

Hull Insurance according to NMIP

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NMIP Part two, Chapters 10-13



Scope of Hull Insurance Cover NMIP part two – Introduction

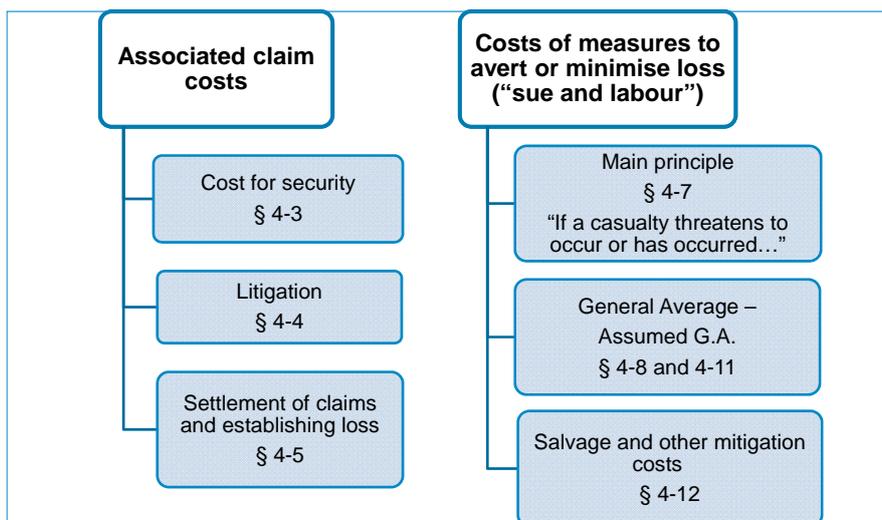
What are the typical kinds of maritime casualties – how do the marine perils cause loss or damage to a ship?



Overview of losses and corresponding rules in the NMIP

Main principles	<ul style="list-style-type: none"> • General losses are not covered § 4-2 • Third parties liability not covered § 4-13
Total loss: (Ch 11)	<ul style="list-style-type: none"> • Actual § 11-1 • Condemnation § 11-3 • Presumed § 11-7
Physical damage: (Ch 12)	<ul style="list-style-type: none"> • Repair costs (Particular average) § 12-1
Collision and striking liabilities: (Ch 13)	<ul style="list-style-type: none"> • Third party – Collisions § 13-1 • Fixed and Floating Object

Associated costs and “sue and labour” (NMIP chapter 4)



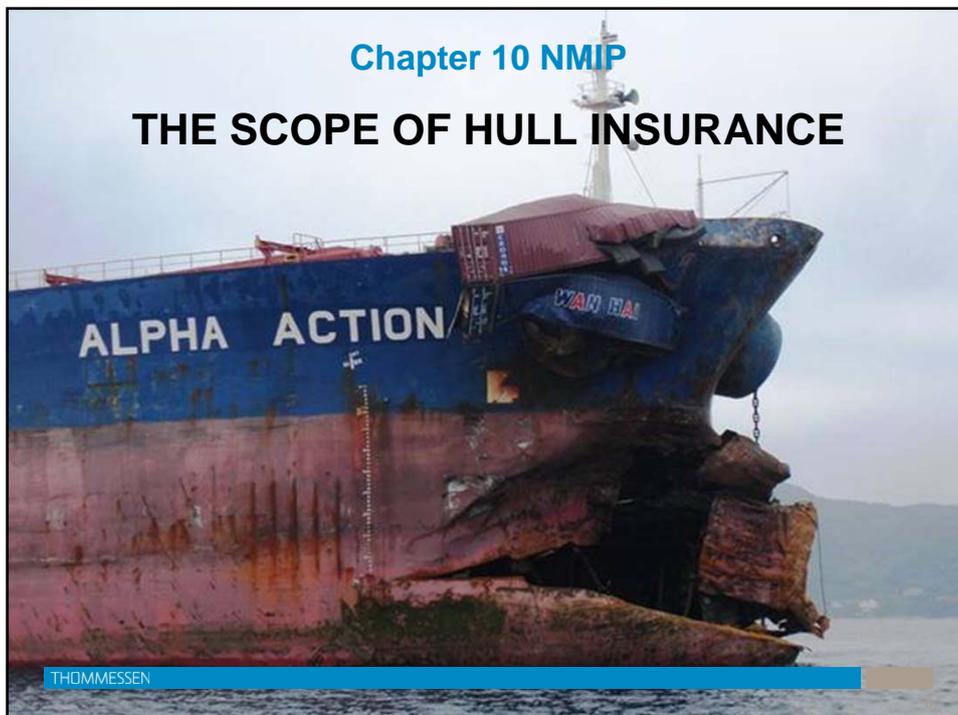
Limit of liability of the insurer (NMIP chapter 4, sec 4)

