



# Marine insurance law

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## Overview

- o The main types of marine insurance
- o The legal sources in marine insurance (in general)
- o The insurance contract (NP)
- o Insurable interest, insurable value and the sum insured (NP)

## 1. The main types of marine insurance

- o Insurance related to ships
- o Insurance of goods under transport
- o Some other distinctions



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### 1.1. Insurance related to ships

- o Three main insurances:
  - o Hull insurance
  - o Loss of income
  - o Liability
- o The main difference:
  - o What interests are insured
  - o Calculation of compensation



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## 1.1.1 Hull insurance

- o Damage to/loss of property
- o Element of liability
- o Element of loss of income
- o Divided into two:
  - o Hull insurance
  - o Hull interest insurance: only total loss and liability

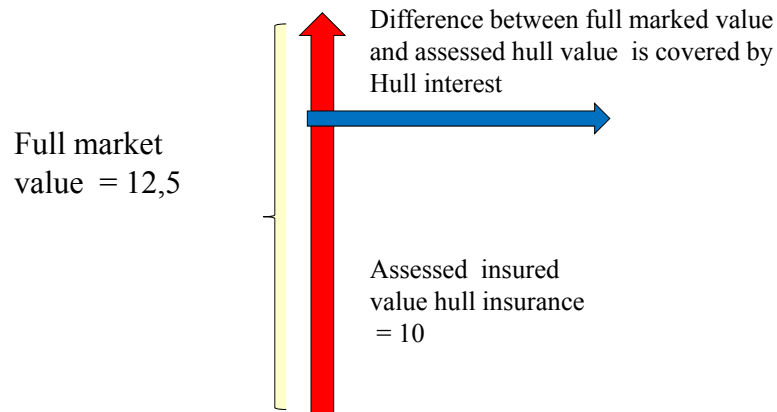


## Hull and hull interest



Insurable interest = full market value  
Insurable value hull = assessed = potential "rest value"  
Rest value = hull interest insurance, but max 25 %

## Hull and hull interest



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## 1.1.2 Loss of income

- o The covered interest: income derived from the ship:
- o Different types:
  - o Loss of hire: only if the ship is damaged
  - o Freight interest: only if the ship is a total loss
  - o Strike: only cover for expenses



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# Freight interest



Hull and hull interest covers full market value, which reflects the future income of the ship.

But: not loss because

- a long term contract expires or
- Ship is taken out of predetermined form of employment

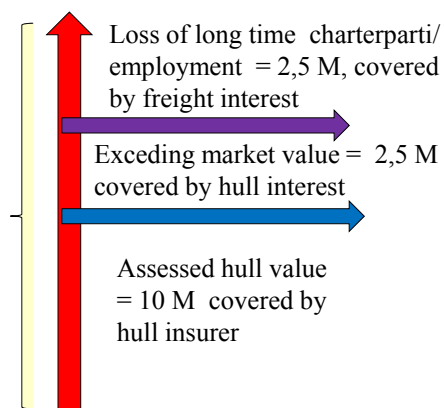
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# Freight interest

Total loss  
interest,  
hull and  
freight risk



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### 1.1.3 Liability insurances

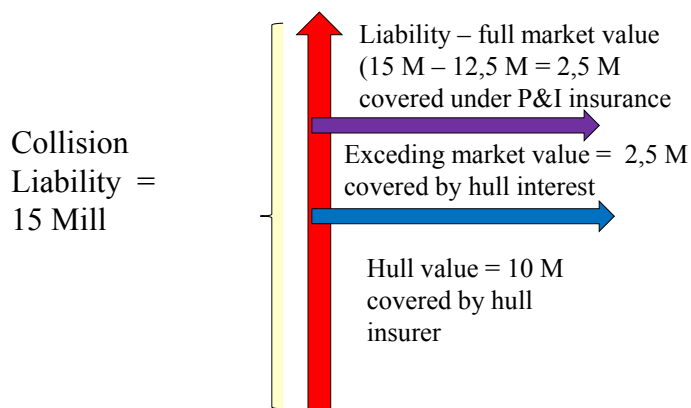
- o Covering ship-owners' third party liability
- o Main liability insurance: P&I insurance
- o Hull/hull interest insurance cover part of the collision liability
  - o Hull: up to the sum insured/assessed value
  - o Hull interest: 25 % above
  - o P&I: Above "market value"

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### Liability, hull and P&I



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## 1.2 Insurance of goods under transport

