

## EKSAMEN I JURIDISKE VALGEMNER

VÅR 2014

Dato: mandag 2. juni 2014

Tid: Kl. 10:00 – 14:00

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### JUS5450/JUR1450 – Marine Insurance

The language of examination for this course is English: students may answer in English ONLY, answers in any other language than English will be given a F (F for fail).

#### Part I.

The Norwegian flagged fishing vessel *Fishy* sailed on a fishing expedition in the North of Norway. During the expedition, the vessel entered the Economic Exclusion Zone (the EEZ) of Russia. Being within the EEZ, *Fishy* was approached by a Russian frigate acting in concert with a Panther helicopter operating from the frigate. The vessel was arrested after the frigate fired warning shots. During the arrest *Fishy* hit some ice and sustained damage to the hull. The vessel was detained in port in Russia whilst the fishing was investigated by the police, and after 6 months the courts concluded that the vessel had fished in the EEZ of Russia without notification and permission, and that the master had hidden the identity of the vessel. As fishing in the EEZ without notification and permission was illegal according to Russian law, the court decided upon a fine amounting to an equivalent of 4 million NOK. The authorities would not relieve the vessel before the fine was paid. It took the owner 2 months to raise the money, and the vessel was finally relieved in February 2014.

*Fishy* was insured according to the Nordic Marine Insurance Plan 2013 against both marine risk and war risk, and on full conditions according to NP cl. 10-4, including ch. 10-13 for both insurances and in addition ch. 15 for war risk insurance. There is no reference in the policies to ch. 17. As there was no deductible under the war risk insurance, the assured owner claimed that the arrest and detainment was a war risk. The war risk insurer denied cover and claimed that the arrest and detainment was a result of an ordinary criminal activity and that there was no war like situation.

#### Question 1

Is the arrest and detainment of *Fishy* covered by the marine risk insurance or the war risk insurance?

Both insurers admit that the hull damage is covered, but deny coverage for the fine. The assured however claims that the fine must be covered as a measure to avoid a total loss of the vessel because the vessel would not be relieved before the fine was paid. The assured would then be deprived of the vessel.

#### Question 2

Is the fine covered as a measure to avoid total loss under (i) the marine risk insurance and (ii) the war risk insurance?



Both insurers also claimed that they were free from liability because the loss was due to illegal fishing. The assured denied this, and argued that the master had a standing order to both abstain from illegal activities and keep away from prohibited areas. Further, the assured argued that he could not be identified with the master.

**Question 3**

Can the insurers claim freedom of liability due to the illegal fishing?

It turned out that just before the arrest, *Fishy* had been sailing in an excluded trading area. When the arrest took place, however, *Fishy* was back in ordinary trading areas. The insurers claimed that they were free from liability since *Fishy* had been sailing within an excluded area without notification to the insurers. The assured argued that the insurers were liable since the arrest took place in the ordinary trading area.

**Question 4**

Can the insurer claim freedom for liability because the vessel had been sailing in an excluded trading area?

All questions shall be answered both on master and bachelor level.

**Part II. Only for Master level**

Give a presentation of the regulation of insurable value in the Norwegian Cargo Clauses: Conditions relating to Insurance for the Carriage of Goods of 1995, Version 2004, Cefor From No. 261.

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*The result of the exams will be announced on Monday 23 June, at 15.00 hours. You can check the results in the StudWeb, or by contacting the Information Centre, phone 22 85 95 00.*

*After the exam results are announced, candidates have the right to be informed of the grounds for the result as long as a request is made within one week of the announcement. The names and contact information of the examiners can be found on the Faculty's website, or by contacting the Information Centre. The deadline for appeal is three weeks after the announcement of the results.*

Oslo, 02.06.2014