The three sums insured:

1. Liability up to the sum insured - § 4-18
 - Caused by any one casualty.
 2. Equivalent amount for costs of measures taken to avert or minimise loss, § 4-18
 3. Equivalent amount for collision – § 4-18 (2), § 13-3.
- Even if the sum insured is exceeded, the insurer is in any circumstance liable for (§4-19):
 - Costs of providing security - § 4-3
 - Cost of litigation - § 4-4
 - Costs in connection with settlement of claims - § 4-5
 - Preservation of the object insured - § 5-21
 - Interest on the compensation - § 4-19 (b)

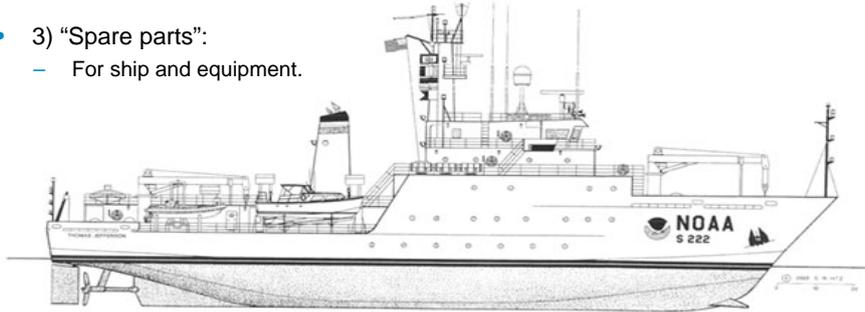
Chapter 10 NMIP

THE SCOPE OF HULL INSURANCE



NMIP: § 10-1 (1): Objects insured

- 1) “The ship”:
 - Hull and engines
- 2) “Equipment”:
 - Loose objects that accompany the ship in its trade, but which cannot be deemed to be part of it, e.g. radio, radar, search lights, furniture, etc.
- 3) “Spare parts”:
 - For ship and equipment.



NMIP: § 10-1 (1): Objects insured (cont.)

- 4) “Fuel/oil”:
 - Bunkers and lubrication oil on board. Must belong to ship owner for coverage, not time charterer or other third party.
- 5) “On board”:
 - Only coverage when on board. Spare parts and equipment must normally be on board. (Forklift? - No)
- Ownership Irrelevant:
 - Equipment and spare parts borrowed, leased or purchased with vendors lien or similar reservations is covered. (Does not have to take out separate property insurance for equipment that he does not own, but for which he bears the risk.)

NMIP: § 10-1 (2): Objects not insured

1. Articles intended for consumption:
 - Supplies, paint, etc.
2. Fishing, whaling, sealing boats/equipment (and similar).
3. Loose objects exclusively intended for securing or protecting the cargo.
 - Only intended for protection of cargo – No coverage
 - Also intended for protection of ship – Coverage
 - Means of rationalizing the transport (fork-lift trucks), and not cargo security – Coverage
4. Loose containers intended for the protection of cargo.

