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On governance structures and maritime conflict resolution in early modern Amsterdam: the case of the Chamber of Insurance and Average (sixteenth to eighteenth centuries)

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The resolution of commercial conflicts was an important issue for the municipality of Amsterdam. The city's government realised that commerce and trade could be hampered if commercial disputes were not dealt with quickly and effectively. A special type of commercial disputes centred on marine insurance and general average cases. In order to regulate the adjudication of these disputes, the city founded a specialised court to deal with these intricate cases. The court's objective was to minimise any uncertainties, advance transparency and thus to further the development and growth of the city's trade and commerce and in particular, its profitable insurance industry.

Keywords: governance; conflict resolution; marine insurance; enforcement mechanisms; institutions; institutional developments

I. Introduction

[T]he foundation of the College of Insurance ... to keep good Policing/ expedite Justice/ and accommodate commerce in such a populous City should be necessary.¹

From the above quote of the Amsterdam Insurance Ordinance of 1598 it is clear that the Amsterdam authorities were aware of the importance of a swift and unconstrained handling of commercial conflicts.² Disputes, they realised, hampered trade and could thus harm the city's ambition to become and remain the world's principal centre of

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¹Ordinance of 1598. The original text reads: '... de oprechtinghe van de Collegie van Assurantien ... tot onderhoudinge van goede Politie/ expeditie van Justitie/ ende accommodatie van de koophandeligen in so populeuse Stadt noodigh bevinden souden te behooren': H Noordkerk, *Handvesten ofte privilegiën ende octroyen mitsgaders willekeuren, costuimen, ordonnantiën en handelingen der stad Amsterdam* (Hendrik van Waesberge, Salomon en Petrus Schouten, 1748) 653.

²In my essay in *Enterprise & Society* I dealt with the Chamber of Insurance, but focused primarily on the foundation, the commissioners and the developments during the first decades of its existence: see SCPJ Go, 'The Amsterdam Chamber of Insurance and

commerce.³ The resolution of conflicts – not merely the military kind but also those with an economic background – was a primary concern for municipal authorities in a time when general law and its enforcement had not yet taken shape. What strategies did municipalities employ in order to resolve commercial conflicts? Which processes and routines were developed and which institutions affected the process of conflict resolution? How did the authorities balance opposing interests? The interests of individual businessmen often did not always concur with the collective interests of the city as a commercial centre. Did victims have the possibility of claiming their damages and in what way did the authorities facilitate the claims?

In a commercially vibrant city such as Amsterdam in the early modern period there were of course numerous sorts of commercial conflicts, for example those concerning the quality or quantity of the goods delivered, of the value of real estate, the distribution of inheritances etc.⁴ A specific kind of conflict concerned those relating to insurances.⁵ The concept of insurance was introduced in Amsterdam in the mid-sixteenth century. It soon developed into a rewarding industry with a number of actors involved: ship-owners, merchants and brokers. Moreover, its impact went beyond the industry's boundaries; it has been argued that marine insurance advanced the development of long-distance trade and economic growth in general.⁶ The Amsterdam authorities soon realised the industry's potential; they were determined to regulate this business in order to advance its

Average: A New Phase in Formal Contract Enforcement (Late Sixteenth and Seventeenth Centuries)' (2013) 14(3) *Enterprise & Society* 511.

³M Prak and L Hesselink, 'Stad van gevestigden, 1650–1730' in WThM Frijhoff and M Prak (eds), *Geschiedenis van Amsterdam, II-2, Zelfbewuste stadsstaat 1650–1813* (Sun, 2005) 89–149; C Lesger, *Handel in Amsterdam ten tijde van de Opstand, Kooplieden, commerciële expansie en verandering in de ruimtelijke economie van de Nederlanden, ca 1550–ca 1630* (Verloren, 2001).

