance agreements? (Check one box in each row. Your best estimate will suffice.)

	More than 25 times (specify if possible)	10-25 times	6-9 times	3-5 times	1-2 times	0 times	Do not know
USTR	5	2	3(1)	0	2	0(2)	1
U.S. Embassy (includes all U.S. government officials stationed at the embassy.)	6	1	2	3(1)	0(2)	0	1
Department of State <sup>1</sup>	4	0	1	0	1	2(2)	3(1)
Department of Commerce <sup>2</sup>	4	0	3	0	2	1(2)	2(1)
Department of the Treasury <sup>3</sup>	3	1	1	0	1	2(2)	3(1)
Other-Specify: One company specified the U.S. Congress. The other company did not specify any agency.	2	0	0	0	0	1	1(1)

<sup>1</sup>Two companies did not respond to the extent they had met with the Department of State.

<sup>2</sup>One company did not respond to the extent it had met with the Department of Commerce.

<sup>3</sup>Two companies did not respond to the extent they had met with the Department of the Treasury.

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**PART IV: MONITORING AND ENFORCEMENT**

54. Based on your experience, to what extent, if at all, has the U.S. government taken the following actions related to monitoring and enforcing the 1994 and 1996 U.S.-Japan insurance agreements since the 1996 agreement was signed on December 24, 1996? (Check one box in each row.)

	Very great extent	Great extent	Moderate extent	Some or little extent	No extent	No basis to judge
Sought <u>input</u> from <u>your company</u> on the status of implementation of the agreements	6	1	3	2(1)	0(2)	1
Sought <u>data</u> from <u>your company</u> on the status of implementation of the agreements	6	1	3	1	1(3)	1
Sought <u>input</u> from the <u>industry</u> as a whole on status of implementation of the agreements	6(1)	3	2(1)	0	0	2(1)
Sought <u>data</u> from the <u>industry</u> as a whole on status of implementation of the agreements	6(1)	2	2	1	0	2(2)
Held discussions with <u>your company</u> as part of its preparations for the U.S.-Japan annual (or more frequent) consultations.	5	2	1	2	2(3)	1
Held discussions with the <u>industry</u> as part of its preparations for the U.S.-Japan annual (or more frequent) consultations.	6(1)	2(1)	3	0	0	2(1)
Kept <u>your company</u> informed on its consultations with the GOJ regarding the status of implementation of the agreements	1	7	1	2(1)	1(2)	1
Kept the <u>industry</u> as a whole informed on its consultations with the GOJ regarding the status of implementation of the agreements	1(1)	7	2(2)	1	0	2

55. Based on your experience, to what extent, if at all, has the U.S. government identified issues of concern to your company related to the Government of Japan's implementation of the 1994 and 1996 U.S.-Japan insurance agreements? (Check one.)

- 1. 2 To a very great extent
- 2. 2 To a great extent
- 3. 2 To a moderate extent
- 4. 5(2) To some or little extent
- 5. 1(1) To no extent
- 
- 6. 1 No basis to judge

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**PART IV: MONITORING AND ENFORCEMENT**

56. Based on your experience, to what extent, if at all, has the U.S. government identified issues of concern to your company related to the Government of Japan's implementation of the 1994 and 1996 U.S.-Japan insurance agreements, in a timely manner? (*Check one.*)
- 1. 1 To a very great extent
  - 2. 1 To a great extent
  - 3. 6 To a moderate extent
  - 4. 2 To some or little extent
  - 5. 2 To no extent
  - 
  - 6. 1(3) No basis to judge
57. Based on your experience, to what extent, if at all, has the U.S. government given thorough consideration to issues identified by industry related to the Government of Japan's implementation of the 1994 and 1996 U.S.-Japan insurance agreements? (*Check one.*)
- 1. 2 To a very great extent
  - 2. 5(1) To a great extent
  - 3. 1 To a moderate extent
  - 4. 2 To some or little extent
  - 5. 1 To no extent
  - 
  - 6. 2(2) No basis to judge
58. Based on your experience, to what extent, if at all, has the U.S. government acted upon issues related to the Government of Japan's implementation of the 1994 and 1996 U.S.-Japan insurance agreements, in a timely manner? (*Check one.*)
- 1. 1 To a very great extent
  - 2. 2(1) To a great extent
  - 3. 2 To a moderate extent
  - 4. 5 To some or little extent
  - 5. 1 To no extent
  - 
  - 6. 2(2) No basis to judge
59. To what extent, if at all, has the U.S. government's decision making process concerning monitoring and enforcing the agreements been clear and readily understandable? (*Check one.*)
- 1. 0 To a very great extent
  - 2. 4(1) To a great extent
  - 3. 4 To a moderate extent
  - 4. 2(1) To some or little extent
  - 5. 2 To no extent
  - 
  - 6. 1(1) No basis to judge

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60. To what extent, if at all, has information regarding the Government of Japan's implementation of the agreements provided to industry by the U.S. government been clear and accurate? (*Check one.*)
- 1. 1 To a very great extent
  - 2. 2(1) To a great extent
  - 3. 2 To a moderate extent
  - 4. 6 To some or little extent
  - 5. 1 To no extent
  - 
  - 6. 1(2) No basis to judge
61. To what extent, if at all, has U.S. government policy on implementation of the insurance agreements been consistent over time? (*Check one.*)
- 1. 2 To a very great extent
  - 2. 4(2) To a great extent
  - 3. 2 To a moderate extent
  - 4. 3 To some or little extent
  - 5. 2 To no extent
  - 
  - 6. 0(1) No basis to judge

<sup>1</sup>Specific Company Problems Related to the Agreements

62. In situations where you have experienced problems related to the agreements, from which of the following government agencies and/or private sector organizations have you sought help? (*Check all that apply. If no problems, skip to question 65.*)

U.S. Government agencies	Government of Japan	Private sector
7_ USTR	7_ Ministry of Finance	8_ Trade association (specify:) <sup>2</sup>
8_ U.S. Embassy	7_ Financial Supervisory Agency	4_ Trade association (specify:) <sup>2</sup>
4_ Department of State	3_ Ministry of Foreign Affairs	0_ Rating association (specify: )
5_ Department of Commerce	5_ Japan Fair Trade Commission	0_ Rating association (specify: )
5_ Department of the Treasury	0_ Other (specify: )	0_ Other (specify: )
1_ Other (specify: Congress)	0_ Other (specify: )	0_ Other (specify: )

<sup>1</sup>Two companies and one broker did not report any problems.

<sup>2</sup>The companies reported that they had met with the following trade associations to seek help on problems they experienced related to the agreements:

The Foreign Non-Life Insurance Association – 4 companies;  
 The American Chamber of Commerce in Japan – 3 companies;  
 The Life Insurance Association of Japan – 2 companies;  
 The Marine and Fire Insurance Association Of Japan, Inc. (JNLIA) – 1 company;  
 International Insurance Council (U.S. based) – 1 company; and  
 American Council of Life Insurance – 1 company.

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**PART IV: MONITORING AND ENFORCEMENT**

63. How satisfied or dissatisfied is your company with the U.S. and Japanese governments' responses to problems identified by your company or by the industry? *(Check one box in each column and explain your response.)*

<p>How satisfied or dissatisfied is your company with the <u>U.S.</u> government's responses to identified problems...</p> <p>1. 2 Very satisfied 2. 3 Generally satisfied 3. 2(1) As satisfied as dissatisfied 4. 2 Generally dissatisfied 5. 1 Very dissatisfied ----- 6. 1(1) No basis to judge</p>	<p>How satisfied or dissatisfied is your company with the <u>Japanese</u> government's responses to identified problems...</p> <p>1. 1 Very satisfied 2. 2 Generally satisfied 3. 2 As satisfied as dissatisfied 4. 2(1) Generally dissatisfied 5. 4 Very dissatisfied ----- 6. 0(1) No basis to judge</p>
--	--

Please explain your response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

64. To what extent are any problems your company is facing in establishing, maintaining, or strengthening its position in the Japanese market attributable to non-implementation of the agreements by the Government of Japan? *(Check one and explain your response.)*

- 1. 0 To a very great extent
- 2. 1 To a great extent
- 3. 5 To a moderate extent
- 4. 1(2) To some or little extent
- 5. 3 To no extent
- 
- 6. 1 No basis to judge

Please explain your response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Appendix I  
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**PART IV: MONITORING AND ENFORCEMENT**

Overall Observations on the U.S. Government's Efforts to Monitor and Enforce the Agreements

65. In your opinion, do you believe the following U.S. government agencies have sufficient resources (e.g., personnel, funding, etc.) to adequately monitor and enforce the 1994 and 1996 U.S.-Japan insurance agreements? *(Check one box in each row.)*

	Yes	No	No basis to judge
USTR	2	6	5(3)
U.S. Embassy (includes all U.S. government officials stationed at the embassy.)	4	4	5(3)
Department of State	2	1	10(3)
Department of Commerce	2	2	9(3)
Department of the Treasury	2	1	10(3)
Other-Specify: _____	0	0	3(1)

66. In your opinion, how adequately or inadequately has the U.S. government represented your company's interests and the interests of U.S. industry as a whole, before the Government of Japan? *(Check one box in each column.)*

<p>How adequately or inadequately has the U.S. government represented the interests of <u>your company</u> before the Government of Japan...</p> <p>1. 5 Very adequately 2. 4(1) Generally adequately 3. 0 Neither adequately nor inadequately 4. 2 Generally inadequately 5. 1 Very inadequately ----- 6. 1(2) No basis to judge</p>	<p>How adequately or inadequately has the U.S. government represented the interests of the <u>U.S. industry as a whole</u>, before the Government of Japan...</p> <p>1. 6 Very adequately 2. 4(1) Generally adequately 3. 1 Neither adequately nor inadequately 4. 0 Generally inadequately 5. 1 Very inadequately ----- 6. 1(2) No basis to judge</p>
---	--

67. Overall, in your view, how effective has the U.S. government been in monitoring the agreements? *(Check one.)*

1. 2 Very effective  
2. 5(2) Effective  
3. 4 As effective as ineffective  
4. 0 Ineffective  
5. 2 Very ineffective  
-----  
6. 0(1) No basis to judge

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**PART IV: MONITORING AND ENFORCEMENT**

68. Overall, in your view, how effective has the U.S. government been in enforcing the agreements?  
(Check one.)
- 1. 0 Very effective
  - 2. 4 Effective
  - 3. 5(2) As effective as ineffective
  - 4. 1 Ineffective
  - 5. 2 Very ineffective
  - 
  - 6. 1(1) No basis to judge
69. Are there any other experiences your company has had in doing business in Japan that stand out as either exemplary or as problems that you would like to share with us?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Thank you for your cooperation.*

Please fax the completed questionnaire to Leslie Holen or José Peña at (415)904-2111 or mail it (only if you are returning it via the U.S. Postal Service) to the following address:

U.S. General Accounting Office  
301 Howard Street, Suite 1200  
San Francisco, CA 94105-2252

Attention: José Peña/Leslie Holen

A return envelope is provided for your convenience but can only be used if you are returning the completed questionnaire via the U.S. Postal Service.

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**ATTACHMENT**

United States General Accounting Office



**Supplemental Questions on  
Status of the Implementation of the U.S.-Japan Insurance Agreements**

**Instructions**

This attachment to our questionnaire collects additional information we need to complete our review of the two U.S.-Japan insurance agreements. This information concerns your company's experiences with obtaining approval of different types of applications in Japan. Specifically, it asks for the number of applications your company has submitted for approval and for information regarding how those applications were treated. The questions concern 1) rating organization reform and 90 day approval of applications; and 2) the direct response system (*Tsushin-Hanbai*) for automobile insurance and automobile insurance with differentiated rates. The information you supply will better enable us to describe to the Congress the experiences of U.S. companies in conducting business in Japan.

Please consult your records for the period beginning on December 24, 1996, when the agreement was signed through the present. Answer all questions in terms of this time period.

The information you provide will be treated confidentially. Responses will not be used in any way that will enable readers to identify you or your company. Please return this attachment to GAO by **February 19, 1999**. You may mail the attachment along with your completed questionnaire or separately to the following address:

U.S. General Accounting Office  
301 Howard Street, Suite 1200  
San Francisco, CA 94105-2252

ATTN: José Peña/Leslie Holen

You also may fax it to Leslie Holen or José Peña at (415) 904-2111. If you have any questions, please call Leslie at (415) 904-2277 or José at (415) 904-2268.

*Thank you for your assistance, your participation is important to our study.*

Please complete the following:

Company: \_\_\_\_\_

Person responsible for completion: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

**Appendix I  
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**Supplemental Questions to Company Questionnaire**

**Rating Organization Reform and 90 Day Approval of Applications [Section I(3)c & d] of the 1996 Agreement**

On July 1, 1998, the Government of Japan implemented legislation specifying that MOF would approve, within the standard processing period of 90 days after submission, applications allowing for insurance providers to differentiate, based on risk insured, the rates, forms, and distribution of products, without regard to whether such applications used rates calculated by the rating organizations. Prior to July 1, 1998, the MOF welcomed, and would approve, within the standard processing period of 90 days after submission, such applications for products in major product categories in the life and non-life sectors that also provide for the flexibility to differentiate based on risk insured.

1. Since the agreement was signed on December 24, 1996, what has been your experience with MOF, and subsequently the Financial Supervisory Agency (FSA), in obtaining approval within 90 days of submission for those applications listed below? [Section I(3)c & d] *(Fill in the total number of applications of each type your company submitted, the number that required pre-approval discussions and the number of applications currently in each approval status. If your company submitted no applications of any given type, record "0" in the first column for that type and move to the next row. If your company submitted no applications of any of these types, record "0" in the first column for all types and GO TO Question 5.)*

	Submitted	Pre-approval discussions required	<sup>1</sup> Approved within 90 days of submission	<sup>1</sup> Approved more than 90 days after submission	<sup>1</sup> Pending approval	<sup>1</sup> Rejected
	(number of applications, with percentages of applications submitted in parenthesis)					
Application to sell a new-to-market product	57 <sup>2</sup>	12(21%)	34(60%)	11 <sup>3</sup> (19%)	12(21%)	0(0%)
Application to revise a company exclusive product form	33	9(27)	25(76)	3(9)	5(15)	0(0)
Application to revise a company exclusive product rate	17	6(35)	11(65)	3(18)	3(18)	0(0)
Application to sell an industry standard product	29	13(45)	26(90)	0(0)	3(10)	0(0)
Application to revise an industry standard product form	172	10(6)	163(95)	0(0)	9(5)	0(0)
Application to revise an industry standard product rate	148	4(3)	137(93)	0(0)	11(7)	0(0)
Application to sell through a new distribution channel	10	4(40)	5(50)	4(40)	1(10)	0(0)

<sup>1</sup>For each type of application, the percentage in these columns should sum to 100 percent. In one case they did not due to rounding.

<sup>2</sup>Eleven of the 13 companies submitted at least one application to sell a new-to-market product. However, the largest non-life company submitted 25 of the 57 applications.

<sup>3</sup>The 11 applications approved more than 90 days after submission were submitted by three companies. The largest non-life insurance company submitted 7 of these 11 applications.