Example on objects covered

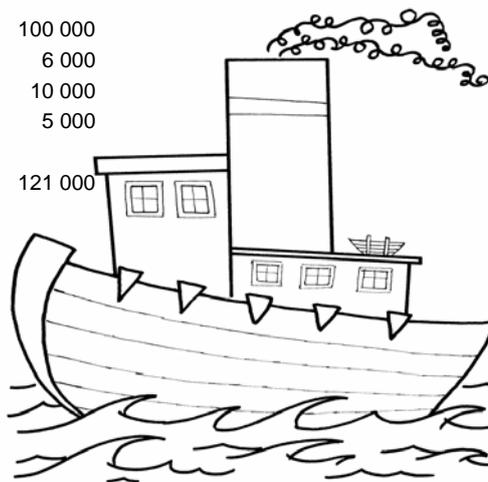
- Due to a grounding the following damages/losses were claimed from the insurer:
 - Damage to hull: 100 000
 - Destroyed lashings: 6 000
 - Leakage of bunker oil: 10 000
 - Fork lift for cargo damaged: 5 000

Total claim

121 000

How much is covered by the insurance?

Answer:
Everything but the lashings?



NMIP § 10-2: Objects temporarily removed from the ship

1. The object must have been on board, and the intention must be to put it back
 - New equipment on its way to the ship – Not covered
2. The removal must be in connection with the running of the ship
3. The object must be back before departure.
 - Intention, but prevented because of delay – Coverage
 - Departure = commences voyage. Ship moves from one port to another for repair – Coverage.



NMIP Chapter 11



TOTAL LOSS

NMIP § 11-1 Total loss

- Two types of “actual” total loss:
 - No prospect of it being recovered
 - The ship has sunk to such deep waters that it cannot be reached.
 - An economical assessment: Will salvage/repair costs exceed the assessed hull value?
 - Unrepairability
 - Technical evaluation: Is it technically possible to repair the ship to the state it was in prior to the damage, and a state which is expected to last?
 - Difference between repair and new building.



NMIP § 11-2: Salvage attempts

- Regulates the situation where the ship is lost under such circumstances that it is uncertain whether it can be salvaged or not.
- Conflict of interests:

Insured value low

- Owner wants to salvage
- Insurer wants to pay and leave

Insured value high

- The insurer is entitled to attempt to salvage the ship at his own expense and risk within 6 months (ice 12 months) from time of notification of the casualty.
- Total loss if not salvaged in time.

NMIP § 11-3: Condemnation

“The assured may claim compensation for a total loss if the conditions for condemnation are met.”

- These conditions are met when:
 - Cost of repair amounts to at least 80% of
 1. Insured value or
 2. Value of the ship after repair, if this value is higher than insured value.

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Example on condemnation

- Cost of repair: 8
- Insured value: 10
- Value of the ship repaired: 15
- Value of the wreck: 6

- Can the owner claim total loss?

- No
 - Cost of repair (8)/value of the ship repaired (15) = 53%

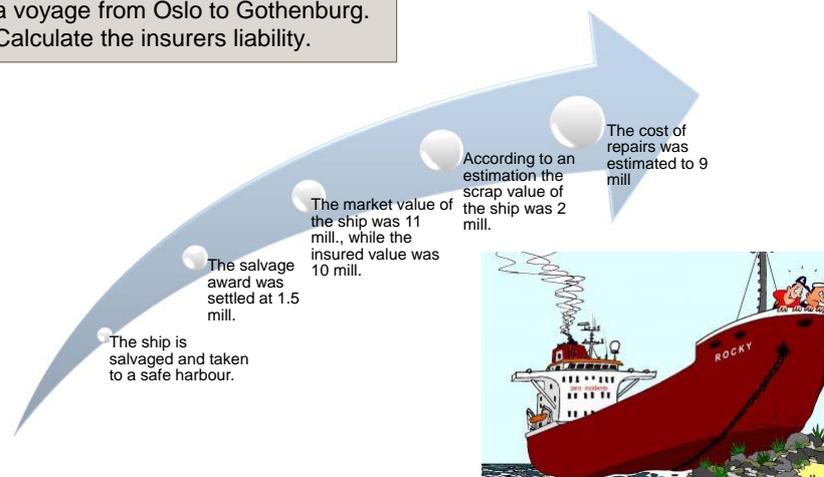
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§11-3 (4) "Casualty damage" and "costs of repairs"