⁴O Gelderblom, *Cities of Commerce, the Institutional Foundations of International Trade in the Low Countries, 1250–1650* (Princeton University Press, 2013) 124–26; 'The Resolution of Commercial Conflicts in Bruges, Antwerp and Amsterdam, c 1250–1650' in D Ma and JL van Zanden (eds), *Law and Long-term Economic Change: A Eurasian Perspective* (Stanford Economics and Finance, 2011) 244–76.

⁵Within the scope of this article, insurance refers to marine insurance: the insurance of merchandise in transit or of methods of transportation on waterways.

⁶K Davids, 'Zekerheidsregelingen in de scheepvaart en het landtransport, 1500–1800' in J van Gerwen and MHD van Leeuwen (eds), *Studies over zekerheidsarrangementen, risico's, risicobestrijding en verzekeringen in Nederland vanaf de Middeleeuwen* (Nederlandsch Economisch Historisch Archief, 1998) 183–202; FC Spooner, *Risks at Sea: Amsterdam Insurance and Maritime Europe, 1766–1780* (Cambridge University Press, 1983); C Ebert, 'Early Modern Atlantic Trade and the Development of Maritime Insurance to 1630' (2011) 213 *Past & Present* 87; C Kingston, 'Marine Insurance in Britain and America, 1720–1844: A Comparative Institutional Analysis' (2007) 67 *Journal of Economic History* 379; SCPJ Go, *Marine Insurance in the Netherlands 1600–1870: A Comparative Institutional Approach* (Aksant, 2009); JP Vergouwen, *De geschiedenis der makelaardij in assurantien hier te lande tot 1813* (Zuid-Hollandsche uitgevers mij, 1945); JP van Niekerk, *The Development of Principles of Insurance Law in the Netherlands from 1500–1800* (Juta, 1998).

expansion and development. The municipality recognised the need for procedures and an institution to effectively deal with any conflict that arose between the various parties involved. It was clear that this new, service-based industry, relying primarily on trust rather than a physical product, was prone to conflicts, not only to 'regular' business disagreements, but also to intricate forms of fraud and swindle. And indeed, with its expansion came disputes and conflicts. Rather than copying existing methods to deal with marine insurance conflicts, Amsterdam chose its own path to govern this novel industry and its actors by not only issuing an ordinance in 1598 but, more importantly, by establishing a subsidiary court to handle these insurance-related conflicts.

In this contribution I shall concentrate on this specific type of dispute: marine insurance conflicts. Moreover, I shall focus on the situation in Amsterdam and the strategy of the Amsterdam Burgomasters to deal with these commercial quarrels. The approach of the Amsterdam authorities differed from that of other commercial centres. I shall argue that Amsterdam's choice of conflict resolution was deliberate and that in time their approach was copied by other cities. I shall reflect on the processes and routines that were developed and assess the effectiveness of Amsterdam's arrangement.

In order to put the Amsterdam case into perspective, I will first argue the importance of the effective settlement of commercial conflicts and the part Amsterdam played in the development of methods to deal with commercial conflicts and enforce contracts. I will also take a look at the cities that preceded Amsterdam as commercial centre: Ghent, Bruges and Antwerp. How were insurance conflicts resolved in these cities? I will then concentrate on the situation in Amsterdam, first by giving a brief overview of its economic development. I will then focus on the insurance market, the foundation and the first decades of the Chamber of Insurance and then on the eighteenth century to elucidate the routines and procedures that governed marine insurance conflicts in this mercantile centre.

II. Marine insurance conflict resolution

Commercial conflict resolution has received less academic interest than its military counterpart, although more recently several scholars have concentrated on its significance.⁷ Commercial conflicts can have, as their military equivalent, harmful consequences and long-term effects. Even though scholarly interest may have been lacking until recently, monarchs, princes and municipal authorities have long acknowledged the importance of an effectual resolution of these types of disputes.⁸ They realised the significance of effective contract enforcement: if a party

⁷See Gelderblom, *Cities of Commerce*; 'The Resolution of Commercial Conflicts' (n 4); D De ruysscher and J Puttevils, 'The Art of Compromise' (2015) 130 (3) *BMGN Low Countries Historical Review* 25.