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2. Consider only those applications submitted to MOF or FSA that required pre-approval discussions. Please estimate the average number of days that passed between the date your company **began pre-approval discussions with MOF or FSA, and the date the application was formally submitted.** [Section I(3)c & d] Provide separate estimates for applications approved within 90 days of submission, those approved more than 90 days after submission, those pending approval and those rejected. *(Fill in average number of days between the start of discussions and submission for each group of applications in the slots below. If "0" applications required pre-approval discussions, please check "not applicable.")*

	<u>Average number of days</u>
applications approved within 90 days of submission	1 response was 5 days 2 responses were 20 days 1 response was 30 days 2 responses were 90 days 1 response was 96 days 1 response was 120 days 1 response was 166 days
applications approved more than 90 days after submission	1 response was 26 days 1 response was 240 days
applications pending approval	1 response was 27 days 1 response was 50 days 1 response was 60 days 1 response was 80 days 1 response was 90 days
applications rejected	No applications rejected
-----	
0	Not applicable

3. Were your experiences prior to July 1, 1998 any different than those after that date? [Section I(3)c & d] *(Check one and explain.)*

1. 6 Yes  
2. 4 No

- 3. 3 No basis to judge  
4. 0 Not applicable

Please explain your response: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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4. What other problems, if any, have you experienced with getting your applications approved within 90 days of submission?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Direct Response System (Tsushin-Hanbai) for Automobile Insurance (Section I(1)a) and Automobile Insurance with Differentiated Rates (Section I(4))**

5. <sup>1</sup>Since the agreement was signed on December 24, 1996, what has been your company's experience in submitting applications and obtaining approval to (1) use the direct response system (*Tsushin-Hanbai*) for automobile insurance and (2) differentiate rates, forms, and distribution of products based on risk factors for automobile insurance? (Fill in the number of applications you submitted and the number of applications in each approval status in the columns below. If your company has current plans to offer automobile insurance, but has not yet submitted applications for approval, enter "0" in the slot for the number of applications submitted. If your company does not offer automobile insurance and has no current plans to do so, check "not applicable".)

<sup>2</sup> What has been your company's experience in submitting applications and obtaining approval to use the direct response system ( <i>Tsushin-Hanbai</i> ) for automobile insurance...(Section I(1)a)		<sup>3</sup> What has been your company's experience in submitting applications and obtaining approval to differentiate rates, forms, and distribution of products based on risk factors for automobile insurance...(Section I(4))	
number of applications submitted	4	number of applications submitted	5
number of applications approved	4	number of applications approved	4
number of applications rejected	0	number of applications rejected	0
number of applications pending	0	number of applications pending	1
-----		-----	
not applicable	5	not applicable	4

<sup>1</sup>Responses represent non-life insurers only.

<sup>2</sup>Three of the eight non-life insurers submitted applications for the direct response system (*Tsushin-Hanbai*) for automobile insurance.

<sup>3</sup>Four of the eight non-life insurers submitted applications to differentiate rates, forms, and distribution of products based on risk factors for automobile insurance.

Thank you for your cooperation.

# Analysis of Company Questionnaires on the Status of Implementation of the U.S.-Japan Insurance Agreements

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This appendix presents a discussion of the results of the company questionnaires (see app. I) on the 1994 and 1996 U.S.-Japan insurance agreements. The following discussion is structured differently from our discussion of this topic in the main body of the report. The discussion in the main body of the report is structured around issues, such as implementation, impact, and concerns related to the agreements. This discussion is structured to follow the order of the questionnaire. We first discuss company responses to questions on implementation and impact of the 1994 agreement, then follow with a discussion of company responses to the 1996 agreement. We end the discussion with company views on the future impact of the agreements as well as company experiences in sales and market share over the last few years.

In our discussion of company responses to questions on the 1994 agreement, where appropriate, we compare responses in our current survey to those responses to a 1996 survey we conducted on the 1994 agreement. Eleven of the 13 companies and two of the three brokers included in our current survey also responded to our 1996 survey. While our current survey section on the 1994 agreement covers the same major issues we covered in our 1996 survey, we did not ask as many detailed questions about the agreement as we did in our prior survey nor did we ask about certain commitments that had clearly been implemented prior to the creation of our 1999 survey.

Finally, our discussion of survey results is supplemented with information obtained during interviews with U.S. insurance companies in Japan.

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**1994 Agreement Largely Implemented and Provides Positive Impact, but Concerns Exist Over Implementation of Key Commitments**

In our 1999 survey, 8 of the 13 companies, representing about 90 percent of the premiums generated by U.S. companies in Japan, and two of the three brokers reported that the 1994 agreement had enhanced their ability to compete in Japan.<sup>1</sup> This represents a positive change from our 1996 survey, when most companies reported that Japan had implemented the 1994 agreement to varying degrees, but the agreement had no effect on their ability to compete.<sup>2</sup> However, companies reported concerns over Japan's implementation of specific commitments under the agreement.

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**Company Views on Implementation and Impact of Selected Key Commitments Under the 1994 Agreement**

The 1994 agreement included commitments by Japan to increase transparency, deregulation, competition, and access to insurance programs of government corporations, while protecting foreign companies' shares in the third sector. Table 1 lists selected key commitments by the Japanese government under the 1994 agreement. Company views on the extent to which Japan has implemented these commitments and their impact follow the table.

---

<sup>1</sup>Company shares (percentage) of total U.S. premiums generated in Japan were calculated using premium data for Japanese fiscal year 1997 (Apr. 1997-Mar. 1998). Two surveyed companies, GE Edison and Allstate, did not have sales in 1997 and were assigned a zero weight for computing the premium proportions. The three brokers we surveyed were also excluded from the calculation of premium proportions.

<sup>2</sup>In 1996, we surveyed 11 U.S. companies and four U.S. brokers operating in Japan. In 1999, we surveyed these 11 companies and 2 additional U.S. companies. One of these two companies, GE Edison, entered the life insurance market through the acquisition of a Japanese life insurer in April 1998. The other U.S. company, Allstate, was established in 1998 to sell automobile insurance. This company once had a 50-percent ownership in two other insurance companies in Japan but divested itself of these two companies in November 1997. Also, since our prior survey, one of the U.S. brokers acquired another of the brokers, thus leaving us with three brokers in our 1999 survey.

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**Table 1: Selected Key Commitments of the 1994 U.S.-Japan Insurance Agreement**

1994 Agreement	
Measures	Selected key commitments by the Japanese government
Transparency and procedural protections	<ul style="list-style-type: none"> <li>• Publish and make publicly available licensing, product, and rate approval standards</li> <li>• Encourage Japanese advisory groups to allow foreign providers to attend their meetings and submit statements when these groups are asked to provide recommendations to Japanese government related to the provision of insurance</li> <li>• Encourage Japanese industry associations to accord foreign insurers rights, privileges, and opportunities equal to those accorded to domestic firms</li> <li>• Provide meaningful and fair opportunities for foreign firms to be informed of, comment on, and/or exchange views with Japanese officials regarding insurance laws, ordinances, and/or regulations</li> <li>• Safeguard information considered secret in connection with a company's application, accept multiple applications for license or product approval at the same time, not require companies to coordinate their applications with other insurance providers, and not condition/delay acceptance of applications based on whether the company has consulted with other insurance providers</li> </ul>
Deregulation	<ul style="list-style-type: none"> <li>• Institute, in stages, expedited and simplified systems for the approval of applications for certain insurance products and rates</li> <li>• Allow insurance companies to apply flexible rates for certain non-life products</li> <li>• Allow applications to use data collected outside of Japan</li> <li>• Establish a brokerage system</li> </ul>
Entry into the third sector by subsidiaries	<ul style="list-style-type: none"> <li>• Do not allow "mutual entry"<sup>a</sup> until a substantial portion of life and non-life areas are deregulated, and avoid radical change in the third sector until foreign insurance providers have the opportunity to compete on equal terms in major product categories in the life and non-life sectors</li> </ul>
Government corporations	<ul style="list-style-type: none"> <li>• Encourage public corporations to permit foreign insurers access to their insurance programs and to ensure that allocation of premium shares among insurance providers is done according to fair, transparent, nondiscriminatory, and competitive criteria</li> </ul>
Competition	<ul style="list-style-type: none"> <li>• Strictly enforce antitrust laws in the insurance sector</li> <li>• Require the private sector to complete a study of "keiretsu" relationships<sup>b</sup></li> </ul>

<sup>a</sup>"Mutual entry" was defined in the 1994 agreement as "the ability of life insurance companies to introduce existing, new or modified rates, products, or riders in the third sector currently allowed to non-life insurance companies, and the ability of non-life insurance companies to introduce existing, new or modified rates, products, or riders in the third sector currently allowed to life insurance companies."

<sup>b</sup>"Keiretsu" are groups of Japanese firms that maintain close ties through the cross-holding of shares and exchange of personnel. They are important in the Japanese insurance market. With close corporate links, many Japanese businesses and their employees buy insurance from firms within their keiretsu—limiting the ability of foreign insurance providers to distribute their products.

Source: "Measures by the Government of the United States and the Government of Japan Regarding Insurance," October 11, 1994.

**Transparency and Procedural Protections**

Our analysis of questionnaire responses indicates that most of the commitments to improve transparency and procedural protections have been met. Most companies (10 of 13) reported that they had been given meaningful and fair opportunities to share their views with Japanese officials regarding insurance laws, ordinances, and/or regulations. One

company official indicated that the Financial Supervisory Agency (FSA), which assumed regulatory authority over product approval from the Ministry of Finance (MOF), encouraged greater dialogue with companies and appeared to value and respect diverse opinions. Further, 10 companies reported that they had received equal treatment in insurance industry groups. Also, 10 companies reported that the Japanese government had not required their company to coordinate its applications with other insurance providers (which may be potential competitors) and had not conditioned or delayed acceptance of their applications based on whether they had consulted with other insurance providers.

Several companies, however, expressed concern over the Japanese government's commitment to publish and/or make publicly available licensing, product, and rate approval standards. Almost half of the companies (6 of 13) reported that the Japanese government had done little or nothing to meet this commitment. This result is very similar to what companies reported to us during our 1996 survey. Officials from two companies told us that the MOF and FSA were reluctant to put anything in writing with respect to approval standards. An official from another company told us that it was difficult to develop products because the rules of the product approval process were unclear. With respect to Japan's commitment to encourage Japanese advisory groups to allow foreign companies to attend group meetings when these groups are asked to provide recommendations related to insurance, four U.S. companies reported that they had attended only a few of these meetings, while another two U.S. companies reported that they had not attended any meetings. Officials from two other companies told us that the most effective way to communicate with the Japanese government was through industry associations, such as the Life Insurance Association of Japan and the Foreign Non-Life Insurance Association of Japan, rather than individually.

Overall, 7 of the 13 companies, representing about 90 percent of the premiums of U.S. companies in Japan, reported that the Japanese government's actions to improve transparency and procedural protections had no effect on their ability to compete in Japan. Three companies reported that these actions had a generally positive effect.

## Deregulation

Our analysis of questionnaire responses indicates that the Japanese government has implemented many of the specific deregulatory commitments in the 1994 agreement. Four of six non-life companies reported that the Japanese government had, to a moderate or great extent, expanded the types of non-life products to which flexible rates could be

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applied.<sup>3</sup> Eight companies submitted applications using data collected outside of Japan and were allowed to use this data. This represents twice the number of companies that reported using outside data in our 1996 survey. However, over half of the companies (7 of 13), representing about 45 percent of the premiums, reported that generally the government had done little to expedite and simplify the application review process. This result is very similar to what companies reported to us during our 1996 survey.

Concerning Japan's implementation of its commitment to establish a brokerage system, two of the three brokers reported that the Japanese government's decision to recognize and license brokers had enhanced their ability to compete in Japan.<sup>4</sup> However, all brokers told us that they continued to face obstacles in Japan, including a lack of price and product differentiation, restrictions on the types of products they can offer, and restrictions on the structure of their business operations. In terms of the impact of brokers on insurance companies, two companies reported that the establishment of a brokerage system had a generally positive effect on their ability to compete in Japan, while seven companies reported that this system had no effect.<sup>5</sup>

Overall, 9 of the 13 companies, representing about 45 percent of premiums, reported that the Japanese government's implementation of its 1994 deregulatory commitments had a positive effect on their ability to compete in Japan. Eight companies reported that the Japanese government's implementation of its deregulatory commitments had enhanced their abilities to differentiate product rates and forms.<sup>6</sup> Also, five companies reported that the implementation of deregulation commitments had increased companies' abilities to distribute insurance products. These results represent a positive change over our prior survey, when most companies reported that Japan's actions had done little to enhance their abilities to differentiate product rates and forms and distribute insurance products.

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<sup>3</sup>Two non-life companies reported that this commitment did not apply to them.

<sup>4</sup>All three brokers had received their brokers' licenses.

<sup>5</sup>The remaining four companies reported that they had no basis to judge or that it was too soon to determine the impact of the brokerage system.

<sup>6</sup>These results reflect the Japanese government's implementation of both the 1994 and 1996 deregulatory commitments.

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**Entry Into the Third Sector by**  
**Subsidiaries**

Six companies, representing about 80 percent of U.S. premiums, reported that the Japanese government had not taken sufficient action to avoid “radical change” in the third sector (that is, had not prevented large Japanese companies from entering into the third sector). Two U.S. insurers believed that radical change had occurred because two Japanese companies, Yasuda and Tokyo-Anshin, were operating in the third sector in a manner the U.S. insurers believed violated both agreements. Two companies, representing about 45 percent of U.S. premiums, reported that Japan had not taken sufficient action to avoid radical change in the third sector and that this inaction had a generally negative effect on their ability to compete in Japan. One company stated that Japan had taken sufficient action to avoid radical change and that this action had a very negative impact on its ability to compete. Five companies, representing about 40 percent of premiums, reported that Japan's efforts to avoid radical change had a generally positive effect.

**Government Corporations**

The insurance programs of government corporations are large and profitable, according to officials from two U.S. insurance companies.<sup>7</sup> However, most companies reported that the insurance programs of these corporations are not fully available to them. Seven companies reported that for the most part, these corporations had not allocated shares of premiums using fair, transparent, nondiscriminatory, and competitive criteria, as required by the 1994 agreement.<sup>8</sup> This result is very similar to our last survey. In our current survey, one company official stated that the formula used by the Housing Loan Corporation (the only government corporation that has disclosed its formula for allocating shares to insurance companies) to allocate premiums gave less than 5 percent of the shares to foreign companies. Furthermore, according to this company official, this government corporation gave the entire foreign share to one large U.S. company, with the expectation that the company would share the premiums with other foreign companies through reinsurance agreements.

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<sup>7</sup>Government corporations are established by special law in Japan to serve as instruments for state activities when it is recognized that such a corporation could operate more efficiently than if managed directly by a government agency, or that its financial and personnel management could proceed more smoothly than if subject to the laws and regulations of a government organization.

<sup>8</sup>Five public corporations were encouraged by the Japanese government to permit foreign insurers access to their insurance programs: the Government Housing Loan Corporation, the Pension Welfare Service Public Corporation, the Housing and Urban Development Corporation, the Okinawa Development Corporation, and the Employment Promotion Corporation.

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**Competition**

Many companies reported that Japan had not taken sufficient action to promote competition in the insurance market. Five of the 13 companies, representing about 70 percent of U.S. premiums, reported that the Japanese government had not vigorously enforced the Anti-Monopoly Act in the insurance sector.<sup>9</sup> Eight companies and all three brokers reported that keiretsu practices and case agents still adversely affected them to a moderate or greater extent.<sup>10</sup> Officials from two companies indicated that Japanese companies would usually not buy insurance outside of their keiretsu. However, officials from two companies and one broker believed that keiretsu groups would weaken over time. Overall, 9 of the 13 companies, representing about 90 percent of the premiums, reported that Japan's efforts to improve competition by taking antitrust actions had no effect on their ability to compete in Japan. This result is very similar to what companies reported to us in our 1996 survey.