- o Covers cargo under transport from A to B (normally seller to buyer)
- o Casualty (damage and loss) insurance
- o Includes owner's profit
- o But not
  - o Loss of income in general
  - o Owner's liability

## 1.3 Some other distinctions of relevance

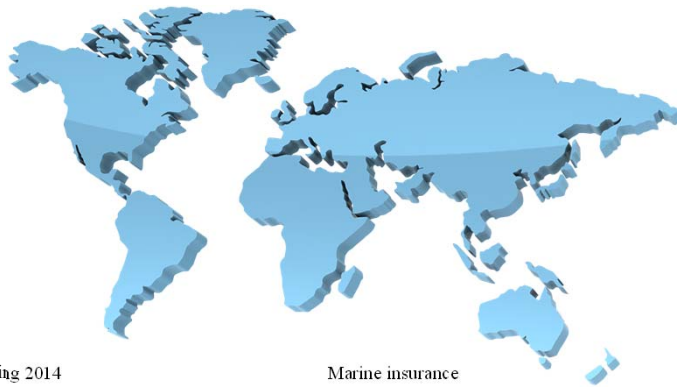
- o Marine/civil risks vs war risks
  - o Marine/civil insurance covers all risks that are not specifically excluded
  - o Special exclusion for war risks
  - o War insurance covers war and similar risks specifically defined (named perils)
  - o Distinction used in all marine insurance
  - o But concept of war risk varies

### 1.3 Some other distinctions of relevance

- o Primary insurance - coverage for costs of saving acts
  - o Primary insurance: coverage of casualties
    - o Caused by risks insured against
    - o According to the principles of indemnity in the insurance contract
  - o Costs of saving acts: covers
    - o Expenses incurred to avoid/minimize losses
    - o According to ordinary tort principles

## 2. The legal sources in marine insurance

- o The international legal picture
- o The Norwegian legal picture





## 2.1 The international legal picture

- o No international convention
- o The English marine insurance market
- o The Scandinavian marine insurance market

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### 2.1.1 No international convention

- o Contrary to many other areas of maritime law
- o Attempts of harmonization
  - o UNCTAD 1974-1986
  - o CMI 1997-2005
- o Conclusion: Harmonization difficult
- o Reason: Competition on conditions
- o "Wish list" for the English market

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## 2.1.2 The English insurance market

- o The UK Marine Insurance Act (MIA)
  - o The legislative framework in most common law countries
  - o Built on practice before 1906
- o The Institute Time Clauses Hulls (ITCH) 1983/1995
  - o Used in most common law countries
  - o Used in several civil law countries
- o IHC

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## 2.1.3 The Nordic market

- o Each country used to have their own set of conditions.
- o The conditions were inspired by NMIP
  - o Many similar solutions
  - o Different structure and legal framework
- o But: From 2010 most Nordic markets use the Norwegian Marine Insurance Plan (NMIP)
- o A Nordic Marine Insurance Plan was enforced from 2013 (NP)

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## 2.2 The Norwegian legal picture

- o Insurance Contract Act (ICA) 1989
- o The Nordic Marine Insurance Plan (NP) 2013
- o The Norwegian Cargo Clauses (CICG) 2004
- o The Gard and Skuld P&I conditions 2011

### 2.2.1 Insurance Contract Act (ICA) 1989

- o Starting point: Mandatory, § 1-3
- o But:
  - o Insurance of registered ships, § 1-3 (c)
  - o Insurance of cargo under an international transport, § 1-3 (e)
- o In practice: All cargo insurances follow the rules in ICA, with certain exceptions



## 2.2.2 Nordic Marine Insurance Plan 2013

- o Standard contract (Agreed document)
- o Developed over 135 years
- o Interested parties have participated in the preparation
- o An approach different from ITCH/other national conditions

## 2.2.2 Nordic Marine Insurance Plan 2013

- o Covers most of the relevant insurances for a shipowner
- o But: P&I insurance
- o Extensive preparatory documents (Commentary)
- o Updated every third year (new versions)
- o Little relationship with the ICA