⁸MT Goudsmit, *Geschiedenis van het Nederlandsche zeerecht* (Nijhoff, 1882).

considering a transaction could be certain that if need be he could rely on procedures by which he could have his contract enforced, he would be more likely to go ahead with the business deal. Avner Greif has defined this as the Fundamental Problem of Exchange (FPOE): what did a party need to enter into a transaction if he, for example, did not know his counterpart or had not had dealings with him before? What guarantees or safeguards did he require in order to close the deal? Greif's research focused on the Maghribi traders in the eleventh century and he found that informal contract enforcement mechanisms were key in this close-knit community.⁹ However, as long-distance trade expanded and merchants no longer accompanied their merchandise to its destination, new dilemmas arose: how could a merchant still be confident that his far away business partner would honour his part of the contract? In those settings, informal contract mechanisms no longer sufficed – other methods of contract enforcement mechanisms and governance structures became necessary.

Contract enforcement systems come in many forms and shapes but generally there are three basic arrangements: informal, quasi-informal and formal enforcement mechanisms. The Maghribi traders benefited from a family-based network, which is an example of an informal mechanism whereas arbitration was a quasi-informal mechanism. A formalised court, like a High Court, is a type of formal contract enforcement.¹⁰ These mechanisms of enforcement have evolved over time – from predominately informal varieties to more formal ones. More and more, merchants, intermediaries, investors, financiers and other actors required increasingly formal procedures and governance structures in order to close deals.¹¹ This process of formalisation, of primarily self-governance structures towards third party enforced governance structures, was not rectilinear but rather erratic; the pace of the evolution differing regionally and even per city.¹² However, even as formal governance structures evolved, informal mechanisms did not cease to exist: merchants preferred to use a set of institutions, rather than rely upon one form of contract enforcement mechanism.¹³

An important phase of this evolution took place during Amsterdam's commercial dominance in the early modern era and it related directly to the resolution of insurance conflicts. The establishment of the Chamber of Insurance and Average

⁹A Greif, 'Contract Enforceability and Economic Institutions in Early Trade: The Maghribi Traders' Coalition' (1993) 83 *American Economic Review* 525.

¹⁰Some scholars argue that arbitration is a form of formal enforcement, rather than quasi-informal: S Ogilvie, *Institutions and European Trade, Merchant Guilds, 1000–1800* (Cambridge University Press, 2011) 299.

¹¹See Ogilvie, *Institutions and European Trade* (n 10); Greif (n 9); Go, *Marine Insurance* (n 6).

¹²See Go, 'The Amsterdam Chamber' (n 2); S Ogilvie, "'Whatever Is, Is Right?': Economic Institutions in Pre-Industrial Europe' (2007) 60(4) *Economic History Review* 649; see Ogilvie, *Institutions and European Trade* (n 10); Gelderblom, 'The Resolution of Commercial Conflicts'; *Cities of Commerce* (n 4).

¹³See Gelderblom, *Cities of Commerce* (n 4) 17, 43, 101.

was a surprising initiative of the Amsterdam municipality. Other cities in the Low Countries that had preceded Amsterdam as a commercial centre had employed different enforcement mechanisms to secure the smooth running of the insurance business. In these cities, in particular in Ghent and Bruges, insurance disputes were adjudicated primarily but not exclusively by so-called consular courts. Consular courts were set up and run by foreigners who resided within these cities. These courts and their procedures were based on their 'home' laws and were meant to settle disputes between merchants and ship-owners from the same foreign city or region. In Bruges, for example, merchants from Aragon and Italian city-states had been allowed to set up their own consular courts to handle all commercial issues. The number of these consular courts reached its peak in 1450 in Bruges: by then 10 of the 14 foreign nations present in the city had received permission to set up a court.¹⁴ Antwerp's magistrate declared himself to be incompetent to deal with intricate insurance cases, after which these cases were referred to the various consular courts.¹⁵ Although several foreign nations in Antwerp were permitted to set up a consular court, there were never as many in Antwerp as in Bruges.