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**1996 Agreement Also Largely Implemented and Provides Positive Impact, but Some Key Commitments Not Fully Met**

In our 1999 survey, 9 of the 13 companies, representing around 50 percent of U.S. premiums, and two of the three brokers reported that the 1996 agreement had a positive effect on their ability to compete in Japan. Companies reported that while Japan had implemented many of the commitments, some had not been fully met.

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**Company Views on Implementation and Impact of Selected Key Commitments Under the 1996 Agreement**

The 1996 agreement listed several deregulation commitments for the primary sector. In addition, the agreement listed other commitments that restrict entry into the third sector by subsidiaries of large Japanese companies. The agreement clarified when these restrictions could be lifted by explicitly linking them to the implementation of five primary sector deregulation commitments. The agreement states that these restrictions will be lifted 2.5 years after the five primary sector commitments have been

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<sup>9</sup>In addition, the private sector keiretsu study mandated by the 1994 agreement was never completed.

<sup>10</sup>Case agents are in-house insurance companies for Japanese firms. Case agents handle the insurance needs of the firm and are supposed to lower a firm's insurance cost. Case agents can also handle individual employee insurance needs, including auto, travel, and personal accident insurance.

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implemented. Under the 1996 agreement, the Japanese government also made a commitment to take steps to increase the number of staff who process insurance applications. Table 2 lists selected key commitments by the Japanese government under the 1996 agreement. Company views on the extent to which Japan has implemented these commitments and their impact follow the table.

**Table 2: Selected Key Commitments of the 1996 U.S.-Japan Insurance Agreement**

1996 Agreement	
Measures	Selected key commitments by the Japanese government
Deregulation in the primary sectors <sup>a</sup>	<ul style="list-style-type: none"> <li>• Approval of applications for differentiated automobile insurance (different rates, forms, and methods of distributing insurance products based on risk factors) within the standard 90-day period</li> <li>• Authorization for companies to offer commercial fire insurance at different rates by further lowering of the minimum insured amount per contract required for the application of the advisory rate system<sup>b</sup></li> <li>• Expansion of the notification system for 19 products and their marketing within 90 days<sup>c</sup></li> <li>• Implementation of the necessary legal changes to eliminate obligations for members of a rating organization to use rates calculated by the rating organization</li> <li>• Approval of applications for differentiated products or rates within the standard 90-day period</li> <li>• Approval of direct response system for automobile insurance<sup>d</sup></li> </ul>
Entry into the third sector by subsidiaries	<ul style="list-style-type: none"> <li>• Non-life subsidiaries of life insurance providers permitted to sell personal accident insurance subject to restrictions</li> <li>• Life insurance subsidiaries of non-life insurance companies not allowed to sell stand-alone cancer or medical insurance</li> <li>• For life insurance subsidiaries, limit the ratio of cancer or medical rider benefits to base life insurance policies to what was in existence before the implementation of the new Insurance Business Law on April 1, 1996</li> </ul>
Other issues	<ul style="list-style-type: none"> <li>• Take steps to increase the number of staff who process insurance applications</li> </ul>

<sup>a</sup>The implementation of the first five deregulation commitments serves as the five criteria that must be met before the restrictions on entry into the third sector by large Japanese subsidiaries can be lifted.

<sup>b</sup>The Japanese government committed to allow companies to offer flexible rates on their commercial fire policies if the amount insured was 7 billion yen—the threshold—or higher.

<sup>c</sup>Under Japan's notification system, a company notifies to the government its intention to offer a specific product/rate in categories of risk that have been designated by Japan as eligible to use the system. The company then waits 90 days while the notification is reviewed by the government. If, after 90 days, no disapproval is received, the company can then consider the product/rate approved and begin to offer it.

<sup>d</sup>This allows for automobile insurance to be marketed directly. For example, automobile insurance may be marketed over the telephone. The U.S. government acknowledged that the Japanese government had met this commitment in September 1996.

Source: "Supplementary Measures by the Government of the United States and the Government of Japan Regarding Insurance," December 24, 1996.

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**Deregulation in the Primary  
Sectors**

Our analysis of questionnaire responses indicates that for the most part Japan has implemented its deregulatory commitments and these commitments are having a positive effect. For example, the three non-life companies who submitted applications to offer automobile insurance through the direct response system (for example, marketing over the telephone) reported that these applications have been approved. One of these three companies reported that this method of offering insurance had a very positive effect on its ability to compete in Japan, while the other two companies reported no effect. An official from another company noted that the approval of direct marketing of automobile insurance should help toward gaining the approval of direct marketing for other insurance products.<sup>11</sup>

Of the five primary sector deregulatory commitments that serve as criteria for lifting restrictions on the entry into the third sector by subsidiaries of large Japanese companies, four of these apply only to non-life companies. All of the non-life companies expressing an opinion reported that Japan had implemented three of these four commitments (that is, approval of differentiated automobile insurance applications, further liberalization of commercial fire insurance, and elimination of the obligation to use rating organization rates). One non-life insurer reported that Japan's commitment to expand the notification system had not been implemented, while all other non-life insurers reported that this commitment had been met. These eight non-life companies had mixed views on the extent to which these deregulatory actions affected their ability to compete in Japan.

- One of the three non-life insurers that had obtained approval to offer differentiated automobile insurance reported that this had a very positive effect on its ability to compete in Japan.
- Two non-life companies viewed the liberalization of commercial fire rates as generally positive, with one company official indicating that the liberalization was producing discounts of up to 30 percent. However, four of the six non-life companies that offered commercial fire insurance reported that this liberalization had no effect on their company's ability to compete in Japan. Officials from two companies stated that the threshold—the minimum insured amount above which flexible rates could be applied—was still too high. An official from one

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<sup>11</sup>According to U.S. government officials, other types of insurance products, such as personal accident insurance, are already being sold via direct marketing.

- of these companies stated that the keiretsu ties controlled which insurer provided commercial fire insurance for large corporations.
- Four of the six non-life companies that offered products under the notification system viewed the system as having no effect on their ability to compete in Japan, while two companies viewed the system as having a positive effect.
  - Three companies reported that Japan's reform of rating organizations had a generally positive effect on their ability to compete, while four reported that Japan's effort had no effect or a generally negative effect. One company reported that the elimination of the obligation to use rating organization rates gave it greater discretion over setting premium rates. Another official indicated that his company left the rating organization because it was no longer required to be a member.

The fifth commitment that serves as a criterion for lifting restrictions in the third sector applies to all insurers. This commitment requires that applications for differentiated products or rates be approved within the standard 90-day processing period. Seven of the 13 companies, representing about 60 percent of U.S. premiums, reported that Japan had implemented this commitment. However, five companies, representing about one-third of U.S. premiums, reported that Japan had not met this commitment.<sup>12</sup> About half the companies (6 of 13) reported Japan's approval of applications for differentiated products or rates within the standard 90-day processing period had a positive effect on their ability to compete in Japan.

We asked companies to provide us with information on the number of applications they had submitted since the 1996 agreement was signed. Companies reported that 422 of the 466 applications they had submitted since the 1996 agreement was signed had been approved and 44 were still pending. No companies reported that any applications had been rejected. Companies also reported that 21 of the 422 approved applications, or 5 percent, were approved more than 90 days after submission, as shown in figure 2. This does not necessarily mean that the Japanese government was not in compliance with the standard 90-day processing period. This is because the FSA may suspend the 90-day period under some circumstances. The 21 applications that took longer than 90 days to approve were submitted by three companies. Fifteen of the 21 applications were for applications to sell new-to-market products or to sell through a

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<sup>12</sup>One U.S. insurer reported "Do not know" in this area.

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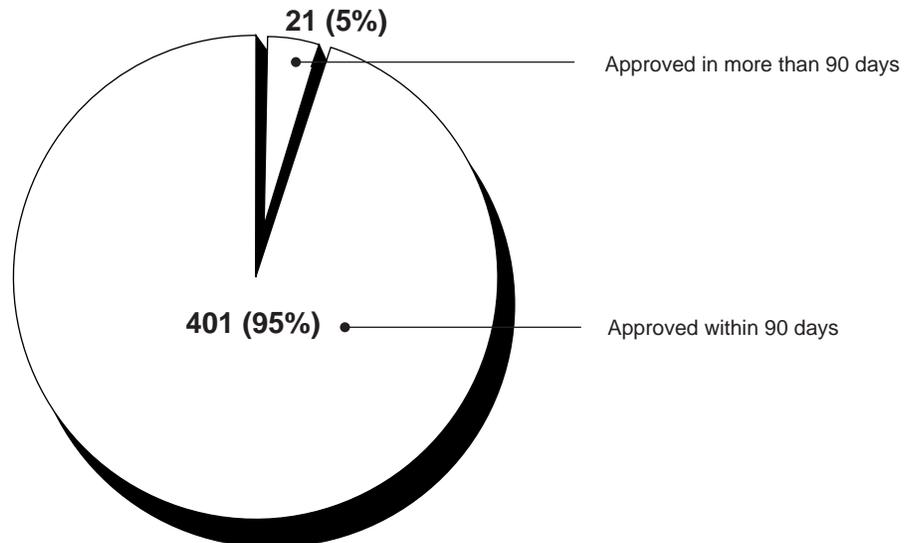
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new distribution channel, as shown in figure 3. The remaining 6 of 21 applications were for revising company-exclusive product forms or rates. The applications that have been approved to sell standard products or to revise standard products or rates were all approved within 90 days.

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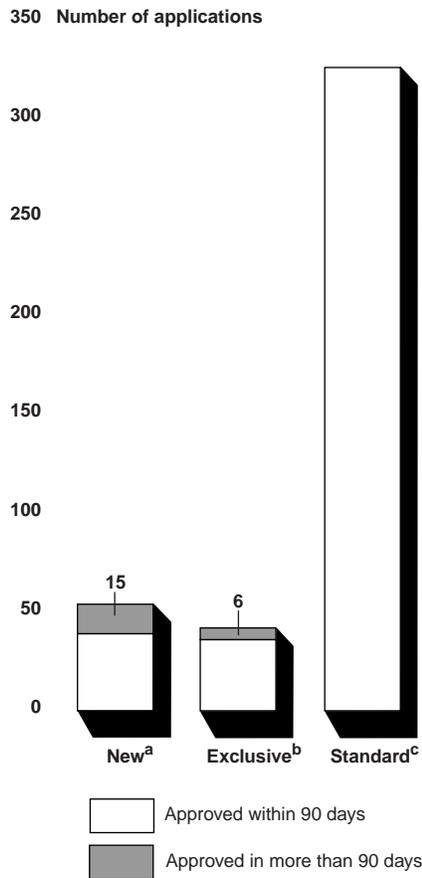
**Figure 2: Results of Approved Applications Submitted by U.S. Companies in Japan Since the 1996 Agreement Was Signed**



Source: GAO analysis of company survey results.

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**Figure 3: Results of Approved Applications by Type, Submitted by U.S. Companies in Japan Since the 1996 Agreement Was Signed**



Note: Numbers next to bars represent those applications approved in more than 90 days.

<sup>a</sup>Includes applications to sell a new-to-market product and to sell through a new distribution channel.

<sup>b</sup>Includes applications to revise a company-exclusive product form or rate.

<sup>c</sup>Includes applications to sell an industry standard product or revise an industry standard product form or rate.

Source: GAO analysis of company survey results.

In summary, regarding the five commitments that serve as criteria for lifting third sector restrictions, five companies, representing about one-third of U.S. premiums, reported that Japan had not complied with the commitment to approve applications for differentiated products within a 90-day period.

One of these companies also reported that Japan had not complied with its commitment to expand the notification system.

In addition to asking companies to report on the effect of the individual deregulatory commitments, we also asked companies to report on the overall effect of deregulatory actions taken by Japan on their ability to compete. Seven of the 13 companies, representing about 45 percent of U.S. premiums, and two of the three brokers reported that the Japanese government's implementation of its deregulatory commitments under the 1996 agreement had enhanced their ability to compete in Japan. Four of the companies and one broker reported that the Japanese government's implementation of its deregulatory commitments had no effect, while one company reported that the Japanese government's implementation of these commitments had a generally negative effect.

### Entry Into the Third Sector by Subsidiaries

In the non-life area of the third sector, restrictions on sales by Japanese subsidiaries were set forth in the agreements primarily to protect the existing sales networks of foreign insurers for personal accident insurance. For five of the eight non-life companies expressing an opinion, all reported that Japan had met most of the these commitments. However, not one company (of those expressing an opinion) reported that Japan had prohibited the sales of personal accident insurance to association members. Overall, three of the non-life companies, representing a majority of the non-life premiums, reported that Japan's implementation of restrictions on sales by Japanese subsidiaries had a generally positive effect.

In the life area of the third sector, Japan committed to prevent Japanese subsidiaries from selling stand-alone medical and stand-alone cancer insurance, but allowed for the sale of these products as riders to an underlying base policy if the rider-to-base-policy ratio was within prescribed limits.<sup>13</sup> Two U.S. life insurance companies reported that Japan had not prevented Japanese subsidiaries from selling stand-alone medical and stand-alone cancer insurance. One of these companies reported that the Japanese government had failed to prevent Yasuda, a large Japanese company, from selling stand-alone cancer insurance through its relationship with INA Himawari. The other company reported that another

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<sup>13</sup>An insurance rider is a policy modification or addition to a larger insurance policy. In this case, the underlying insurance being sold is a life insurance policy. Cancer, medical, and other benefits are sold as riders in addition to the standard life insurance policy.

Japanese insurer, Tokyo-Anshin, was effectively selling stand-alone cancer insurance even though the company offers it as a rider to a base life insurance policy. These two companies reported that the Japanese government's inability to prevent Japanese companies from selling stand-alone cancer insurance had a negative effect on their ability to compete in Japan.

**Other Issues: Increasing the  
Number of Regulatory Staff to  
Process Applications**

The Japanese government committed under the 1996 agreement to take steps to increase the number of staff who process insurance applications. Ten of the 13 companies reported that Japan had decreased the level of staff responsible for insurance product approval, while the remaining three companies reported that Japan had maintained the same level of staffing. An FSA official told us that the agency had nine individuals responsible for processing insurance applications.<sup>14</sup> Officials from seven companies told us that this staffing level was too small to handle the volume of insurance applications. Five company officials told us that they had difficulty in arranging a meeting with the FSA, and two of these officials indicated that once they had secured a meeting, they were given little time to discuss their applications with agency officials. One company official believed his company could only submit applications twice a year because of the FSA's staffing level. Two company officials expressed concern over the ability of the FSA to meet the standard 90-day period for product approval, given the expected increases in the volume of applications.

