Marine insurance law

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The main types of marine insurances

- Insurances related to ships versus
- Insurance related to goods under transport
- Main focus: Ship insurances
Insurances related to the ship itself

• Hull insurance
  – Loss of or damage to the ship

• Hull interest insurance
  – Loss of the ship
Insurances related to the earning capacity of the ship

- **Loss of hire insurance**
  - Only in case of damage to the ship
- **Strike insurance**
  - only expense cover
- **Freight interest insurance**
  - Only in case of a total loss
- **Hull insurance**
  - Only in case of repair of a damage
Insurances related to liability incurred by the ship/the owner

- **P & I insurance**

- **Hull insurance**
  - Only collision liability, and only partially

- **Hull interest insurance**
  - Only collision liability, and only partially
Insurance of goods under transport

• Covers the goods during transport against total loss and damage

• Does not cover:
  – Loss of income
    • But: owner’s profit (10%) automatically included
  – Owner’s liability
Other central divisions

• Insurances related to marine/civil risks versus Insurances related to war risks
  – Example: Hull insurance against marine perils
    Hull insurance against war perils

• Insurance cover related to primary risks versus Insurance cover related to costs for saving acts
  Example: Liability which is primarily covered by P&I, may be covered by hull insurance, if incurred in order to avoid damage to the vessel
The international legal picture

• No international convention

• The central position of English marine insurance law and conditions

• The Nordic situation
  – Each country has its own set of law and conditions
  – But: Many similar solutions
The Norwegian legal picture 1

- ICA 1989:
  - Of little importance in ship insurances, see § 1-3.2 (c). But: § 7-8
  - Cargo insurance follows ICA solutions, with some exceptions for international transport, see § 1-3.2 (e)
The Norwegian legal picture 2

• NMIP 1996 with later versions
  – Agreed document, developed over 135 years
  – Covers most of the ship insurances
    • But: P&I insurance, strike insurance
  – Extensive preparatory documents
    (Commentary)
  – Stands on its own feet; little relationship with ICA 1989
  – Structure: Four parts
The Norwegian legal picture 3

- NMIP structure: Four parts
  - Part one (ch. 1-9): Rules common to all types of insurance
  - Part two (ch. 10-13): Hull insurance
  - Part three (ch. 14-16): Other insurances for ocean-going vessels (total loss insurances, war insurance, loss of hire insurance)
  - Part four (ch. 17-19): Other insurances (fishing vessels insurances, offshore structures insurances, builders’ risks insurances)
The Norwegian legal picture 4

- Norwegian Cargo Clauses 1999/2004
  - Many of the same characteristics as NMIP
  - But:
    - Less extensive commentaries
    - A stronger tie to ICA 1989
The insurance contract

• The parties to the insurance contract
  – Definitions, NMIP § 1-1
  – The insurers
    • Coinsurance/claims leader (NMIP ch. 9)
    • Reinsurance (not regulated in NMIP)
  – The customers
    • Coinsurance of mortgagees, NMIP ch. 7
    • Coinsurance of others, NMIP ch. 8
Insurable value and sum insured

- **Insurable value**
  - The relevant question: What is the interest worth?
  - Open insurable value: Market value of the insured interest at the commencement of the insurance, NMIP § 2-2
  - Assessed insurable value: Value agreed between the parties, NMIP § 2-3

- **Sum insured**
  - The relevant question: What is the sum the assured has chosen to insure
  - The three sums insured, NMIP § 4-18
Scope of cover

• Perils insured against
  – Marine insurance: NMIP § 2-8, all risks
  – War insurance: NMIP § 2-9, named perils

• The losses covered
  – Few general rules, solutions found in the specific insurances

• Causation – combination of perils
  – Main rule: NMIP § 2-13, apportionment
  – Special rule marine/war: NMIP § 2-14, dominant peril
  – Special rule different periods: NMIP § 2-11.2
Duties of disclosure and due care 1

• Duty of disclosure
  – Scope, time, responsible person, NMIP § 3-1
  – Sanctions, NMIP § 3-2 - § 3-6

• Alteration of risk
  – The general rules, NMIP § 3-8 – § 3-13
    • Change of state of registration, change of manager, change of class
  – The special rules, NMIP § 3-14 - § 3-21
    • Loss of class, trading limits, illegal activities
Duties of disclosure and due care 2

• Safety regulations
  – The concept, NMIP § 3-22
  – Infringement of safety regulations, NMIP § 3-25
    • Knowledge
    • Causation
    • Burden of proof
    • Special safety regulations

• Casualties caused by the assured
  – Intent: NMIP § 3-32, no liability
  – Gross negligence: NMIP 3-33, liability depends on degree of fault and other circumstances
  – Ordinary negligence: No specific provision, but full liability
Duties of disclosure and due care 3

• Duty to notify and to take measures to avert or minimize loss, NMIP § 3-29 - § 3-31

• Identification
  – Between the person effecting the insurance and his servants: no provision, full identification
  – Between the assured and his servants: NMIP § 3-36
  – Between the assured and the person effecting the insurance: NMIP § 3-38
  – Between the assured and other assureds: NMIP § 3-37