There were certain advantages to these consular courts. In general, the litigants knew the laws of their home region and there was no need to translate documents or policies. For the city there were advantages too: the city's finances were not burdened with the costs of running these courts. Moreover, the municipal general courts (in particular the Eschevin Court) did not have to deal with intricate insurance policies drawn up in a foreign language and based on foreign laws. However, there were drawbacks as well – the system was not suitable if litigants came from different regions or countries or if local businessmen were involved. Also, the various courts dealt with the same issues in a different manner: there was no uniformity among the procedures, the verdicts, and the calculation of claims or reimbursements.¹⁶ These consular courts, although they seemed to have functioned satisfactorily in Bruges and even in Antwerp, were not part of the set-up the Amsterdam government had in mind: Amsterdam chose a different strategy to regulate the insurance market. Amsterdam preferred to set up a so-called generalised court: a court that adjudicated all insurance

¹⁴See Gelderblom, 'The Resolution of Commercial Conflicts' (n 4) 250; *Cities of Commerce* (n 4) 109–14; HLV de Groote, *De Zeeassurantie te Antwerpen en te Brugge in de zestiende eeuw* (Marine Academie, 1975).

¹⁵Thus, even though there was a generalised court in Antwerp, insurance cases were effectively dealt with by the consular courts: see Gelderblom, *Cities of Commerce* (n 4) 114–21; 'The Resolution of Commercial Conflicts' (n 4) 253–56; Van Niekerk (n 6) 202; De ruysscher and Puttevils (n 7); F Stevens, 'The Contribution of Antwerp to the Development of Marine Insurance in the Sixteenth Century' in M Huybrechts, E van Hooydonk and C Dieryck (eds), *Marine Insurance at the Turn of the Millennium* (Intersentia, 1999/2000) 15–20.

¹⁶See Gelderblom, *Cities of Commerce* (n 4); Go, *Marine Insurance* (n 6).

disputes, regardless of whether they concerned a local or a foreigner, regardless of the parties' profession or religion. Particularised courts, of which the consular courts were an example, were the opposite of generalised courts as their jurisdiction was restricted to a limited group. Other particularised courts included ecclesiastical courts or guild courts. The objective of Amsterdam's authorities was to create a system that would not discriminate on religion, profession or background. Justice was to be efficient, but also impartial and consistent for all parties involved.¹⁷ Apparently, the drawbacks of this system, most notably the costs of the court and its officials, did not offset the advantages.¹⁸ Before I focus on the Amsterdam insurance market, the conflicts that arose between parties and the city's strategy to deal with these, I will outline the general setting in which the developments took place.

III. The emergence of Amsterdam as a commercial centre

Amsterdam developed into a dominant commercial centre in the seventeenth century. The city experienced strong economic growth, in particular during the final quarter of the sixteenth century and the first decades of the seventeenth century. The basis of Amsterdam's wealth was formed by the Baltic trade in grains, the so-called *Moedernegotie*. However, by the beginning of the seventeenth century its trade network had expanded beyond the boundaries of North-East Europe and included the Mediterranean, many parts of Africa, the White Sea, the Levant, South and North America, the Caribbean and South-East Asia.¹⁹ Apart from grains, an impressive variety of goods were traded within the city, including herring, figs, cheeses, butter, wines, spices, flax, hemp, gold, salts, hides, tobaccos, furs, jewels and furs.²⁰ Several types of financial services, on offer by the famous *Wisselbank*, but also by several financiers complemented the commercial structure of the city. Business was booming, merchants and their capital and business ventures flocked to the city that was rapidly becoming Europe's dominant centre of commerce and trade. Moreover, Amsterdam's commerce was not seasonal, as had been the case in Ghent, Bruges and also in Antwerp during the first decades of the sixteenth century. Amsterdam trade and commerce had no seasonal pattern and thus foreigners would remain in the city for a longer period of time or even permanently. This has had a profound effect on the composition of the city's population and the interaction between various groups of actors.²¹

¹⁷See Gelderblom, *Cities of Commerce* (n 4) 16, 38, 40, 70, 121.