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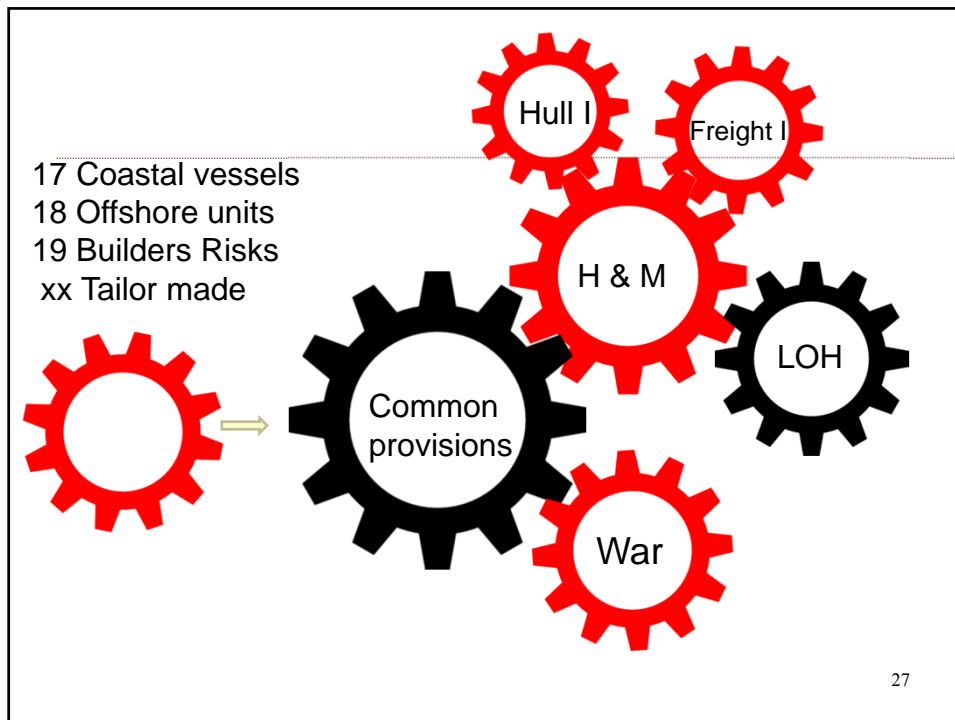
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## A comprehensive and total product



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### 2.2.3 Norwegian Cargo Clauses (CICG) 2004

- o Conditions relating to insurance for the carriage of goods (CICG)
- o Many of the same characteristics as NMIP
- o But:
  - o Less extensive commentaries
  - o A stronger tie to the ICA

## 2.2.4 The P&I Conditions

- o Included in NMIP 1964, but not in NMIP 1996/NP 2013
- o Today: Each P&I club has its own conditions (in Norway: *Gard and Skuld*, in Sweden: *The Swedish Club*)
- o The most important clubs members of *The International Group*

## 3. The insurance contract

- o The parties to the insurance contract
- o The formation of a marine insurance contract
- o Jurisdiction and choice of law

## 3.1. The parties

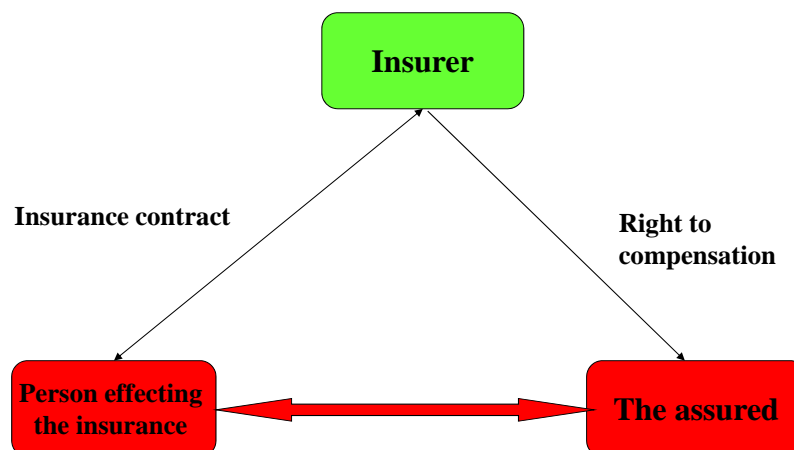
- o Definitions, NP Cl. 1-1
  - o The insurer (a)
  - o The person effecting the insurance (b)
  - o The assured (c)
- o Coinsurance /claims leader (NP ch 9)
- o Reinsurance
- o Insurance of third party interest

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## The parties to the contract