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**U.S. Companies' Views  
on the Future Effects  
of the Agreements**

In soliciting company views on the future effects of the agreements, we chose a 2- and 5-year time period to obtain company views both before and after Japan intends to lift the third sector restrictions in January 2001. Eleven of the 13 companies, representing about 50 percent of U.S. premiums, and one of the three brokers reported that over the next 2 years, the agreements would have a very or generally positive effect on their ability to compete in Japan, as shown in figure 4. Two companies told us that they reported positively because of Japan's commitment to restrict the entry by large Japanese companies into the third sector over the next 2 years. However, over the next 5 years, a smaller number of companies reported a positive outcome, as 7 of the 13 companies, representing about 25 percent of U.S. premiums, reported that the agreements would have a

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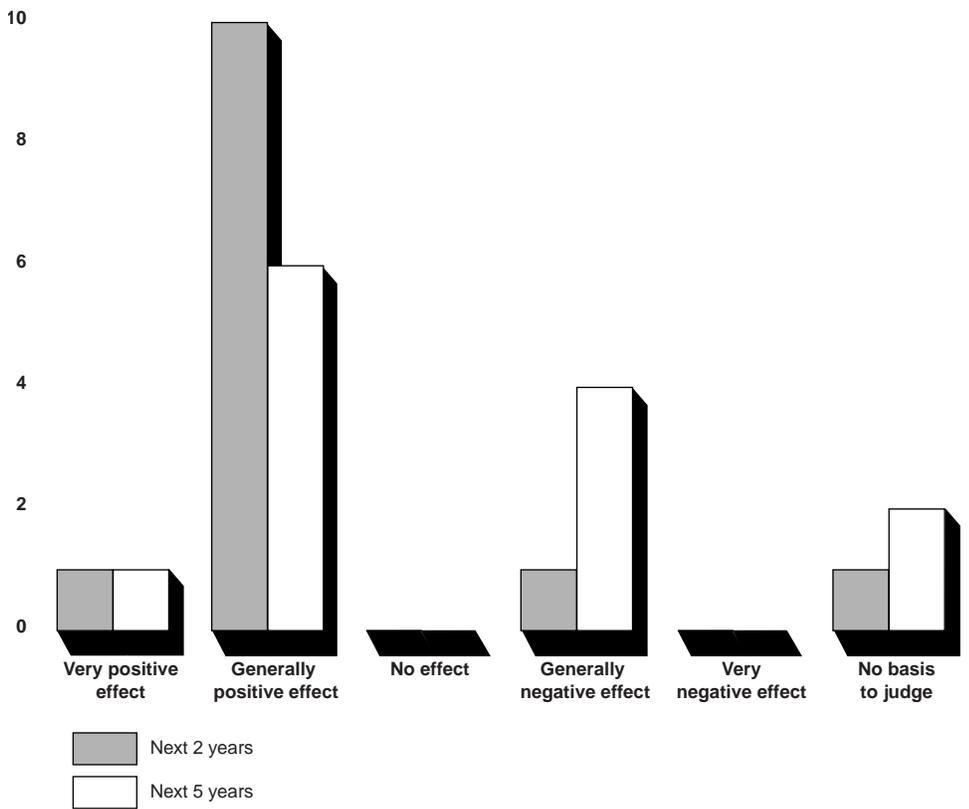
<sup>14</sup>According to U.S. Trade Representative (USTR) officials, FSA has increased the number of staff responsible for application processing since our survey was completed.

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positive effect. Brokers were more positive over the next 5 years, as all three reported that the agreements would have a positive effect over this time period. Two companies told us that once the third sector was opened to large Japanese companies, the third sector business of these U.S. companies would suffer.

**Figure 4: U.S. Companies' Views on Future Effects of Insurance Agreements**

12 Number of companies



Note: Does not include brokers.

Source: GAO analysis of company survey results.

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**U.S. Company Sales  
and Market Shares  
Increase; Some  
Companies Attribute  
Agreements**

Most of the U.S. insurance companies with sales in Japan in fiscal year 1997 or earlier reported that their sales and market shares in the primary and third sectors had increased since the 1994 agreement was signed. Specifically, eight companies realized increases in their primary sector sales, and six realized increases in primary sector market share, as shown in figure 5.<sup>15</sup> Two of the eight companies that reported increases in primary sector sales attributed the increases to actions taken by Japan under the agreements. In the third sector, eight companies realized increases in third sector sales, and six realized increases in market share, as shown in figure 6.<sup>16</sup> Five of the eight companies that reported increases in third sector sales attributed the increases to actions taken by Japan under the agreements.

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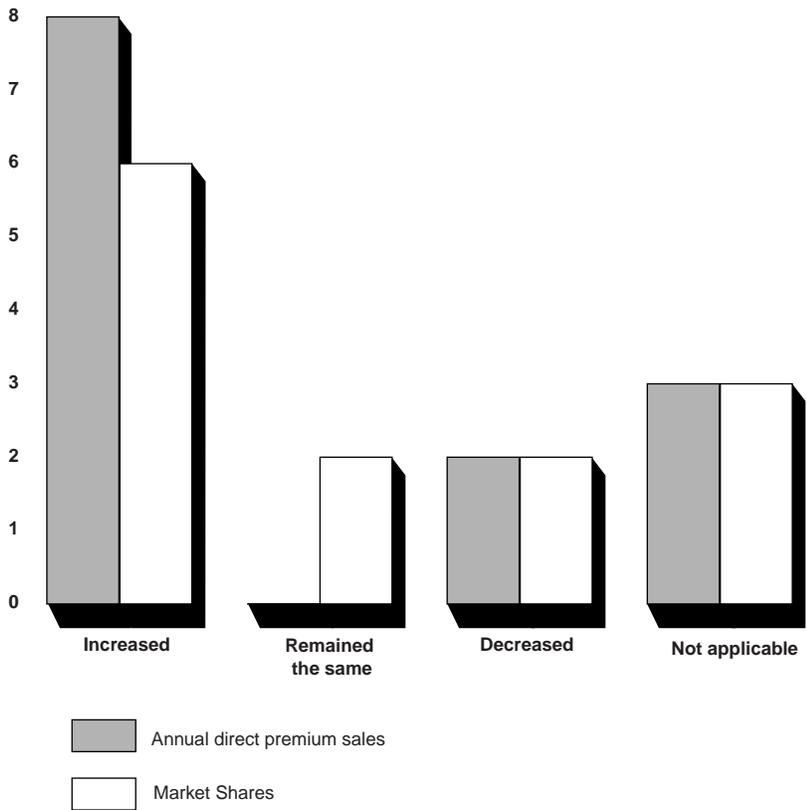
<sup>15</sup>Three companies responded, "Not applicable."

<sup>16</sup>Four companies responded, "Not applicable."

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**Figure 5: Primary Sector Sales and Market Share Since the 1994 Agreement Was Signed**

9 Number of companies



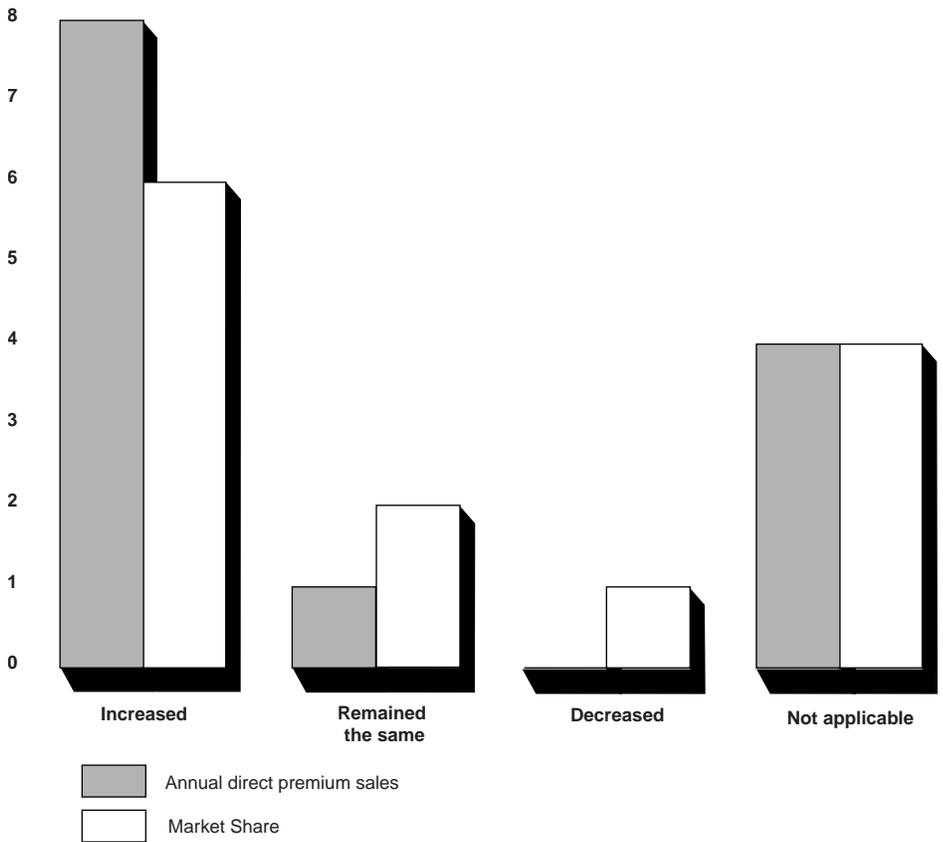
Note: Does not include brokers.

Source: GAO analysis of company survey results.

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**Figure 6: Third Sector Sales and Market Share Since the 1994 Agreement Was Signed**

9 Number of companies



Note: Does not include brokers.

Source: GAO analysis of company survey results.

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# U.S. Trade Representative's Key Monitoring and Enforcement Decisions

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USTR is the lead U.S. trade agency, with primary responsibility for monitoring and enforcing the U.S.-Japan insurance agreements. This appendix reports on the process and information USTR used in reaching key decisions regarding Japan's implementation of the agreements, as well as current U.S. government and industry positions on outstanding issues. Two of these decisions were reached on July 1, 1998, and decisions to drop or raise certain issues in the third sector have since been made. In some instances, Japanese, foreign, and U.S. industry groups and U.S. companies have expressed opinions that run counter to USTR's current position on specific implementation issues.

After consulting with industry sources, USTR released an assessment on July 1, 1998, of Japan's implementation of five key primary sector deregulation measures contained in the 1996 agreement.<sup>1</sup> USTR stated that while Japan had met three of these measures, it had failed to fully implement the two remaining commitments. USTR had identified problems in two areas: (1) unjustified delays in approving applications for differentiated products and rates within the standard processing period of 90 days and (2) inadequate reform of rating organizations. Therefore, USTR announced that it did not support initiating a 2.5-year countdown to open the third sector in 2001. In contrast, Japanese officials have stated that Japan has fully implemented the five deregulation measures, and on July 1, 1998, Japan initiated the 2.5-year countdown.

Also, on July 1, 1998, USTR notified Japan that by allowing a Japanese insurance company (Tokyo-Anshin) to sell a cancer insurance product, Japan had circumvented the 1994 and 1996 agreements' terms that effectively reserved the third sector market for foreign and small and medium-sized Japanese firms. Japan responded that the agreement permits this particular cancer insurance product to be sold since it conforms to limitations negotiated by Japan and the United States. USTR has also reviewed other possible third sector violations, in one case determining

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<sup>1</sup>These measures are (1) approving applications for differentiated types of automobile insurance within the standard 90-day processing period, (2) further liberalizing commercial fire insurance pricing, (3) expanding a "notification system," (4) removing the requirement for members to use insurance rates calculated by rating organizations, and (5) approving applications for differentiated products or rates within the standard processing period of 90 days. According to the 1996 agreement, these measures are to serve as criteria that, upon being met, initiate a 2.5-year countdown toward opening the third sector to increased competition.

that there was no violation, and in another, choosing to raise the issue with Japan.

USTR has not revised its July 1998 assessment of Japan's compliance with the insurance agreements. In an April 1999 meeting with Japanese officials, USTR repeated its position that Japan has not complied with two outstanding deregulatory requirements (90-day product approval and rating organization reform). Additionally, USTR said that Japan continues to allow the ongoing violation of the third sector provisions of the agreements. USTR has not undertaken any formal legal actions concerning the agreements, but the U.S. Trade Representative has noted that the United States can take action against Japan through World Trade Organization (WTO) dispute settlement procedures, if necessary, to secure U.S. rights under the insurance agreements. These actions are possible now that Japan has included many of its insurance commitments in the recently implemented WTO financial services agreement.

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## **USTR Solicited Information on Japan's Implementation of Five Deregulation Criteria**

To reach its July 1998 decision that Japan had not fully complied with all the five deregulation criteria, USTR relied on information it solicited from industry, both in the United States and in Japan, as well as information gathered by the U.S. embassy in Tokyo. The embassy works closely with some U.S. companies in its data collection. However, some firms are not in contact with the U.S. embassy. In addition, USTR consulted with other agencies. The decision was preceded by a series of bilateral consultations between the governments to review Japan's implementation of the five commitments. One large U.S. firm in Japan provided key information to USTR about Japan's implementation of the primary sector deregulation criteria and possible third sector violations.

In addition to soliciting the concerns of individual U.S. insurance companies, USTR also received information from two industry groups: the American Chamber of Commerce in Japan (ACCJ) and the American Council of Life Insurance (ACLI). In May 1998, the ACCJ insurance subcommittee informed USTR that it believed Japan was not in compliance with the two primary sector deregulation criteria previously mentioned, a position supported by eight members of the subcommittee and opposed by one. (Four U.S. firms were not participants in the May 1998 ACCJ decision.) In April 1998, ACLI provided an analysis of Japan's implementation, which voiced positions similar to those of the ACCJ and expressed additional concerns that Yasuda, a Japanese insurer, and INA, its U.S. partner, were causing "radical change" in the third sector.

USTR feels that such industry information is critical for purposes of identifying private sector concerns. However, USTR recognizes that there are certain limitations associated with relying on information from industry associations. No one trade association represents all U.S. insurance companies, and for those represented, association positions may not capture all company views on agreement implementation. Groups such as ACCJ do not encompass all company views, as some companies do not belong or do not actively participate. Participating companies reported that there are divisions among ACCJ insurance subcommittee members and cited instances where ACCJ position papers have not reflected their company's views.

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**USTR Determines  
Status of  
Implementation of  
Deregulatory  
Commitments on  
July 1, 1998**

Of five primary sector deregulation criteria in the 1996 agreement, USTR concluded on July 1, 1998, that Japan has implemented three of them. USTR found that Japan has not complied with the criterion to approve differentiated products within 90 days and that fundamental reform of rating organizations was incomplete. Our fieldwork conducted in Tokyo in March 1999 found that U.S. insurance companies had mixed views regarding Japan's implementation of the five criteria.

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**USTR Noted Three of Five  
1996 Primary Sector  
Deregulation Criteria Met**

Four of the five primary sector deregulation criteria apply only to products of non-life insurers. USTR has stated that Japan has implemented three of these four insurance deregulation criteria. These were requirements to (1) approve applications within 90 days for "differentiated" auto insurance, which allows the insurer the flexibility to develop, price, and market automobile insurance based on risk factors, such as the age, gender, and driving history of the driver and the use and type of vehicle; (2) further liberalize commercial fire insurance by decreasing limits for using an "advisory rate system," which gives insurers the freedom to set rates outside the rates established by the Property Casualty Insurance Rating Organization;<sup>2</sup> and (3) expand the application of Japan's "notification system," whereby an insurance company, after filing its product plan with the regulatory authority, can begin to market an insurance product after 90 days, unless disapproved by the government, to a list of additional

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<sup>2</sup>Since July 1, 1998, companies have been free to calculate their own rates and not use those computed by a rating organization.

products and allow marketing of those products within 90 days.<sup>3</sup> According to U.S. government officials, USTR's assessment of compliance was based on the insurance industry's views.<sup>4</sup>

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**USTR Decided 90-Day  
Product Approval  
Commitment Unmet**

The 1996 agreement requires that Japan approve applications for differentiated life and non-life products or rates within a standard processing period of 90 days. In 1998, one U.S. company raised concerns with USTR that Japan was not in compliance with this requirement. On July 1, 1998, USTR determined that Japan had not fully implemented its obligations in this area and noted that in a number of specific cases, Japan had “unjustifiably exceeded the standard 90-day processing period.” According to USTR, the criterion's reference to a “standard 90-day processing period” recognizes that the period can be exceeded in specific circumstances.