¹⁸See Go, 'The Amsterdam Chamber' (n 2).

¹⁹See Lesger (n 3); M van Tielhof, *The Mother of All Trades, The Baltic Grain Trade in Amsterdam from the Late 16th to the Early 19th Century* (Brill, 2002).

²⁰See Lesger (n 3) 89–92.

²¹See Lesger (n 3); Prak and Hesselink (n 3); Gelderblom, *Cities of Commerce* (n 4) 1, 22, 30–31, 38–40.

Politically, Amsterdam was part of the Dutch Revolt against the Spanish empire, which started in the sixteenth century, sparked by discontent over religious and fiscal issues. The Revolt led to the proclamation of the Dutch Republic in 1588, consisting of seven provinces – including the province of Holland with Amsterdam at its commercial core.²² In spite of the fact that the seven provinces were united in a new Republic, power was highly decentralised: the provinces and even more so the cities were autonomous in many ways. Hence, the municipal government of Amsterdam issued its own ordinances and by-laws and instated its own courts. Amsterdam was not only the largest city in the Republic but also by far the wealthiest. The Amsterdam municipality was well aware of its position and fervently guarded its valuable commercial interests. Oscar Gelderblom has argued that it was not uncommon for commercial centres in the early modern era to compete with one another in order to attract prosperous merchants and their capital.²³ Urban governments issued by-laws, or created certain facilities to make their city more attractive for foreign merchants or to prevent merchants from relocating. The municipality of Amsterdam realised the importance of an effective commercial infrastructure and thus it sought to strengthen the city's commercial facilities. The fact that the Amsterdam élite, the famous *Regenten*, had gained their position and wealth from trade and commerce was, undoubtedly, an important factor in the city's efforts to create a favourable commercial climate.²⁴

The insurance market became an integral part of the city's commercial infrastructure as it was a means for merchants and ship-owners to transfer (a part of) the risk of their maritime ventures to a third party at the cost of an insurance premium. Insurances were first developed in the Italian city-states in the late fourteenth century and were introduced in Amsterdam by Mediterranean merchants approximately in the 1650s.²⁵ Before the emergence of insurances, ship-owners would spread their exposure by investing in several ships rather than one vessel; similarly, merchants would either distribute their valuable cargo over a number of ships, mount guns on ships or have it sail in a convoy or escorted by an armoured ship. Another option was to buy a bottomry contract (*bodemerij*) with which a loan was taken out and was only to be repaid if the relevant vessel or merchandise arrived safely at the port of destination. Bottomry contracts were, however, quite expensive.²⁶ Nevertheless, with most of these

²²J Israel, *The Dutch Republic: Its Rise, Greatness, and Fall, 1477–1806* (Clarendon Press, 1995).

²³See Gelderblom, *Cities of Commerce* (n 4) 10–11, 15.

²⁴JE Elias, *Geschiedenis van het Amsterdamsche Regenenpatriciaat* (Martinus Nijhoff, 1923).

²⁵V Barbour, 'Marine Risks and Insurance in the Seventeenth Century' (1928/29) 1 (1) *Journal of Economic and Business History* 561; see Spooner (n 6); Davids (n 6); Go, *Marine Insurance* (n 6).

²⁶See Go, *Marine Insurance* (n 6) 24.

aforementioned methods and in contrast to insurances, in case of a disaster, the ship-owner or merchant was not compensated for his loss.