- Casualty damage:
 - What casualty damage is included in the condemnation formula?
 - The damage caused by the latest casualty.
 - All damage reported and surveyed by the insurer (but not compensated) in the course of the last three years prior to the casualty that gives rise to the request for condemnation.
 - All of the above must be damage covered by the insurance.
- Costs of repairs:
 - Actual costs
 - Removal costs (but not salvage)

Example on condemnation

Ship A is running heavily aground on a voyage from Oslo to Gothenburg. Calculate the insurers liability.



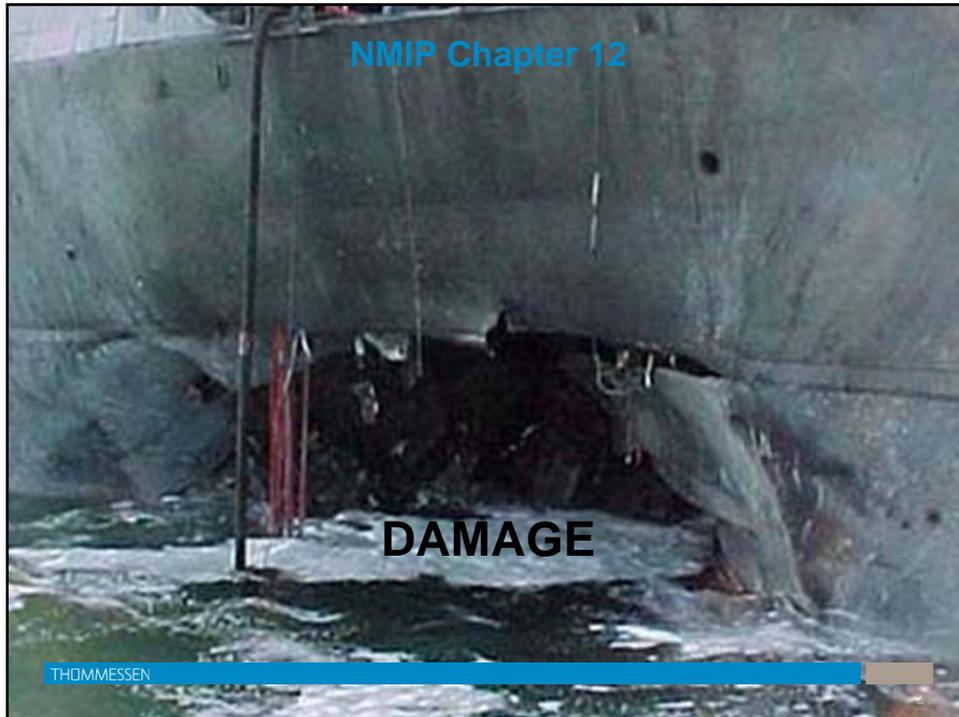
Example on condemnation (cont.)

- Can the ship owner claim total loss by condemnation?
 - Cost of repair (9 mill.) / Market value (11 mill.) = 81%
- Yes, the ship can be declared a constructive total loss
- Liability for insurer:

Total loss	10.00 mill.
Salvage	1.5 mill.
<u>Total:</u>	<u>11.5 mill.</u>
- Procedures: § 11-5 and 11-6

NMIP § 11-7: Missing or abandoned ship

- The assured may claim for total loss if:
 - The ship is reported "missing":
 - When three months have elapsed from the date on which the ship was expected to arrive at a port.
 - Ice bound extends the period to twelve months
 - If the ship has been "abandoned":
 - When three months have elapsed from the day when the ship was abandoned.
 - Ice bound twelve months
 - If it is clear that the ship will not be recovered:
 - The assured may at once claim for total loss
- The insurer may not reject the claim after the period even if the ship is recovered.