In reaching its July 1998 decision, USTR sought examples from industry on numerous occasions of applications whose processing exceeded 90 days so it could raise this issue with Japan. One U.S. firm provided USTR with time lines for four applications whose processing time exceeded 90 days; USTR told us that it had never examined the actual applications. Based on the information provided by this provider, USTR believed that these applications were unacceptably delayed by the Japanese government.

Following June 1998 consultations with USTR, Japan responded that, per the terms of the 1996 agreement, no applications for differentiated products (other than differentiated automobile insurance) had been received 90 days prior to the July 1, 1998, deadline and thus the commitment was considered met.<sup>5</sup> USTR rejected this reasoning as a misinterpretation of the agreement. In addition, Japan consistently

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<sup>3</sup>Under Japan's notification system, the government has a 90-day period to review the notification. If, after 90 days, no disapproval is received, the company can then consider the product or rate approved and begin to offer it.

<sup>4</sup>U.S. non-life providers are almost unanimous in reporting that Japan has implemented these three commitments. In response to our 1999 survey, all U.S. non-life firms expressing a view said that the government of Japan has implemented the criteria on differentiated auto insurance and liberalized commercial fire insurance; all but one small U.S. non-life firm reported that Japan had met the criterion regarding the notification system.

<sup>5</sup>During June 1998 consultations, Japan told USTR that two differentiated product applications had been approved within 90 days.

maintained that it processed applications within the standard period of 90 days. According to Japan, under its regulations, the standard 90-day period could be suspended if the agency responsible for processing applications requires a company to revise or supplement information on an application and that the four USTR examples had experienced delays due to such inadequacies.<sup>6</sup> USTR officials acknowledged that the 90-day period can be effectively extended for this purpose but found that they were unable to respond to Japan's claims that the delays were justified, since USTR did not have permission from the insurance provider to discuss application details. USTR officials told us that they do not possess the technical ability to evaluate the applications' content.

Before the April 1999 consultations with Japan, about four companies reported to USTR that they had had recent good experiences with Japanese product approval; among those companies were two that had previously complained about the application process. USTR officials were not convinced that these experiences represented a systemic improvement.

In April 1999, USTR again cited Japan for continued failure to fully implement the 90-day processing period requirement, offering several new examples from the company that had provided cases to USTR for the July 1998 decision of applications whose processing exceeded 90 days. As before, USTR reviewed the time lines with the company but not the actual applications. Japan responded that the approval of applications in excess of 90 days is permitted under Japanese regulations. For these cases, Japan maintained that the applications were delayed due to sloppiness and errors. According to USTR officials, USTR was not given permission by the company to reveal its identity to the Japanese, and thus USTR was unable to engage in detailed discussions with Japan regarding suspension of the 90-day period and whether the suspensions were justified in these cases.<sup>7</sup>

Also related to the product approval process, several industry participants that we interviewed in March 1999 reported that the transfer of product

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<sup>6</sup>The Ministry of Finance processed insurance applications until June 1998 when the FSA began operations and took over this responsibility.

<sup>7</sup>With respect to the 90-day application processing period—the only criterion of the five that applies to both life and non-life insurers—one life and four non-life U.S. insurance companies reported in our survey that Japan was not in compliance. Seven companies reported that Japan was in compliance, and one company responded that it did not know the state of implementation for this commitment.

approval authority from MOF to the newly created FSA resulted in a reduction in the number of insurance product examiners. This, in turn, resulted in a more understaffed office, with overworked employees, who, according to U.S. insurers, may be unable to process applications in a timely fashion. The Foreign Non-Life Insurance Association reported that while its members have not complained about Japan's failure to meet the 90-day commitment, they have faced difficulties in meeting with FSA officials to submit applications. The FSA agreed that it has few insurance staff but notes that this staff would increase from 9 to 11 in the new fiscal year 1999 government budget.

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**USTR Decided Fundamental  
Rating Organization Reform  
Incomplete**

One of the primary sector deregulation criteria in the 1996 insurance agreement that applies only to non-life products required Japan to implement "the necessary legal changes to eliminate obligations for members of rating organizations to use rates calculated by rating organizations." There are two rating organizations in Japan that non-life insurance companies may belong to—one for auto insurance, the other for additional types of property/casualty insurance. Historically, rating organizations collected claims and expense data from member firms and computed premium rates that were approved by the government. Rating organization members were required to use the approved rate, unless the Minister of Finance approved a deviation based on the firm's circumstance. The result was considerable uniformity in insurance policies and rates for major non-life insurance products.

At the time of U.S.-Japan consultations in June 1998, the necessary legal changes to meet the deregulation criterion were pending. While all necessary legal reforms were made by July 1, and the U.S. government was aware that rating organization members were no longer required to use rating organization rates, USTR concluded in its July 1, 1998, statement that "fundamental reform" of rating organizations was incomplete.

USTR stated that certain aspects of rating organization reform, such as the continued collection of expense data<sup>8</sup> and the collection of data for additional insurance products, promote anticompetitive activities among companies and therefore the rating organization criterion has not been met. The two specific issues raised by USTR are not mentioned in the bilateral agreements. USTR most recently raised its concerns about Japan's incomplete compliance in April 1999 meetings with Japanese officials. Japanese officials responded that the 1996 agreement only required that the use of rating organization rates not be mandatory, a commitment that has been met.<sup>9</sup>

One of USTR's outstanding concerns about Japanese rating organizations involves the scope of cost data that such organizations can collect from member firms. Specifically, USTR opposes the continued collection of expense data from member firms, believing it limits competition and promotes price uniformity. As part of rating organization reform that took effect in July 1998, the Japan Fair Trade Commission imposed restrictions on what kind of expense data the rating organizations could collect from member firms on a voluntary basis. This restriction was to ensure that the full rate, which member firms had previously been required to use in establishing company rates, could no longer be computed by these firms. However, according to USTR, the collection of partial expense data on a voluntary basis would still enable firms to set prices in a way that would lead to cartel-like, or uniform, practices. Several U.S. insurance providers that we interviewed in March 1999 agreed with USTR's overall position that fundamental reform has not yet occurred.

However, both Japanese rating organizations, as well as the Japanese government and the Foreign Non-Life Insurance Association, reported to us that now, after the reforms, the rating organizations can only collect partial expense data on a voluntary basis and, therefore, the data held by

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<sup>8</sup>Before July 1, 1998, Japanese rating organization members were required to set their rates taking into account total premium rates calculated by the rating organizations. The total premium included the actual cost of claims (losses), expenses (operating expenses, claim investment fees, and general administrative expenses), and profits. Since July 1, 1998, the rating organizations collect partial expense data on a voluntary basis and no longer collect "general administrative expense" data. Therefore, rating organizations are no longer computing total premium rates.

<sup>9</sup>In response to our 1999 survey, all U.S. non-life insurance providers reported that Japan had complied with the specific criterion on rating organization reform contained in the 1996 agreement.

these organizations is incomplete and does not provide a basis to establish an industry rate. One rating organization reported that since the July 1998 reforms, it now collects one-tenth of the data it formerly collected, while the other organization said it is unsure of the accuracy or value of the expense data, since the data is incomplete in scope. Further, since all companies choose whether or not to participate in the system, the completeness of the data cannot be assumed.<sup>10</sup> The Foreign Non-Life Insurance Association questioned the statistical validity of the data because not all firms participate and less data is collected. One large U.S. non-life company characterized the collected data as "useless." Further, Japanese officials have stated that rating organizations in the United States collect and publish complete expense data from companies and do so for more product lines. Finally, one U.S. firm told us that it welcomed the potential for its competitors to price uniformly, since it could price beneath the uniform price and gain market share. Also, the Foreign Non-Life Insurance Association noted that small firms need data, including expense data, to function, since their sales volume is not large enough to be a statistically sound sample from which to forecast costs and derive rates.

Another issue raised by USTR about rating organization reform concerned the scope of business the rating organizations covered. Specifically, USTR opposes the expansion of rating organization authority to collect data for additional products such as nursing care and medical insurance. USTR views such expansion as being inconsistent with Japan's objective of achieving fundamental reform.

ACCJ and the Foreign Non-Life Insurance Association had expressed concern over this expansion prior to the July 1, 1998, announcement. However, the Foreign Non-Life Insurance Association reversed its position before July 1, 1998, and now supports this expansion of data collection. One U.S. insurance company we interviewed said that it would like rating organizations to expand the number of product lines for which they collect data. According to one Japanese rating organization, the collection of data serves to encourage new entrants and promote competition, a position agreed to by the Insurance Services Office, a U.S. supplier of insurance

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<sup>10</sup> Additionally, rating organizations are not allowed to identify which firms voluntarily submit expense data.

information. The Japanese rating organization further suggested that data for more product lines are available in the United States.<sup>11</sup>

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### **U.S. Insurance Industry Expresses Mixed Views on USTR's Position on Primary Sector Deregulation**

In response to our January 1999 survey and March 1999 fieldwork, U.S. companies offered mixed views regarding implementation of the five primary sector deregulation criteria.<sup>12</sup> In interviews with our staff in Tokyo during March 1999, representatives of four insurance providers voiced their support for USTR's position on primary sector deregulation. One company attributed recent Japanese progress in deregulating the insurance market to USTR's aggressively pushing insurance issues. Representatives of five other providers volunteered in interviews that Japan had complied with the agreements' deregulation commitments. One company said that U.S. criticism of Japan's insurance reform efforts can undermine the efforts of Japanese officials pushing for broad financial sector deregulation.

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### **USTR Also Identified Third Sector Violation**

USTR has contended that Japan is violating the third sector protections of the 1996 insurance agreement. On July 1, 1998, USTR stated its concerns with Japan's licensing of a cancer hospitalization insurance rider to Tokyo-Anshin, the life subsidiary of a large Japanese non-life insurance company. The 1996 agreement stated that life subsidiaries of non-life insurance providers will not be allowed to sell stand-alone cancer insurance. Japanese subsidiaries may sell cancer insurance as a rider to a life insurance policy provided that cancer benefit payments are limited to a specific percentage of life insurance benefit payments, as set forth in a September 1996 memorandum between the two governments.<sup>13</sup> USTR's

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<sup>11</sup>For example, the Insurance Services Office provides data and information on 14 product lines, while currently Japanese rating organizations provide data on 4 categories of insurance. The Insurance Services Office recently opened a Japan office to collect and publish data on insurance products not covered by the two Japanese rating organizations.

<sup>12</sup>Five companies, representing about one-third of U.S. premiums, reported in our January 1999 survey that Japan had not complied with one of the five commitments (90-day product approval). One of these companies also reported that Japan had not complied with a second commitment (notification system). The remaining eight companies cited no area of noncompliance by Japan. Of these eight companies, three have changed their position since May 1998 when the ACCJ recorded them as finding Japan not in compliance.

<sup>13</sup>On September 30, 1996, the two governments agreed that life subsidiaries of non-life insurance providers would face restrictions on the benefits they could offer. After January 1, 1997, the ratio of cancer hospitalization benefit payments to life insurance benefit payments would be limited to a maximum 3 to 1,000 ratio.

analysis concluded that, based on the Tokyo-Anshin insurance policy's design and marketing, the rider was clearly intended to circumvent third sector protections. According to USTR, the rider was essentially a "stand-alone" product, equivalent to cancer policies prohibited for sale by Japanese life subsidiaries under the 1996 agreement.

USTR first raised the issue beginning in January 1998 after two U.S. companies raised concerns about the rider. The government of Japan responded that the rider conformed exactly to the limitations established in the September 1996 memorandum with USTR that defined permitted cancer riders. According to Japan, because this cancer rider is only sold in conjunction with a life insurance policy, it cannot be considered a "stand-alone" product.

USTR took its July 1998 position on the basis of information provided by one U.S. life insurance company and the ACCJ insurance subcommittee. However, according to the two other U.S. life firms selling cancer insurance interviewed by us in March 1999, the Tokyo-Anshin rider is in compliance with the agreement and is not a third sector violation. Of these two companies, the one that is an ACCJ member chose not to oppose the position taken by the ACCJ insurance subcommittee expressing concern on this issue but thinks USTR lacks a basis to pursue the issue with Japan. USTR continues to raise this issue with Japan. While USTR has not undertaken any formal legal action it has underscored its position that Japan not approve similar riders for other Japanese insurers.

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## **USTR Reviews Other Possible Third Sector Violations**

In 1997 and 1998, USTR reviewed the activities of one U.S. life insurance company, INA, and its Japanese partner, Yasuda Fire and Marine. These activities had been identified by competing U.S. insurers as a violation of the third sector provisions of the 1994 and 1996 agreements. USTR, in consultation with other U.S. agencies, determined in August 1998 that the activities were not a violation of the agreement. (See app. IV for further details.)

USTR continues to review allegations of another third sector violation that was brought to its attention by industry. Specifically, during 1998, one U.S. insurance company lobbied the U.S. government to stop plans by a Japanese company to discount personal accident insurance offered to members of an association of small- and medium-sized businesses. According to the U.S. firm and the ACCJ, the discount deviated from past practice and constituted "radical change." USTR asked the government of

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**Appendix III**  
**U.S. Trade Representative's Key Monitoring**  
**and Enforcement Decisions**

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Japan not to allow the introduction of the discounting prior to consultations with U.S. government officials. Japan did not agree to this approach. The U.S. government conducted a review of the U.S. company's concerns and found that only this company supported the ACCJ finding. USTR continues to raise this issue with Japan but has not determined that the sales represent a third sector violation.

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# U.S. Government Actions Regarding One U.S. Insurer

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The U.S. government negotiated the 1994 and 1996 insurance agreements with the knowledge that a U.S. insurer, CIGNA Corporation, was considering selling a majority interest in its life insurance subsidiary in Japan (INA) to a large Japanese insurer, Yasuda Fire and Marine. Following completion of negotiation of the 1996 U.S.-Japan insurance agreement but before the agreement was signed, USTR and the Japanese government created a separate document, referred to as a “minute,” that was intended to provide a limited exception to the agreement. According to USTR negotiators, this exception, which proved difficult to negotiate, was meant to allow CIGNA, per a business agreement reached in 1993, to sell a majority interest in INA (which has third sector business) to Yasuda and then allow the Japanese-owned INA to continue to have a limited level of third sector life sales. Sales of third sector life “niche” products, such as cancer and medical insurance, by subsidiaries of large Japanese insurance companies, were expressly prohibited in the 1996 agreement. According to USTR officials, the “minute” would also prevent other large Japanese non-life insurers from similarly entering the third sector. During subsequent discussions, the two governments never reached agreement concerning the precise meaning of the “minute” and how it could be implemented. Further, views differ between USTR and two U.S. insurance companies regarding the extent to which USTR provided details of this exception to industry at the time it was negotiated. The document's actual impact on the third sector sales of a Yasuda-owned INA has never been tested, since the majority sale has not taken place.<sup>1</sup> Our observations on certain aspects of the “minute” are included at the end of this appendix.