At first, underwriting was merely a sideline activity. It was an alternative investment opportunity for the wealthiest of Amsterdam's merchants who added insuring as an option, next to investments in art and real estate.²⁷ However, the insurance business soon expanded, in quantity as well as in scope. It was not long before it had become a profitable industry by itself, with many parties involved: underwriters, ship-owners, merchants and brokers. An important characteristic of the insurance market was the fluidity of the various groups involved. A merchant could one day seek out a broker to arrange an insurance for his valuable cargo to be shipped from Amsterdam whereas the next day this same merchant could act as insurer by underwriting a policy for one of his fellow merchants. Actors were thus in several ways linked with one another. Brokers, both those officially authorised by the government as well as the illegally operating ones, the interlopers (*beunhazen*), facilitated the insurance transactions. Commissioning a broker to arrange an insurance policy was probably considered routine by the first quarter of the seventeenth century as the often complex transactions required knowledge of the various clauses as well as of prevailing premium rates. Although it was officially illegal to commission an unauthorised broker, it seems that the sheer volume of deals made it impossible for authorised brokers to handle. Merchants and ship-owners, insured and underwriters, did not seem to have been overly concerned about the status of a broker: they were more interested in whether a broker was knowledgeable and had a large enough network to close the deal.²⁸

Before the Amsterdam Exchange was built, underwriters, insured and brokers congregated in the *Warmoesstraat*, at the *Nieuwebrug* or *Oude Kerk* to find willing underwriters or a good policy to commit to. High-end products with high margins that could easily absorb the cost of insuring were among the first products to be insured. These high-end products were mostly found on Southern-bound routes, to the Mediterranean and the Levant. Nevertheless, a policy from 1592, one of the oldest policies in the Dutch language that has survived, concerned a cargo of rye.²⁹ The insurance market had by that time evolved into a market that was clearly servicing more than only high-end products on southern bound routes. In fact, by that time the Amsterdam market had gained the reputation that it was the only market where everything was insurable, regardless of the amount to be insured, the risks and the routes.³⁰ The Burgomasters soon acknowledged that an efficient marine insurance market was an important component of the

²⁷See Spooner (n 6); Go, *Marine Insurance* (n 6); Barbour, 'Marine Risks' (n 25).

²⁸H van Malsen, *Geschiedenis van het Makelaarsgild te Amsterdam 1578–1933* (Ten Have, 1933); see Vergouwen (n 6); Spooner (n 6).

²⁹J IJzerman and ELG Den Dooren de Jong, 'de oudst bekende Hollandse zee-assurantiepolis' (1930) 16 *Economisch-Historisch Jaarboek* 222.

³⁰See Barbour, 'Marine Risks' (n 25); Go, *Marine Insurance* (n 6).

city's commercial back bone. Marine insurance furthered the development of long distance trade, it attracted capital to the city and, almost as a bonus, it created employment.³¹ But most importantly, it strengthened the city's commercial structures and gave the city a competitive edge in its race with other commercial centres.

IV. The insurance industry: governance and compliance

The Amsterdam municipality quickly realised the insurance industry was developing within a regulatory void and aspired to regulate the market and the various parties involved without hampering its development with unnecessary regulations. The fact that brokers were actively involved in the insurance market will have made the city's authorities more anxious to regulate the market. Historically, the Amsterdam municipality mistrusted brokers and their profession as they could easily manipulate markets in general and prices in particular and thus harm the city's commercial reputation. Politically, the position of brokers and their guild (*Makelaarsgilde*, founded in 1578) was weak, which also affected their position on the insurance market and their interaction with other actors in the industry.³²

Thus, the city issued its first insurance ordinance in 1598, which consisted of in total 36 articles. The first article made clear that this new ordinance was to be taken seriously: it stated that any policy not in compliance with the ordinance would be null and void.³³ The ordinance furthermore stipulated what was to be included in a policy, the maximum value to be insured and that certain types of merchandise had to be named specifically.³⁴ A number of articles were intended to regulate the interaction between the market actors.³⁵

After the promulgation of this initial ordinance, there have been numerous additions and alterations.³⁶ Sometimes earlier alterations were repeated, with higher fines in case of non-compliance. Other times additions were made; in 1688 a stipulation was added that only standardised policy texts were permitted.³⁷ The ordinance of 1598 was hardly innovative: the Amsterdam lawmakers had

³¹R Pearson, 'Towards an Historical Model of Services Innovation: The Case of the Insurance Industry 1700–1914' (1997) 50 *Economic History Review* 235; see Davids (n 6); Spooner (n 6); Kingston (n 6); Go, *Marine Insurance* (n 6).