NMIP § 12-1 Maine rule damage

- If the ship has been damaged **“without the rules relating to total loss being applicable”**, the insurer is liable for the costs of repairing the **“damage”** in such a manner that the ship is **“restored to the condition it was in prior to the occurrence”** of the damage.
- **“without the rules relating to total loss being applicable”**:
 - Conditions for total loss must be met
 - The total loss rules must be invoked (If not chapter 12 applies).
- **“damage”**:
- **“restored to the condition it was in prior to the occurrence”**
 - Not to be taken literally.

NMIP § 12-1 Maine rule damage (cont.)

- Duty to repair, 12-1 (2)
 - Liability arises as and when the repair costs are incurred, 12-1 (2)
- Deduction for improvements, 12-1 (3):
 - Deduction is subject to the condition that the strengthening or the improvement has made the repairs more expensive.
 - "Special advantages":
- Claim for depreciation in value, 12-1 (4)
 - Calculation: (Value of ship just before damage) vs. (Value of ship partially repaired)
 - Complete repairs impossible: Material doesn't exist.
 - Complete repairs unreasonable:

NMIP § 12-2: Compensation for unrepaired damage

- The assured may claim for unrepaired damage when the insurance period expires
 - Compensation is calculated on the basis of the estimated reduction in ship's market value at the time of expiry, but shall not exceed the estimated costs of repairs
 - Estimated common expenses are not recoverable, except for 50% of estimated dock and quay hire.
- Total loss absorbs partial loss
- The assured may transfer claims for known damage to a new owner of the ship
 - The damage must be "known"

NMIP § 12-3 Exclusion: Inadequate maintenance.

- The insurer is not liable for costs incurred in renewing or repairing a “**part or parts**” of the hull, machinery or equipment which were in a “**defective condition**” as a result of “**wear and tear**”, “**corrosion**”, rot, “**inadequate maintenance**” and the like.
- The question:
 - Which parts of the ship were in defective condition because of wear and tear, corrosion, rottenness or inadequate maintenance? – Surveyors and technical experts evaluate.
- “**Defective condition**”:
 - Minimum requirements of the classification society – good guidance.

NMIP § 12-3 Exclusion: Inadequate maintenance (cont.)

- **Exclusion:**
 1. Only the parts that are defective are excluded. Other damaged parts are covered.
 2. All defective parts are excluded. Primary/consequential damage of no relevance.
- “**Costs**”:
 - Purchase of new part, installation and reasonable proportion of common costs (§ 12-14)
- “**Corrosion**”:
 - Limited to corrosion that naturally occur on its own accord.



NMIP § 12-3 Exclusion: Inadequate maintenance (cont.).

- “**Inadequate maintenance**”:
 - Must follow recommendations from Class, ISM code and users manual.
- “**Wear and tear**”:
- § 12-3 only apply to chapter 12, not 11.

NMIP § 12-4: Exclusion: Error in design.

- If the **damage** is a result of “**error in design**” or “**faulty material**”, the insurer is not liable for the costs of renewing or repairing the part or parts of the hull, machinery or equipment which were not in proper condition, unless the part or parts in question had been **approved by the classification society**.
- “**Faulty material**”:
 - The material chosen in a part of the ship is of a quality inferior to the presupposed standard.
 - This damage is covered, unless the faulty part has not been approved by the classification society.
 - The insurer is in any event liable for the consequential damage.



NMIP § 12-4: Exclusion: Error in design (cont.)

- **“Error in design”:**
 - The design of a part of the ship proves to be unfortunate, or that the degree of strength proves to be inadequate

Factors that are significant when determining whether there is an error in design are therefore:

Something must be wrong	“Subjective” error	“Objective” error	Experiments not covered	“Design”
	<ul style="list-style-type: none">• Whether the error is of such a nature that steps would have been taken to correct it if it had been discovered, only then it is an “error”	<ul style="list-style-type: none">• However, must show a need to revise the general perception of a correct design in order for it to be an error.	<ul style="list-style-type: none">• Deliberate choice of uncertain design	<ul style="list-style-type: none">• The choice of materials, dimensions, drawings and other specifications.