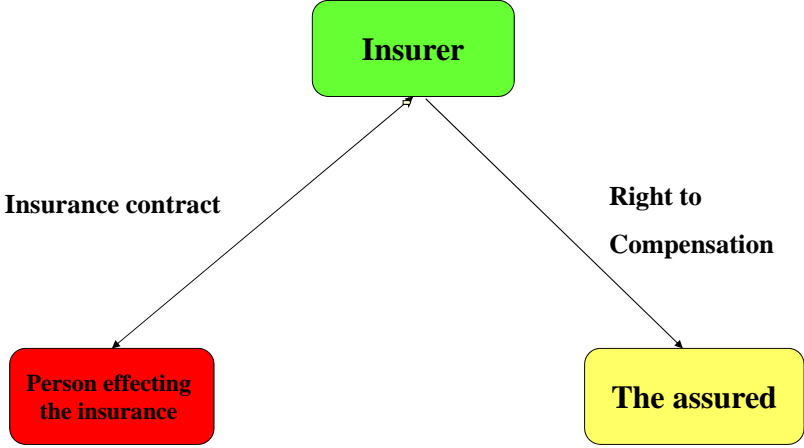
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# Policy holder and the assured



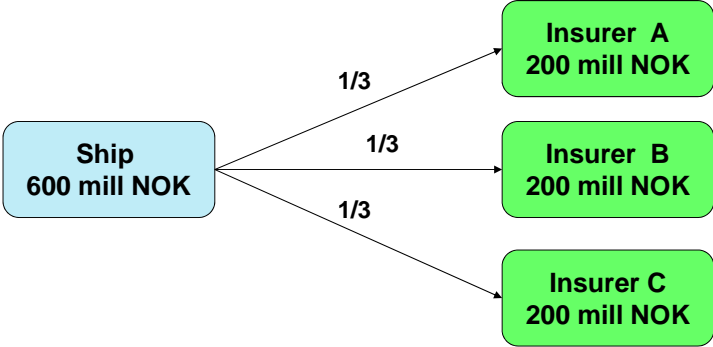
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# Co insurance

→ Partial insurance with more than one insurer



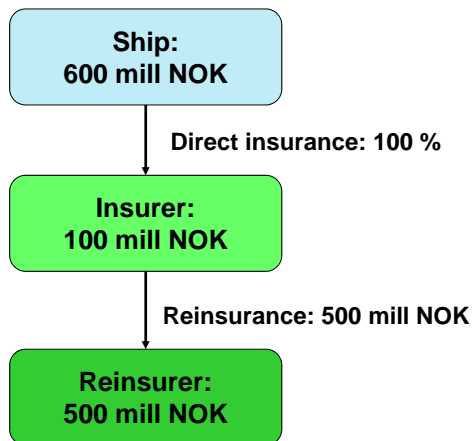
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## Reinsurance

→ The insurer reinsures the risk undertaken under the direct insurance contract.



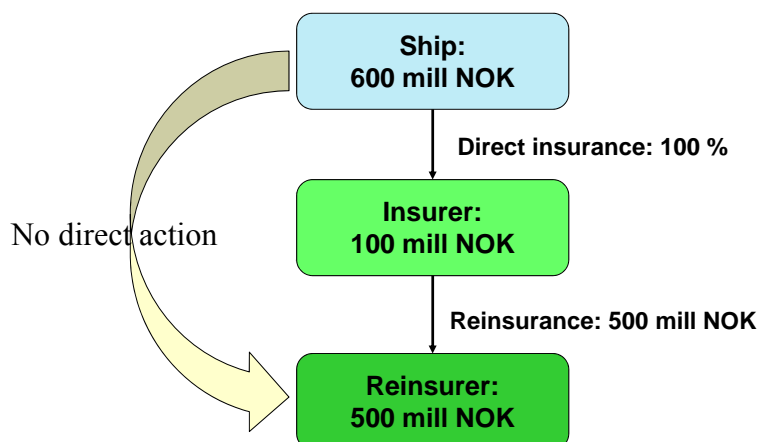
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## Reinsurance

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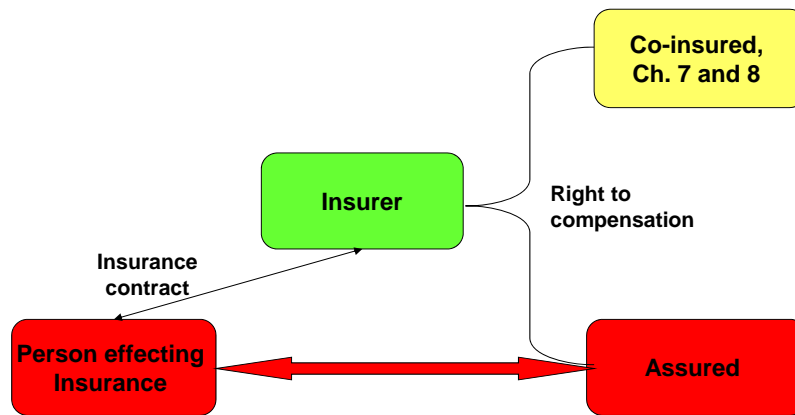