Concerns of large U.S. insurers regarding U.S. government actions related to this sale continued beyond creation of the “minute” and involved (1) U.S. government discussions with the Japanese government during the fall of 1997 that, while not opposing Japan's approval of the sale, expressed concern over whether the ongoing third sector activities of Yasuda and INA met the terms of the agreements and the “minute”; (2) USTR discussions with Japanese officials regarding Japan's December 1997 decision to include the 1996 U.S.-Japan insurance agreement in the WTO financial services agreement and what this development meant for the proposed majority sale of INA and its subsequent third sector sales; and (3) two 1998 U.S. government interagency reviews of the third sector activities of Yasuda and INA that determined that no agreement violations had

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<sup>1</sup>While the majority sale has not been completed, Yasuda did purchase an additional 29 percent of INA in April 1999, bringing its total holdings in the company to 39 percent.

occurred. The most active parties during these events have been the largest U.S. insurance companies operating in Japan (AIG, AFLAC, and CIGNA) and the Office of the U.S. Trade Representative. In response to your request for details regarding the extent and nature of U.S. government actions related to the proposed sale of INA to Yasuda and subsequent related events, we are providing the following information.

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## **U.S. Government Negotiated the 1994 and 1996 Agreements With Knowledge of Possible Majority Sale of INA to Yasuda**

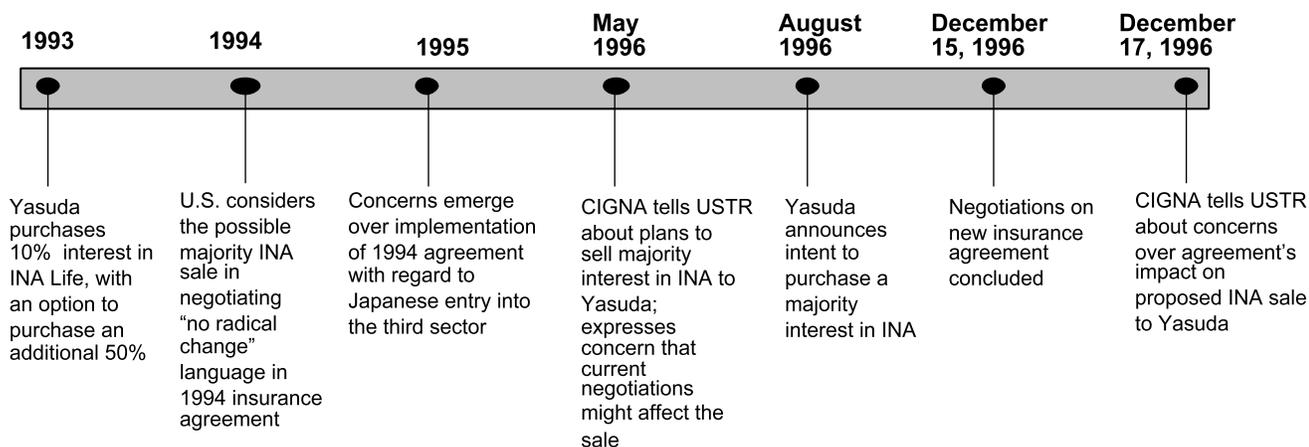
In 1993, Yasuda Fire and Marine, a large Japanese non-life insurance company, purchased a 10-percent interest in INA Life Insurance Company, a subsidiary of CIGNA Corporation, a U.S. company. This deal also provided for the possibility of the future sale of an additional 50 percent of INA to Yasuda. In 1996, Yasuda announced its intention to acquire a majority interest in INA from CIGNA.<sup>2</sup> (See fig. 7 for a time line of events from 1993 to 1996 regarding the Yasuda-INA deal.) USTR was aware of this possible majority sale of INA to Yasuda before the 1994 agreement was negotiated. The language of the 1994 agreement that committed Japan to avoiding “radical change” in the third sector by large Japanese insurers was negotiated by U.S. officials because INA had sales in the third sector. This language was agreed to by CIGNA and AIG, the company expressing concern over the possible sale at the time. USTR officials believed that this language would provide flexibility for CIGNA to pursue a profitable business strategy while still protecting the U.S. presence in the third sector from increased competition from large Japanese insurers. The U.S. and Japanese negotiators never defined the term “radical change” in the 1994 agreement.

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<sup>2</sup>Yasuda and CIGNA have had a formal business relationship since 1972. The companies have helped each other in obtaining licenses, through reinsurance agreements, and through training and product development. In January 1997, INA Life changed its name to INA Himawari Life Insurance Company, Ltd.

**Appendix IV  
U.S. Government Actions Regarding One U.S.  
Insurer**

**Figure 7: Time Line of Events Related to “Minute” and Yasuda-INA Deal, 1993-96**



Source: USTR and U.S. embassy in Tokyo documents.

By late 1995, the U.S. insurance industry was expressing strong concerns over implementation of Japan's Insurance Business Law. Revisions to this law, the first major changes in 50 years, would for the first time allow life insurance companies to enter the non-life insurance business through a non-life subsidiary, and, similarly, for non-life insurance companies to enter the life insurance business through a life subsidiary. Although the 1994 agreement restricted the entry of Japanese companies into the third sector, U.S. officials were concerned that Japan would allow these subsidiaries to move rapidly into the third sector. As a result of these concerns, bilateral negotiations on insurance began and would continue for a year—until December 1996.

In August 1996, Yasuda formally announced its intention to purchase a majority interest in INA from CIGNA. According to Yasuda, this strengthened relationship was intended to improve INA Life's distribution network and serve as Yasuda's means for achieving entry into the life insurance market (through the acquisition, rather than the establishment, of a life insurance subsidiary). Press reports noted that this sale could provide Yasuda entry into Japan's third sector life insurance market.

CIGNA came to USTR in May 1996 to discuss its intention to sell a majority interest in INA to Yasuda and projected sales in the third sector for the resulting company. CIGNA requested that this transaction and the business of the Yasuda-owned company not be compromised during the ongoing

negotiations or through any resulting new bilateral agreement. In an effort to maintain a united industry position, USTR asked CIGNA not to press the issue at that point and noted that the situation should be handled close to the completion of the negotiations. According to a former USTR official, CIGNA did not contact USTR again on this issue during the negotiations, even though USTR was in frequent contact with the company regarding the content of the agreement and had shared drafts of the agreement with CIGNA (as well as other U.S. companies). This negotiator noted that USTR assumed that CIGNA had worked out an arrangement with the Japanese Ministry of Finance (MOF) on its own. Therefore, the U.S. government did not include any text to address CIGNA's specific interests in the agreement. This former USTR official noted that as negotiations were concluding, USTR was focused on primary sector deregulation and other (third sector) commitments in the draft agreement. A USTR official stated that the Japanese government never raised the issue of the sale of INA to Yasuda during the negotiations. CIGNA's failure to pursue the issue with USTR as negotiations neared completion, as well as USTR's failure to address the Yasuda/INA situation during the negotiations, were oversights by both parties, in the view of former negotiators. Negotiations on a new insurance agreement were concluded on December 15, 1996, though the agreement was not signed until December 24, 1996.

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## **Creation of Exception to the 1996 Agreement for Yasuda/INA Proved Difficult**

USTR officials stated that it was completely unexpected when, on December 17, 1996, 2 days after negotiations ended, CIGNA approached USTR to express serious concerns over the recently concluded insurance agreement and its impact on the planned majority sale of INA to Yasuda. According to CIGNA, the company had previously "made USTR aware of its goals in the Japanese insurance market and has received USTR's assurance that a CIGNA/Yasuda joint venture of INA Life which would continue to sell INA Life's full product range would not violate the spirit or the letter of the 1994 Insurance Framework Agreement regardless of Yasuda's potential majority interest." In raising its concerns on December 17, 1996, CIGNA noted that agreement language contained in a Japanese agreement outline could be interpreted by Japan as prohibiting the CIGNA-Yasuda transaction. Specifically, CIGNA was concerned about one provision of the agreement that, according to the outline, stated that in order to avoid "radical change," life subsidiaries of non-life insurance providers will not be allowed to sell stand-alone cancer and stand-alone medical insurance. CIGNA noted that

“[I]f the Japanese were to interpret INA Life as a ‘life subsidiary of a non-life insurance company’ when Yasuda acquired a majority interest, then it would prohibit INA Life from selling medical or cancer insurance until the year 2001. This would have a severe adverse impact on INA Life given its current product and marketing mix and its long-term strategic direction.”

At that point, CIGNA proposed that technical language be inserted into the 1996 agreement that would exclude INA, even if majority Japanese owned, from coming under the definition of a “life subsidiary of a non-life insurance company.” CIGNA compared this approach to the exemption requested and received by UNUM (another U.S. insurance company operating in Japan) with respect to group long-term disability insurance and income indemnity insurance in the 1996 agreement. USTR also received letters from Members of Congress expressing support for the exemption for INA from the life third sector restraints of the 1996 agreement.

USTR took action to address CIGNA's concerns, given that the majority sale had been planned prior to the 1994 agreement and the agency needed to maintain unified U.S. industry support for the as yet unsigned 1996 agreement.<sup>3</sup> USTR officials were reluctant to go back to the Japanese government, which was being criticized in the Japanese press as a victim of U.S. pressure in agreeing to the terms of the 1996 agreement, and asking for additional commitments. Further, one of these officials stated that USTR did not want to reopen the agreement out of concern that the Japanese government would then also want to reopen other issues, thus possibly leading to the unraveling of the agreement. USTR negotiators believed that a separate document was necessary. USTR immediately contacted the Japanese Ministry of Foreign Affairs (MOFA) and initiated new discussions.

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<sup>3</sup>According to USTR and CIGNA officials, USTR officials did not request or review the 1993 contract between Yasuda and CIGNA that provided for the majority sale of INA.

USTR negotiated with the Japanese government from December 18 to 21, 1996.<sup>4</sup> USTR requested a “grandfather” clause to allow the sale of INA to go through but also proposed restricting INA’s activities in the third sector, once the company was owned by Yasuda, to avoid “radical change.” USTR was the only U.S. agency involved in these discussions. MOFA was the lead Japanese agency and consulted Ministry of Finance officials as necessary.

Negotiations over the “minute” proved difficult. The Japanese government was reluctant to make any accommodation for the United States beyond those embodied in the then-pending 1996 agreement. Moreover, there was a concern that a specific commitment regarding the CIGNA-Yasuda transaction could be viewed as singling out one large Japanese insurer for special, favorable treatment in the third sector.

Under these circumstances, the Japanese government sought to keep any understanding reached regarding the transaction and subsequent third sector activities by a Yasuda-controlled INA as informal as possible. For their part, USTR negotiators reported that they would have preferred, and attempted to obtain, a more formal document than the “minute,” but that their paramount concern was the substance, not the form, of the understanding. At the same time, USTR negotiators understood the sensitivity of the matter for the Japanese government.

No explicit agreement was reached between the two sides during the negotiations regarding precisely how, or to what extent, the Japanese government would restrict INA’s activities in the third sector following consummation of the sale. In particular, the two sides did not agree on the question of whether the Japanese government had legal authority through the use of its licensing powers to restrict INA’s post-transaction activities in the third sector. However, USTR negotiators felt that the references in the “minute” recommitting Japan to avoid “radical change” in the third sector and to making necessary modifications to INA’s post-transaction licenses,

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<sup>4</sup>A final version of the “minute” was not completed until May 1997. When “minute” negotiations were concluded and the 1996 bilateral insurance agreement was signed on December 24, 1996, there was one unresolved factual issue in the “minute.” In the second paragraph, there was a question as to when Yasuda’s intention to purchase a majority interest in INA had been publicly disclosed. USTR wanted a case as possible for creating a “limited exception” to the 1996 agreement for CIGNA/Yasuda, and so asked CIGNA to determine whether the planned purchase had been publicly announced prior to the 1994 agreement. In May 1997, CIGNA informed USTR that the possible majority sale had not been publicly announced prior to conclusion of the 1994 agreement. The two governments then finalized the “minute” by including language to that effect.

meant that Japan had committed to keeping INA's third sector business activities very limited. Further, based on past experience, USTR officials felt that Japan could use both formal and informal means to limit INA's third sector activities.

While no other U.S. government agencies were involved in negotiating the document, a copy of the draft "minute" was faxed to the U.S. embassy in Tokyo, and the National Economic Council (NEC) was reportedly aware of its existence. Two Members of Congress who had requested that USTR facilitate the transaction also received copies of the documented exception, according to one of the negotiators. This former USTR official does not know if key congressional committees ever received the document, which, if they did not, he described as an oversight on the part of USTR. The exact text of the document is reproduced in figure 8.

**Figure 8: Text of the December 21, 1996, "Minute"**

1. Both governments noted that Yasuda Fire and Marine purchased 10 percent of the INA life insurance company on July 7, 1993, which was before the negotiation and conclusion of the 1994 Measures and before the passage and implementation of the new Insurance Business Law. The transaction was publicly announced on July 7, 1993.
2. The contract provided for Yasuda to acquire an additional 50 percent of INA after April 1, 1996, the anticipated implementation date for the new Insurance Business Law, subject to the necessary approvals by the relevant authorities. This aspect of the contract was not publicly announced.
3. It is confirmed that the life insurance business license and product approvals held by INA will be maintained with necessary modifications after Yasuda acquires majority ownership of INA stock.
4. The Government of Japan reconfirmed its commitment to faithfully implement the 1994 Measures and the 1996 Supplementary Measures, inclusive of measures to avoid radical change in the third sector as specified in those sets of measures.

Note: The document, on a blank sheet of paper, is unsigned, undated, and untitled.

Source: Office of the U.S. Trade Representative.

## **Disagreement on Meaning of the Exception for Yasuda/INA**

Current and former USTR officials stated that the final document, the so-called "minute," was intended to ensure that (1) the 1996 U.S.-Japan insurance agreement would not prevent CIGNA from carrying out its preexisting business plan to sell a majority interest in INA to Yasuda, (2) INA would continue to have only a very limited presence in the third

sector if the transaction went forward, and (3) other large Japanese non-life insurers would be prevented from similarly entering the third sector. There was no attempt during the “minute” negotiations to specify what might constitute a limited presence or radical change. Further, USTR officials have noted that there have never been discussions between the U.S. and Japanese governments to define limited presence or radical change regarding INA's post-sale, third sector activities.

U.S. and Japanese officials have disagreed over how the “minute” could be implemented. Based on experience with the Japanese government and the knowledge that Japan could use formal or informal means to affect company behavior, USTR officials felt confident that Japan could exert a level of control over INA's third sector activities by modifying INA's licenses or other means, once it is majority owned by Yasuda. From the time of the “minute” negotiations in December 1996 until July 1998, Japanese officials emphasized that they had no legal authority to impose restrictions on acquired subsidiaries lawfully operating in the third sector. However, after July 1998, Japanese officials said that as a result of legislative changes that went into effect at that time (discussed later), a Yasuda-owned INA would not be allowed to operate in the third sector at all. USTR does not accept this position and has stated that it expects Japan to abide by the terms of the “minute.”

In addition, the enforceability of the “minute” is perceived differently by the two governments.<sup>5</sup> USTR officials stated that the “minute” is a fully negotiated and enforceable document and characterized it as a mutual understanding between governments. They have also noted that implementation of the “minute” is integral to Japan's compliance with the insurance agreements. In contrast, a MOFA official told us that the “minute” is in “no way” part of the 1996 agreement. Instead, this official characterized the document as a “non-paper memorandum for negotiators.” One MOFA official told a U.S. embassy representative that the “minute” does not have the same status as the bilateral agreement and that Japan does not want to be held by it.