NMIP § 12-4: Exclusion: Error in design (cont.)

- **“Damage”:**
 - A casualty must have occurred in the form of demonstrable damage.
- **“Approved by the classification society”:**
 - The part must be included in the classification society’s checking procedure in connection with building or repairs
- Sometimes things just break... Main rule - This is covered.

NMIP § 12-5: Losses that are not recoverable

- The insurer is not liable for costs of ordinary operation of the ship:
 - a) Crew wages and maintenance and other ordinary expenses connected with the running of the ship during the period of repair unless this is specially agreed
 - b) Expenses of shifting, storing and removal of cargo
 - Not necessary costs for repair – therefore not covered.
 - c) Accommodation of passengers

NMIP § 12-5: Losses that are not recoverable (cont.)

- The insurer is not liable for losses connected to ordinary maintenance or replacement:
 - d) objects which must normally be replaced several times during the expected life of the ship and which are and have been used for mooring, towing and the like, unless the loss is a consequence of the ship having sunk, or is attributable to collision, fire or theft. The same applies to tarpaulins.
 - e) zinc slabs, magnesium slabs and the like fitted for protection against corrosion,
 - f) loss due to lubricating oil, cooling water or feed water becoming contaminated, unless proper measures were taken as soon as possible after the assured, the master or the chief engineer became, or must be deemed to have become, aware of the contamination, and in any event not later than three months after one of them should have become aware of the contamination.

The repair - Conflict of interest Time and cost in repair

- The conflicting interests in choice of yard
 - The assured wants repairs done as soon as possible because of loss of hire.
 - The insurer wants the least expensive repair, because he doesn't have to worry about loss of hire.
- The compromise (§ 12-12)
 - The insurer only liable for the cheapest alternative
 - The owner gets to choose when to repair, how to repair and the yard, but pay if more expensive.

NMIP § 12-7: Temporary repairs

- The insurer is liable for the costs of **necessary temporary repairs** when permanent repairs **cannot be carried out** at the place where the ship is located.
 - “Necessary”:
 - “Temporary repairs”:
 - “Cannot be carried out”:

NMIP § 12-7: Temporary repairs (cont.)

- If temporary repairs of the damaged object are carried out **in other cases**, the insurer is liable for costs **up to the amount he saves** through the postponement of the permanent repairs, or **up to 20%** p.a. of the assessed insurable hull value **for the time the assured saves**, if the latter amount is higher
 - “In other cases”:
 - Starting point – no liability for the insurer if insured chooses to do temporary repairs, even though not necessary.
 - “up to the amount he saves”:
 - If the insurer saves money on the final repair however, he is still liable for temporary repairs up to the amount he saves.

NMIP § 12-7: Temporary repairs (cont.)

- “for the time the assured saves”
 - if the assured saves time off hire by doing the temporary repair the insurer is also liable for as cost of the temporary repair.
 - Time saved? – (Temporary repair time + final repair time) vs. (repair time without postponement)
- “up to 20%”
 - If 5 days saved, the calculation will be for a ship with insured value 1000 000:

$$1000\ 000 \times 20\% \times 5 \text{ days}/365 = 2\ 740,-$$

NMIP § 12-10 - Survey of damage

- Survey is to take place:
 - Before any damage is repaired
 - A representative of the assured and a representative of the insurer shall participate.
- The representatives shall submit survey reports, in which they shall:
- Remedies if the assured has the ship repaired without any survey being held or without notifying the insurer of such survey:
 - he has the burden of proving that the damage is not attributable to causes not covered by the insurance.