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## Insurance of third party interest, NMIP



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## 3.2 Concluding the marine insurance contract

- o Starting point: Ordinary contract law
- o The use of a broker: NP Cl. 1-3
  - o New regulation
  - o Broker acting on behalf of the assured
  - o Unless written authority on behalf of the insurer
- o Documents:
  - o NP: Written proof of insurance = policy, Cl 1-2

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### 3.3. Jurisdiction and choice of law

- o NP Cl. 1-4
- o Main rule:
  - o Norwegian jurisdiction
  - o Norwegian background law
- o But: Cl. 1-4.2: foreign leading insurer:
  - o No regulation of jurisdiction
  - o Default choice of law: Norwegian background law

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### 4. Insurable interest, insurable value and the sum insured

- o Insurance unrelated to any interest
- o Terminology
- o Calculating the insurable value
- o The sum insured as limit to the insurer's liability

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## 4.1 Insurance unrelated to any interest

- o Insurance unrelated to any interest is void, NP Cl. 2-1
- o MIA sec. 4.1
- o The relationship with provisions concerning legal interest:
  - o NL 5-1-2
  - o NP Cl. 3-16 concerning illegal activities

## 4.2 Terminology

- o Insurable value, NP Cl. 2-2
  - o Value of the insured interest
  - o at the commencement of the insurance
  - o Maximum for liability, Cl. 4-1
  - o Not possible for liability risk
- o Sum insured, NP Cl. 4-18,
  - o The sum the assured has chosen to insure
  - o Three sums at risk

## 4.2 Terminology

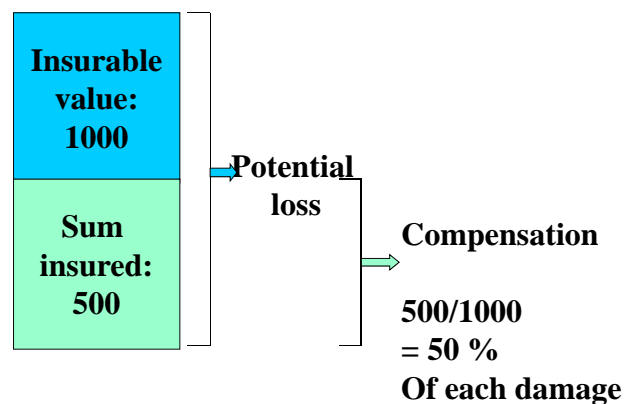
- o Under-insurance
  - o = insurable value exceeds sum insured
  - o NP Cl. 2-4
- o Over-insurance
  - o = sum insured exceeds insurable value
  - o NP Cl. 2-5
- o Double insurance
  - o = same interest insured against same peril under two or more contracts, NP Cl 2.-6

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### Under insurance, NP Cl. 2-4

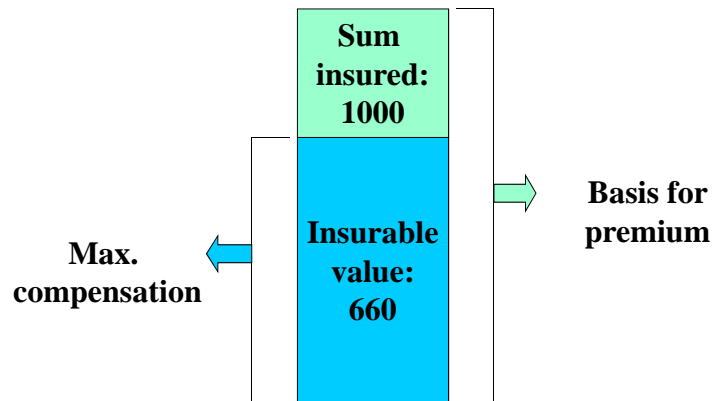


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### Over insurance, NP Cl. 2-5



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## 4.3. Calculating the insurable value

- o "Open" insurable value
  - o Full market value when the insurance commences, NP Cl. 2-2
  - o Not common in hull insurance for ocean going ships
  - o Reason: Must cover mortgage amount
- o Assessed insurable value, NP Cl. 2-3 = as agreed between the parties

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