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<sup>5</sup>In discussions with former USTR officials (who did not work on Japan insurance issues), we were told that the creation of documents such as the “minute” is not unusual and is within USTR's authority. These officials also stated that it is unusual to provide such a document to one member of an industry and not to others (as discussed later), but they could understand USTR's decision not to share the document widely since it dealt with a company-specific situation.

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## **Views Differ Regarding the Extent to Which USTR Disclosed the Exception to Key U.S. Insurance Companies**

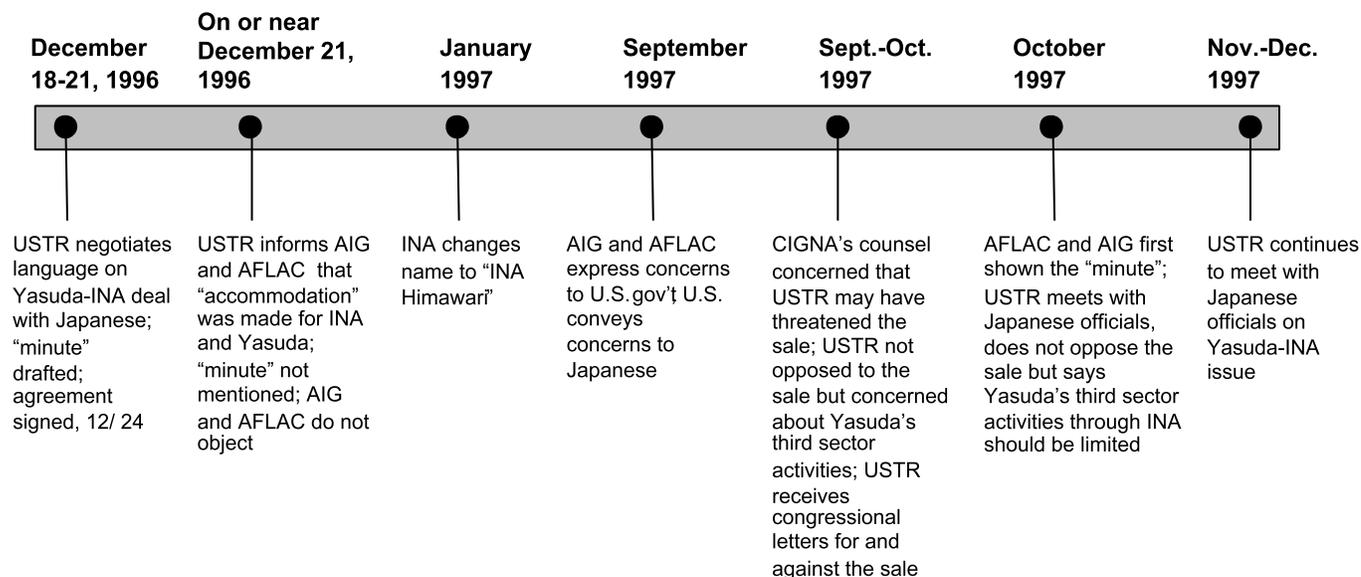
According to a former negotiator, USTR was in frequent contact with a senior CIGNA official during negotiation of the “minute.” This official was shown drafts of the document in order to verify factual information included in the “minute.” (See fig. 9 for a time line of events from 1996 to 1997 regarding the Yasuda-INA deal.) A former USTR negotiator stated that CIGNA knew what USTR was trying to accomplish in negotiating the “minute” (including allowing the sale but restricting Yasuda's post-acquisition third sector activities in order to avoid “radical change”). According to CIGNA's outside counsel, on December 24, 1996, the day the insurance agreement was signed, CIGNA was informed by USTR that Japan had agreed to language that stated that INA would be permitted to maintain its licenses and product approvals after the purchase of majority ownership by Yasuda. Further, the deal was viewed as unique by both governments because it predated the 1994 insurance agreement. CIGNA outside counsel was shown a draft version of the “minute” in January 1997.<sup>6</sup> This version of the “minute,” like the final version, mentioned “necessary license modifications” but did not specifically address the level of third sector activity permitted by the Yasuda-owned company. Nevertheless, according to CIGNA's legal counsel, CIGNA was satisfied that this arrangement would meet its needs. Moreover, CIGNA was not concerned about the level of formality or the enforceability of the document.

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<sup>6</sup>CIGNA's outside counsel has stated that CIGNA was not given a copy of the “minute” document until April 1998.

**Appendix IV  
U.S. Government Actions Regarding One U.S.  
Insurer**

**Figure 9: Time Line of Events Related to “Minute” and Yasuda-INA Deal, 1996-97**



Source: USTR and U.S. embassy in Tokyo documents.

Around December 21, 1996, USTR officials contacted AFLAC and AIG, INA’s primary U.S. competitors in the life third sector, regarding the situation with CIGNA, INA, and Yasuda. U.S. government and industry officials characterized these discussions very differently. According to USTR notes taken during the discussion with AFLAC, a USTR negotiator told a company official that USTR needed to ensure that “the deal can go forward, and it is not a precedent for other deals.” USTR informed AIG that a problem had arisen with Yasuda/INA and USTR had to find a way to deal with it. USTR needed to make an adjustment as this issue threatened the recently concluded agreement of supplementary measures. Former and current USTR officials stated that they informed the two companies that an “accommodation” was necessary for INA and Yasuda, though no mention of the existence of a document was made. USTR officials did not explicitly convey their intention to AIG or AFLAC that the “accommodation” would allow for limited third sector sales by Yasuda once it acquired a majority interest in INA. However, according to these officials, AFLAC and AIG understood that the accommodation would allow for the majority sale and limited third sector activities for the subsequent company. USTR officials stated that neither company raised objections during their communications with USTR (though AIG expressed some unhappiness).

In contrast, AFLAC stated that “based on prior discussions with USTR and the Japanese government, and on restrictions in the 1996 agreement, AFLAC did not oppose CIGNA’s sale of a controlling interest in INA to Yasuda. But USTR did not discuss, nor did AFLAC agree to, a special carve-out [the “minute’s” limited exception] for INA’s continued or expanded operations in the third sector after a takeover by Yasuda.” An AIG official also noted that AIG did not understand at that point that an accommodation had been reached with Japan that would allow for some level of third sector sales once INA was majority owned by Yasuda.

The “minute” document itself was not shown to companies other than CIGNA until October 1997, when AIG and AFLAC were raising concerns with USTR over Yasuda’s and INA’s increasing third sector activities (discussed later). According to USTR officials, no company representatives ever asked USTR about the existence of this document until that time. These officials noted that, when AIG and AFLAC inquired at a meeting in late October as to whether there was an agreement with Japan concerning the sale of INA to Yasuda, they did not respond in the affirmative or negative, but instead, after the meeting, conferred with a senior USTR official. A few days later, USTR called both companies to the agency and, at separate meetings, presented them both with copies of the “minute” document.

AFLAC’s and USTR’s portrayals of how the existence of the “minute” document was disclosed differ. According to an AFLAC official, USTR repeatedly denied the existence of this written agreement before October 1997 when questioned by the company. However, according to a USTR official, agency officials never denied the existence of the “minute.” In addition, a U.S. embassy official also reported that he was asked about the “minute” twice before it was publicly acknowledged by USTR. The embassy did not provide any information to the companies and later asked USTR for guidance on how to respond to such inquiries. According to this official, he was told to refer companies to USTR on this issue.

Two former USTR officials who were involved in negotiating the “minute” have since stated that, in their judgment, the document should have immediately been fully disclosed to industry. While AIG and AFLAC did not raise objections in December 1996 when USTR informed them of the “accommodation” for the sale of INA to Yasuda, they reacted negatively upon learning of the existence of the “minute.” An AFLAC official has noted that the 1996 agreement states that no large Japanese insurer will sell stand-alone cancer or stand-alone medical insurance prior to 2.5 years after

primary sector deregulation; in his view, this prohibition should include INA once it is majority owned by Yasuda, a large Japanese insurer. Further, an AIG official has written that “regrettably, USTR saw fit in late 1996 to allow an exception [to the 1996 agreement], which has the effect of allowing a U.S. company to divest itself in Japan, thus reducing the overall U.S. market penetration while jeopardizing the integrity of the entire agreement.”

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## **USTR Expressed Concerns to Japan in 1997 Over Yasuda's Ongoing Third Sector Activities While Making Clear That the Majority Sale of INA Should Be Allowed**

In late September 1997, as a result of urgent concerns on the part of AIG and AFLAC, an official from the U.S. embassy in Tokyo met with Japanese government officials from the Ministries of Finance and Foreign Affairs, at USTR's instruction, to discuss a recent expansion of third sector activities by INA and Yasuda. This U.S. embassy official emphasized that while the two governments had reached an understanding (the “minute”) to allow Yasuda to move forward with its plans to acquire a controlling interest in INA, the understanding also contained a commitment to constrain the growth of INA's third sector business so as to avoid “radical change.” The U.S. embassy representative informed Japanese officials that INA's third sector licenses must be modified in order to achieve this commitment.

The U.S. government had concerns that Yasuda and INA were acting in a manner inconsistent with the agreements' restrictions on avoiding “radical change” by greatly expanding the marketing of INA products by Yasuda sales agents before the majority acquisition. This U.S. embassy official expressed concerns to Japanese officials that Yasuda had more than doubled the number of agents selling INA products in a 1-year period and, as a result, INA was rapidly increasing its third sector sales.<sup>7</sup> This change was characterized to Japan as “historically unprecedented” and “resulting in a serious loss of business for U.S. firms in the third sector.” He emphasized the U.S. belief that the bilateral insurance agreement compelled MOF to limit the growth of INA's third sector business and agents to historical trends and roll back the past year's dramatic increase in INA's force of Yasuda agents.

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<sup>7</sup>A competing U.S. firm asserted that INA had increased its pool of Yasuda agents licensed to sell INA products to over 10,000. Further, an internal U.S. government document noted that INA's third sector premiums rose by 82 percent in fiscal year 1996. CIGNA has stated that Yasuda agents have a long history of selling INA products and the agent increase was due to a liberalization in Japanese law that allowed non-life agents to sell the products of multiple insurance companies. CIGNA has also noted that AIG and AFLAC have used Yasuda agents to distribute their products.

Japanese officials responded that INA's activities had nothing to do with the agreements. They stated that the agreements' provisions apply to Japanese, not U.S., subsidiaries and INA is majority-owned by a U.S. company. They noted that Yasuda owned only 10 percent of INA and any market developments reflected the independent operations of INA. These officials also emphasized that there was no basis under Japanese law to restrict the license of a company operating properly under law and regulation, and, further, an agent rollback would be impossible.

After U.S. embassy meetings with the Japanese government, CIGNA's outside counsel expressed concern to USTR that the U.S. government's recent communication with MOF had threatened the majority sale. CIGNA believed, as a result of its discussions with MOF, that the U.S. government would only support MOF approval of the sale if Yasuda and INA were to be restricted from selling any third sector products and reduce the number of Yasuda agents at INA to the number at the end of the previous fiscal year. CIGNA requested that USTR rectify the situation by sending a letter to MOF supporting the sale without conditions or modification of licenses.<sup>8</sup>

USTR met with CIGNA's outside counsel and explained that USTR did not oppose the transaction but had concerns about Yasuda's third sector activities. Again, USTR noted that, while it was still looking into the facts, Yasuda's current activities might violate the terms of the insurance agreement. USTR pointed out to CIGNA that while what might constitute "radical change" was not precisely defined, the threshold was not very high—particularly when activities by a large Japanese insurance company might result in a direct loss of business for U.S. firms.

USTR eventually concluded that sending a letter to MOF would be counterproductive based on concerns that the letter might be misinterpreted. During this period, while USTR was communicating frequently with CIGNA regarding the majority sale of INA to Yasuda and subsequent third sector activities, USTR received congressional letters of support for the transaction, as well as letters claiming that Yasuda was violating the agreements and should not be allowed to sell third sector products after the sale.

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<sup>8</sup>A letter expressing this view was sent to Japan's Minister of Finance from one U.S. Senator, which, from Japan's perspective, created an inconsistency in the U.S. government position on this issue. According to one Japanese official, USTR was telling Japan to restrain INA activities, while from elsewhere in the U.S. government, Japan was receiving encouragement for the sale to go forward with no restrictions.

In October of 1997, a senior USTR official traveled to Japan for 2 days of meetings with Japanese officials and certain U.S. companies to discuss the activities of INA and Yasuda. This official emphasized to Japanese officials that (1) the transaction should be allowed to go forward, (2) INA's licenses should be modified as necessary, (3) this is the only exception to the agreement, and (4) Yasuda's actions both before and after the acquisition should not be permitted to result in radical change in the third sector. He noted that there was evidence suggesting that Yasuda was controlling INA and might be causing radical change.

Japanese officials again responded that Yasuda's and INA's activities before the acquisition cannot constitute an agreement violation since INA is a U.S. company. Furthermore, these officials said that Japan could not impose legally enforceable restrictions (such as license modifications) upon the activities of INA just because it is acquired by Yasuda. However, Japanese officials also suggested that, recognizing the agreement's spirit, Yasuda was likely to act on its own initiative to keep INA's activities in the third sector within a certain limit.

CIGNA correspondence with USTR shows that the company was unhappy with USTR's visit to Japan, believing that a link had been made with Japanese officials that the transaction should not be approved unless Yasuda's current activities were restricted. CIGNA also expressed concern that USTR was discussing its private business decisions with its competitors.

The U.S. and Japanese governments had additional discussions in late 1997 regarding the majority sale and subsequent third sector activities of INA once it was owned by Yasuda. No agreement was ever reached as to how or whether the third sector sales of INA could be restricted.

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## **Japan Included the 1996 Agreement in Its 1997 WTO Financial Services Commitments**

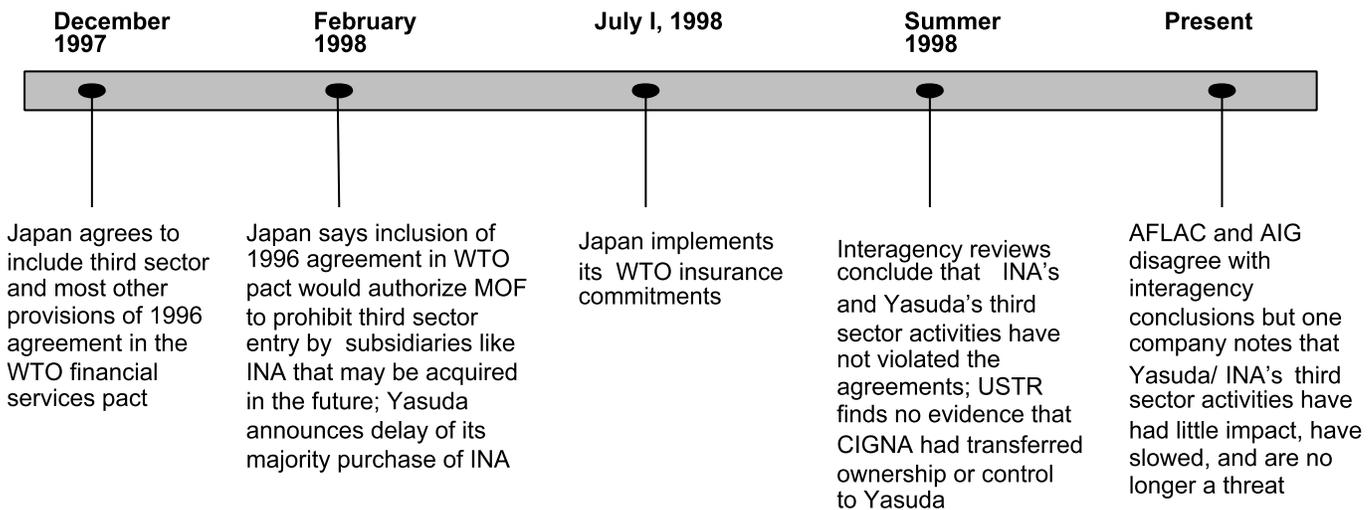
During the WTO financial services negotiations,<sup>9</sup> the U.S. government requested that Japan include the 1996 bilateral insurance agreement in its WTO commitments. The U.S. government held this position (1) in order to seek third country support for full implementation of the agreement, (2) to have access to WTO dispute settlement procedures, and (3) to respond to U.S. industry support for this initiative.