NMIP §12-11: Invitations to tender

- A right of the insurer
- The insurer may demand that tenders be obtained from the repair yards of his choice. If the assured does not obtain such tenders, the insurer may do so.
- If the time taken to obtain tenders exceeds ten days as from the date the invitation to submit tenders is sent out, the insurer is liable to compensate the **loss of time** at the rate of 20% p.a. of the assessed insurable hull value during the excess period.
 - “loss of time”:

NMIP § 12-12 Choice of repair yard

- The assured decides which yard shall be used
- The insurer's liability is limited for the costs of repairs and the removal:
 - Liability limited to an amount corresponding to the amount that would have been recoverable if the lowest adjusted tender had been accepted, with an addition of 20% p.a. for the assessed insurable hull value for the time the assured saves by not choosing that tender.



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39

NMIP: § 12-13 – Removal costs

- The insurer is liable for the costs of:
 - moving the ship to the repair yard,
 - wages and maintenance for necessary crew, and
 - bunkers and similar direct expenses,
 - all in connection with the running of the ship during the period of time involved.
- If the removal results in costs savings for the assured, a corresponding amount shall be deducted.

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40

NMIP § 12-8 – Costs incurred in expediting repairs

- If the assured, in order to limit his loss of time, expedites repairs of the damaged part by **“extraordinary measures”**
 - Faster repair leads to more costs, how much of these costs should the insurer pay for?
- The insurer’s liability for the costs thereby incurred is limited to 20% p.a. of the hull valuation for the time saved by the assured.
 - “Extraordinary measures.
- Example:
 - If the ship is done with repairs 10 days earlier as a result of work being done on overtime and that a propeller was sent by charter plane, than the costs of these measures should be covered within the 20% rule.

NMIP § 12-14 – Apportionment of common expenses

- If expenses have been incurred which are common to repair work for which the insurer is liable and work which is not covered by the insurance, these expenses shall be apportioned on the basis of the cost of each class of work.
- However common **“expenses which depend on the length of the period of repairs”** shall be apportioned on the basis of the time that the recoverable and the non-recoverable work would have required if the two classes of work had been carried out separately.
 - **“expenses which depend on the length of the period of repairs”**:
 - *usually just dock and quay rental*

NMIP § 12-18 – Deductible – General rule

- For each casualty the amount stated in the policy shall be deducted
- Damage caused by heavy weather or navigating in ice which has occurred during the period between departure from one port and arrival at the next one shall be regarded as a **single casualty**.
- Costs in connection with the claims settlement, cf. § 4-5, and loss arising from measured to avert or minimise the loss, see §§ 4-7 to 4-12, are recoverable without any deductible.

NMIP §§ 12-15 and 12-16 – Deduction for ice and machinery – Special rule

- § 12-15: Ice damage deductions
 - Damage due to striking against or contact with ice – **excluding collision with icebergs on the open sea** – is recoverable subject to deduction of one fourth
 - Collision with icebergs is covered without deductible.
- § 12-16: Machinery damage deductions
 - Damage to machinery and accessories and to pipelines and electrical cables outside the machinery is recoverable subject to deductions as set out in the policy.
 - To this shall be added the deductible referred to in § 12-18 (1) for particular damage. However, no machinery damage deduction shall be made if the damage is a consequence of:
 - a) the ship having been involved in a collision or striking,
 - b) the engine room having been completely or partly flooded,
 - c) a fire or explosion originating outside the engine room.

