

1. Folgefonn's casualty Jan. 2015

Questions a and b

- Are the damaged objects covered by NP?
- Is the collision covered by the insurance?
- Which insurer will cover the damages?
 - What is the problem here?
 - Where is it regulated?
 - What is the starting point?
 - How do we solve the problem

1. Folgefonn's casualty Jan. 2015

- Are the damaged objects covered by NP?
 - The axle, NP Cl. 10-1 litra (a)
 - The transmission machinery and the propeller casing, Cl. 10-1 litra (a)
- Is the collision covered by the insurance?
 - NP Cl. 2-8: The all risk principle
 - No exception enters into force

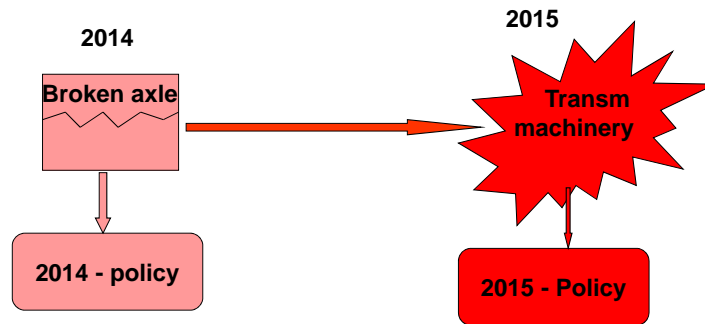
NP Cl 2-11, sub clause 1

The insurer is liable for loss occurred when the interest insured is **struck by an insured peril** during the insurance period.

Cl. 2-11 sub clause 2 and 3

- o If an unknown defect results in damage to the insured vessel, the defect shall be deemed to be a marine peril that strikes the interest insured at the time the damage starts to develop.
- o If **unknown damage** in one part of the vessel results in damage to another part or parts of the vessel, the original damage **shall be deemed to be a marine peril that strikes the interest insured** at the time the damage to the other part or parts starts to develop.

Folgefonn January 2015 casualty



Viz:

- Primary damage attributed to the point in time when the peril struck
- Consequential damage covered when development occurs

Marine insurance

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1. Folgefonn's casualty Jan. 2015

- o Which insurer will cover the damages?
 - o NP Cl. 2-11, (1) : the striking peril = the collision in 2014.
 - o Cl. 2-11 (3): primary damage (broken axle) struck in 2014, and shall be attributed to this insurer
 - o Transmission machinery and propeller casing
 - o = consequential damages: If primary damage unknown, later casualties / developments shall be covered in 2015
 - o Was primary damage unknown?

Marine insurance

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1. Folgefonn's casualty Jan. 2015

Question c

- o May the insurer claim that Oddrun has breached the duty of disclosure
 - o Which rules apply
 - o What is the extent of the duty of disclosure
 - o Who has the duty of disclosure?
 - o The sanction?

Marine insurance

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§ 3-1. Scope of the duty of disclosure

1. The person effecting the insurance shall, at the time the contract is concluded, make full and correct disclosure of all circumstances that are material to the insurer when deciding whether and on what conditions he is prepared to accept the insurance.

Marine insurance

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1 C Duty of disclosure

- Is the duty of disclosure fulfilled?
 - NP CI 3-1
 - The duty of disclosure is objective
 - Covers all relevant information
 - The subject = the person effecting the insurance = West Coast Joint Venture
 - Can West Coast be identified with Siggy?
 - The situation for Oddrun as assured, CI 3-38
 - The insurer's reaction, NP CI 3-3
- Conclusion?

Marine insurance

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2. F's touching the reef

- Are the damaged objects covered?
- Which peril(s) caused the grounding
- Are the peril(s) covered?
- Is there a case of combination of causes?
- Breach of duty of disclosure?

Marine insurance

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2. F's touching the reef

- Are the damaged objects covered?
 - Damage to hull, NP Cl. 10 letter (a)
- Is the peril covered?
 - The cause: Lighthouse light out
 - Marine perils (vandalism), Cl. 2-8 or war perils (sabotage), Cl. 2-9

2. F's touching the reef

- Causation:
 - The connection to the machinery breakdown: Combination of perils?
 - The principles of apportionment in Cl. 2-14
 - The significance of the chain of causation
- The significance of a breach of the duty of disclosure

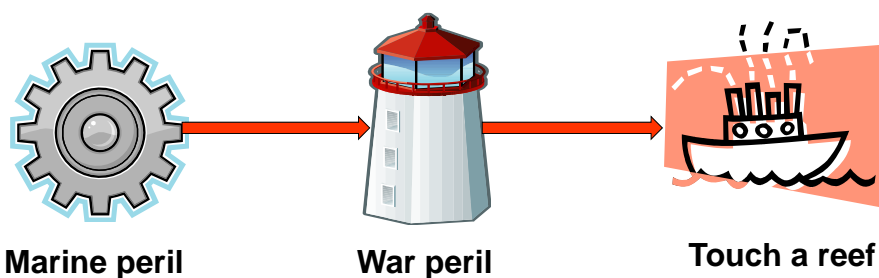
Cl. 2-14. Combination of marine and war perils

- o If the loss has been caused by a combination of marine perils, cf. Cl. 2-8, and war perils, cf. Cl. 2-9, the whole loss shall be deemed to have been caused by the class of perils which was **the dominant cause**. If neither of the classes of perils is considered dominant, both shall be deemed to have **had equal influence** on the occurrence and extent of the loss.

Marine insurance

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Folgefenn's touching the reef



Marine insurance

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3. Collision Folgefonn and Mauranger

- o Which perils caused the collision
- o Are the perils covered
- o Causation

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3. Collision Folgefonn and Mauranger

- o The damages to Folgefonn (hull)
- o The damages to Mauranger
 - o Objects (propeller and stern), NP Cl. 10-1
- o Is the peril covered?
 - o Cause: closing net in propeller
 - o Sabotage? Cf. NP Cl. 2-9?
- o Causation

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4. Breach of the duty of due care

- Breach of safety regulation
- Towing alteration of risk
- Gross negligence
- May the insurer invoke the breaches against Oddrun?

4. Breach of the duty of due care

- Breach of safety regulation, Cl. 3-22
 - Certificate required
- Sanction - Cl. 3-24
 - Fault
 - Causation - cf. ND 1973.450 Ramfløy
 - Grutles experience/knowledge
 - Liability?

4. Breach of duty of due care

- Is the towage an alteration of risk regarding *Mauranger*?
 - NP Cl. 3-8
 - NP Cl. 3-12
- Has the assured acted with gross negligence, Cl. 3-33
 - Has *Grutles* choice "caused" the casualty
 - *Folgeforn* yes, *Mauranger* ?
 - Conclusion

4. Duty of due care

- Identification between *G* and owner
- Cl. 3-36 second part
- The conditions
 - Organisation or individual
 - Assured has delegated authority
 - Significant for the insurance
 - Negligence committed in connection with performance of authority

5. Number of deductibles

- One deductible per casualty, NP Cl. 12-18
- One deductible for the collision between Folgefonn and Norheimsund in 2015
- Separate deductible for consequential damages?
 - The starting point
 - New deductible for independent cause of damage
 - Is the failure to inspect the ship a new cause?

5. Number of deductibles

- Is Folgefonn's touching the reef a new casualty?
 - Extension of the breakage of shaft or new casualty?
 - The significance of the different perils (war/marine)
- New deductible for the collision?