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<sup>9</sup>These WTO financial services negotiations were concluded in December 1997 and addressed banking, securities, and insurance.

In December 1997, the Japanese government agreed to include most of the provisions in the 1996 agreement in the WTO financial services agreement, including third sector provisions.<sup>10</sup> (See fig. 10 for a time line of events from 1997 to the present regarding the Yasuda-INA deal.) Japan's legislation that implements its WTO financial services commitments authorizes MOF to prohibit entry into the third sector by acquired, as well as newly established, subsidiaries. A MOFA official confirmed to us that Japan's implementing legislation and its referral to established as well as acquired subsidiaries implied that if Yasuda were to acquire INA, INA would be considered a life insurance subsidiary of a non-life insurance company subject to the third sector sales prohibition in the 1996 agreement. Therefore, while Japanese officials had said, before implementation of Japan's WTO financial services commitments, that they were unable to use legal means to regulate third sector activities even following Yasuda's purchase of the company, Japan has now implemented its WTO insurance commitments and has expressed a view that INA's sales in the third sector, post transaction, would be completely prohibited.

**Figure 10: Time Line of Events Related to "Minute" and Yasuda-INA Deal, 1997-Present**



Source: USTR and U.S. embassy in Tokyo documents.

<sup>10</sup>According to a USTR financial services negotiator, some provisions of the 1996 agreement that had already been implemented, such as expansion of the notification system, were not included.

In February 1998, MOF notified insurers to explain that Japan's commitments under the WTO financial services agreement prohibit sales of third sector products by acquired life subsidiaries of non-life insurance providers. One day later, Yasuda announced that it would delay its majority purchase of INA until agreement restrictions are lifted on sales of third sector products by life subsidiaries of non-life insurance companies.<sup>11</sup>

In later communication with USTR, CIGNA did not preclude the possibility that the sale still might go through before third sector restrictions are lifted. Therefore, in June 1998, the month before Japan's WTO insurance commitments were implemented on July 1, USTR engaged in discussions with Japanese officials regarding the consistency of Japan's implementing legislation with the intent of the "minute." Specifically, USTR sought reassurance that INA could continue third sector sales if acquired by Yasuda. USTR officials claim that Japanese officials responded in a noncommittal fashion and never provided an answer. USTR officials have emphasized to Japan that it has an obligation to uphold the "minute," which allows for the majority sale of INA to Yasuda, and to limit third sector activity for the new entity, regardless of Japan's WTO insurance commitments.<sup>12</sup>

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## **U.S. Government Review of Yasuda's and INA's Ongoing Activities in the Third Sector Determined That No Agreement Violations Have Occurred**

In early 1998, USTR began a review of the ongoing activities of Yasuda and INA to determine whether they were consistent with the third sector restrictions in the 1994 and 1996 agreements. Two companies, AFLAC and AIG, had contended that Yasuda, through its partnership with INA, had entered the third sector and caused radical change to that sector in contravention of the agreements. USTR provided CIGNA, AFLAC, and AIG with an opportunity to present their views in writing. AFLAC and AIG argued that Yasuda had effectively entered the third sector through receipt of financial benefits it had obtained in connection with its business relationship with INA. They also argued that because of its relationship with Yasuda, INA was a de facto Japanese company and that its third sector activities violated the agreements' restriction on these activities by

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<sup>11</sup>According to CIGNA, the timing of Yasuda's announcement to delay the purchase of INA was coincidental.

<sup>12</sup>USTR has always supported third sector restrictions for newly established and acquired subsidiaries but has consistently viewed Yasuda/INA as a limited exception to these restrictions.

Japanese companies. Finally, the U.S. companies argued that changes to INA's corporate structure and business operations constituted radical change and should therefore not have been permitted.

During this review, the U.S. Trade Representative expressed a reluctance to choose sides among U.S. companies and a hope that the companies could cooperate to find a mutually agreeable business solution.<sup>13</sup> However, such a solution never materialized. Therefore, USTR examined each of the allegations and, as summarized in a classified memorandum, concluded that the activities of Yasuda and INA did not constitute a violation of the agreements.<sup>14</sup> After conducting an analysis of INA's operations, USTR's fundamental position was that INA is a U.S. company and, therefore, its activities do not fall within the terms of the 1994 and 1996 agreements. This decision was agreed upon during interagency meetings that reached the subcabinet (NEC Deputies) level<sup>15</sup> and included officials from the Departments of State, Commerce, the Treasury, and Justice; as well as the NEC and USTR. On July 1, 1998, USTR communicated the consensus decision to CIGNA, AIG, and AFLAC.

In response to a request by AFLAC and a few Members of Congress, an additional interagency review was subsequently conducted in late July and early August 1998. This final review reached the level of the Cabinet (NEC Principals), whose review had participation from the Council of Economic Advisers; the Office of Management and Budget; the National Security Council; NEC; the Departments of Commerce, Justice, Labor, State, and the Treasury; and USTR. During this second review, all three companies presented their arguments orally to the interagency group. The original conclusion—that information provided to date did not support a determination that the activities of INA and Yasuda in the third sector had violated the 1996 agreement—was reaffirmed. During the second interagency review, which reached a consensus decision that there was no violation of the “radical change” provisions of the 1996 agreement, the Department of Commerce recommended that additional measures be taken

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<sup>13</sup>USTR did note that very strong proof would be required to demonstrate that INA, a company 90 percent owned by CIGNA, was actually controlled by Yasuda.

<sup>14</sup>Due to the classified nature of the USTR's analysis during this review, we are unable to disclose more details about the basis for USTR's final determination.

<sup>15</sup>There are four possible levels of review in making decisions related to trade policy: the Trade Policy Staff Committee, the Trade Policy Review Group, the NEC Deputies, and, finally, the NEC Principals.

to monitor the situation. A Commerce official proposed that an interagency team conduct further work in Tokyo to verify the facts presented to the U.S. government. According to USTR, this suggestion was not adopted based on the general interagency view that no further information was necessary to resolve the issue.

In discussing how USTR's views evolved from raising serious concerns regarding a possible violation of the agreements with Japan in late 1997 to a final determination that no violation of third sector provisions had occurred, USTR officials noted that AIG and AFLAC expressed concerns over Yasuda and INA activities in an extremely urgent manner in 1997. As the companies emphasized that they were losing business as a result of these activities, USTR felt compelled to address the issue with the Japanese government immediately. However, over the next several months, as USTR was able to conduct its own analysis of the situation, it ultimately determined that no violation had occurred.

Both AFLAC and CIGNA raised concerns about the process used by USTR to conduct the formal review of Yasuda's and INA's activities in the third sector. AFLAC expressed frustration over USTR's requests for updated information on the situation after the agency did not act on information provided by AFLAC months earlier. CIGNA felt that it never received a complete explanation from USTR as to what accusations had been made against the company, but was compelled to respond to allegations made against it nonetheless in an attempt to defend itself.

AIG and AFLAC disagreed with the interagency decision. However, officials from one company have also noted that Yasuda's activities in the third sector have slowed. Specifically, these officials have stated that the rapid growth in the Yasuda agent force selling INA products has ended and their company's existing client base is no longer being actively threatened. INA's principal U.S. third sector competitor believes that the government of Japan has been successful in restraining Yasuda's activities through the use of "soft controls," such as requiring a slowdown in the projected registration of Yasuda agents with INA in the company's business plans. This company has also noted that the impact of Yasuda's and INA's activities on its business has been small to date. Neither AFLAC nor AIG is currently pressing this issue with the U.S. government.

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## **Our Observations on the “Minute”**

We have observations in the following three areas regarding the “minute”: (1) the difficulties USTR faced in creating the “minute,” (2) the consequences of USTR's lack of complete communication with industry regarding the limited exception, and (3) the problems USTR encountered due to the use of undefined terms in the text of the “minute.”

Because the issue of the majority sale of INA to Yasuda and the resulting company's allowable third life sector activities were not addressed during the course of the 1996 insurance agreement negotiations, USTR was put in a difficult position. After the agreement negotiations were concluded, USTR felt compelled to preserve CIGNA's support for the agreement by accommodating the company's business plans that predated negotiation of both insurance agreements but that would clearly violate the 1996 agreement's terms if not addressed by the two governments. This situation was made more delicate due to the fact that competing U.S. companies had opposing and strong views as to whether or how Yasuda/INA should be allowed to sell third sector life products. In deciding to accommodate CIGNA's sale of INA to Yasuda and subsequent third sector life sales by the company, USTR took a position that appeared to benefit one U.S. firm at the expense of others. USTR faced the difficult challenge of determining the U.S. interest in a case where U.S. companies' interests were opposed.

Moreover, given the sensitive issues the “minute” raised in Japan, USTR officials believed that broad dissemination of the document might lead to its disavowal and possibly to the unraveling of the 1996 agreement itself. USTR therefore sought to limit distribution of the “minute” and thus did not provide copies to the two other U.S. insurance companies that had an interest in developments related to Yasuda/INA. Further, in late December 1996, USTR did not explicitly describe to AIG and AFLAC the extent to which a Yasuda-owned INA would be allowed access to the third sector life insurance business. This “grandfather” document added to the 1996 agreement, combined with USTR's incomplete description of the exception and the failure of USTR to provide the actual document to industry, created frustration with USTR on the part of U.S. insurers that lasted for months.

Further, the “minute” used undefined terms that made its meaning and implementation uncertain. While USTR officials maintained that a Yasuda-owned INA would only be allowed restricted access to the third sector, it is unclear what language or provision in the “minute” requires that the company maintain only a limited presence. As a result of this undefined language in the “minute,” the U.S. and Japanese governments had

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**Appendix IV**  
**U.S. Government Actions Regarding One U.S.**  
**Insurer**

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numerous consultations during 1997 regarding the meaning of the document's terms. U.S. and Japanese government officials have expressed very different understandings of the "minute," with Japan's actions suggesting an unwillingness, even an inability under Japanese law, to implement the document as intended by USTR. After several months of discussions, the two governments were never able to reach an agreement as to how Yasuda might be restricted in the third life sector, demonstrating the questionable value of the "minute" in creating a limited exception to the 1996 agreement to accommodate CIGNA.

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# Objectives, Scope, and Methodology

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The Chairman of the House Subcommittee on Trade, Committee on Ways and Means, asked us to examine (1) the views of U.S. insurance companies operating in Japan regarding the agreements' implementation and impact on their ability to compete in the Japanese market; (2) the roles and efforts of the Office of the U.S. Trade Representative and the Departments of Commerce, State, and the Treasury in monitoring and enforcing the agreements, and U.S. government views on whether Japan has met its commitments under the agreements; and (3) U.S. insurance industry views on U.S. government monitoring and enforcement efforts. We also collected information addressing U.S. government actions related to one U.S. insurer and its Japanese partner.

To obtain the views of U.S. insurance companies regarding the agreements' implementation and impact on their ability to compete in Japan, we distributed a questionnaire to all 13 U.S. insurers and three brokers in Japan that are either wholly or majority U.S. owned. Surveys for life and non-life insurers differed somewhat depending on whether a particular commitment applied to them, and the survey included far fewer questions for brokers as several of the commitments in the agreements do not directly pertain to them. The survey was distributed in January 1999, and we obtained a 100-percent response rate to our questionnaire. We then traveled to Japan and met with representatives from all the insurers and brokers in March to obtain detailed explanations of and clarifications to their questionnaire responses. In some cases, responses were revised during discussions at our meetings. The questionnaire asked U.S. insurers and brokers for their views on the implementation and the impact of those provisions of the agreements for which the companies would have first-hand experience. All of the questions were referenced back to their related provisions in the agreements. For the questions related to the 1994 agreement, we developed, where possible, similar or identical questions to those we used in a 1996 survey on the implementation and impact of the 1994 agreement. This allowed us in some cases to compare how company responses had changed over time. Eleven of the 13 companies and two of the three brokers included in our current survey also responded to our 1996 survey. In analyzing questionnaire results, we examined response frequencies. We also computed the percentage of U.S. insurance sales in

Japan represented by company responses.<sup>1</sup> In requesting company participation in our survey, we pledged that company responses would be reported in aggregate form and that we would not identify specific responses with the individual companies. In certain cases, the reporting of responses in conjunction with the percentage of U.S. insurance premiums in Japan associated with that response limits this confidentiality. In those cases, the firms that could be identified, due to their large size, gave us permission to report the market premium data. We also interviewed and collected information from industry groups and insurance companies in the United States.

To identify the roles and efforts of USTR and the Departments of Commerce, State, and the Treasury in monitoring and enforcing the insurance agreements, as well as U.S. government views on implementation, we conducted interviews with officials from each agency, including the U.S. embassy in Tokyo. We reviewed available information from USTR and the U.S. embassy in Tokyo to establish the nature and frequency of interagency interaction. We also assessed extensive documentation from USTR and the U.S. embassy in Tokyo to review USTR's determination regarding the status of agreement implementation and discussed USTR's determination with U.S. companies and Japanese government agencies and industry groups. Information on Japanese law in this report does not reflect our independent legal analysis but is based on interviews and secondary sources.

We also used the 1999 questionnaire to obtain the views of U.S. insurance companies regarding U.S. government monitoring and enforcement of the agreements. All 13 insurance companies and three brokers were asked questions regarding overall U.S. government monitoring and enforcement efforts, as well as questions related to their specific experiences with various government agencies. As with implementation and impact questionnaire responses, we conducted follow-up interviews in Japan with U.S. participants in the Japanese market. We also held interviews with industry groups and insurance companies in the United States. We examined extensive documentation regarding monitoring and enforcement

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<sup>1</sup>Company shares (percentage) of total U.S. premiums generated in Japan were calculated using premium data for Japanese fiscal year 1997 (Apr. 1997-Mar. 1998). Two surveyed companies did not have sales in 1997 and were assigned a zero weight for computing the premium proportions.

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**Appendix V**  
**Objectives, Scope, and Methodology**

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actions by USTR and the U.S. embassy in Tokyo that have proven controversial with some U.S. insurers operating in Japan.

We performed our review from July 1998 to June 1999 in accordance with generally accepted government auditing standards.

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# GAO Contacts and Staff Acknowledgments

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## Staff Acknowledgments

In addition to those named above, Emil Friberg, José Peña, Kay Halpern, Kim Frankena, Richard Burkard, Kathleen Joyce, and Rona H. Mendelsohn made key contributions to this report.

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# Related GAO Products

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*U.S.-Japan Trade: U.S. Company Views on the Implementation of the 1994 Insurance Agreement* (GAO/NSIAD/GGD-97-64BR, Dec. 20, 1996).

*U.S.-Japan Trade: The Japanese Insurance Market* (GAO/NSIAD-99-108BR, Mar. 15, 1999).

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