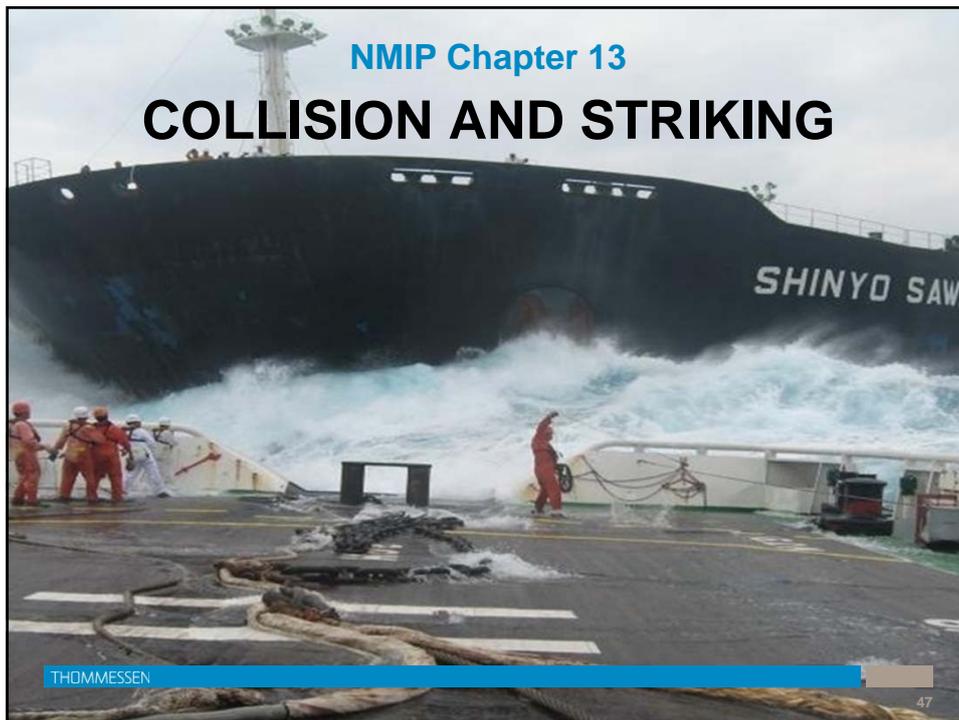
§ 12-17– Compensation without deduction

- Recoverable without deduction in accordance with § 12-5 (ice) and § 12-16 (machinery) are:
 - a) Loss recoverable under
 - § 12-1 (4) - depreciation in value
 - § 12-11 (2) – time exceeding tender, and
 - § 12-13 – removal of ship,
 - b) Unused spare parts that are damaged or lost,
 - c) Temporary repairs

NMIP § 12-19 - Basis for calculation

- Deductions of fixed amount – raises no problem.
- Deductions under §§ 12-15 give percentage of a deduction,
 - This is calculated on the gross amount before any other deductibles is deducted.





NMIP § 13-1: Scope of liability of the insurer

- The insurer is liable for liability imposed on the assured for loss which is a result of collision or striking by the ship, its accessories, equipment or cargo, or by a tug used by the ship
- “Liability”:
- “Collision or striking”:

NMIP § 13-1 (cont.) – The insurer is not liable for:

- a) Liability arising while the ship is engaged in towing, or caused by the towage
 - unless this takes place in connection with a salvage operation (§ 3-12 (2))
- b) Liability for personal injury or loss of life,
- c) other loss suffered by passengers or crew on the insured ship,
- d) Liability for damage to or loss of cargo other effects on board the insured ship, or equipment which the ship uses,
- e) Liability to charterers or others who have an interest in the insured ship.

NMIP § 13-1 (cont.) – The insurer is not liable for:

- f) Liability for pollution damage and damage resulting from fire or explosion caused by oil or other liquid or volatile substances, and contamination damage caused by radioactive substances and damage to coral reefs and other environmental damage.
- g) Liability for loss caused by cargo or bunkers after rounding or striking against ice,
- h) Liability for loss caused by the ship's use of anchor, mooring and towing gear, loading and discharging appliances, gangways and the like, and liability for damage to or loss of these objects,

NMIP § 13-1 (cont.) – The insurer is not liable for:

- i) Liability for removal of the wreck of the insured ship and for obstructions to traffic created by the insured ship,
- j) refund of amounts which a third party has paid by way of compensation for loss as mentioned under letters a) to i) above



NMIP § 13-4 – Collision deductible

- For each casualty the amount stated in the policy shall be deducted.
 - Litigation costs, cf. § 4-4, costs in connection with the claims settlement, cf. § 45, and loss arising from measures to avert or minimise the loss, cr. §§ 4-7 to 4-12, are recoverable without any deductible.



Thank you for you attention