³²See van Malsen (n 28).

³³Nederlands Economisch-Historisch Archief (hereafter NEHA), Bijzondere Collecties (hereafter BC) 277 Archief College van de Commissarissen van Assurantie (1598–1621) (1622) (hereafter: Archief Commissarissen), folio 1r.

³⁴NEHA, BC 277 Archief Commissarissen, folios 1r–13r.

³⁵For example, one article prescribed when claims could be filed, depending on the route or destination of the vessel (and cargo). NEHA, BC 277 Archief Commissarissen, folio 3r.

³⁶For instance, in 1610 additions were made to protect underwriters from the insured who were no longer keen on paying the premium after a ship's safe arrival. The article stated that all premiums were to be paid upfront and in cash. See Vergouwen (n 6) 46–47.

³⁷See Go, *Marine Insurance* (n 6) 110.

generously copied from earlier regulations, most notably from the *Placcaten* from 1570, 1571 and even from 1563. The most original part of the ordinance was the means with which the ordinance was enforced: the instatement of the Chamber of Insurance was indeed quite novel. According to the ordinance it was at the request of ‘many prominent merchants, trading on all quarters of the world’ that a court, competent to deal with the many intricate insurance disputes, was founded.³⁸ The city’s court of first instance in these cases, the *Schepenbank* (Eschevin Court) was no longer able to deal with the increasing number of these often very complex insurance cases. Rather than delegating these disputes to consular courts, as had been the case in Bruges and – due to the fact that the city’s Magistrate had declared himself to be unqualified – also in Antwerp, the authorities chose to set up a subsidiary court. The non-seasonal, continuous nature of Amsterdam’s trade had undoubtedly advanced the development of generalised courts. Within this setting of local merchants and foreign merchants with permanent residence, an all-inclusive governance structure was a more logical choice than the consular courts which had a temporary character.³⁹

The Chamber of Insurance was not to be the first subsidiary court in the city; it would, however, be the first subsidiary court directly involved with the city’s commerce and trade.⁴⁰ This Chamber of Insurance, which was located prominently in City Hall, was to create ‘calm, peace, good policing and justice within this city’.⁴¹ The objective of the city’s government was to advance the insurance market and their strategy to accomplish this was by issuing an ordinance and instating a specialised court. The existence of this court was to reduce uncertainties regarding the outcome of commercial conflicts.

A few months after the Chamber was established a responsibility was added to the commissioners’ tasks: the adjudication of average cases.⁴² General Average (*Avarij Grosse*) concerned those incidents when the captain (or crew) purposely damaged the ship or its cargo in order to prevent further damage or the sinking of the ship.⁴³ The inflicted damage was to be carried by all parties involved. These two types of cases, on the one hand average cases and on the other hand insurance conflicts, were separate issues and were only linked if a merchant or ship-owner had had his interest insured.

Thus, as of the end of 1598, the Chamber was the court of first instance for any dispute arising in or in any way relating to the city concerning insurances or

³⁸NEHA BC 277, Archief Commissarissen, folio 1r.

³⁹See Gelderblom, *Cities of Commerce* (n 4) 117–21, 203.

⁴⁰The city had already established other subsidiary courts. See Go, ‘The Amsterdam Chamber’ (n 2).

⁴¹See Noordkerk (n 1).

⁴²The name was formally changed to Chamber of Insurance and Average (*Kamer van Assurantie en Avarij*).

⁴³I Schöffner, ‘De vonnissen in Avarij-grosse van de Kamer van Assurantie en Avarij te Amsterdam in de 18de eeuw’ (1956) 26 *Economisch-Historisch Jaarboek* 75.

averages.⁴⁴ The broadening of the Chamber's jurisdiction may be an indication that the court had established a favourable reputation. Even though there seems to have been support for the Chamber's existence, it was important that its authority and jurisdiction was acknowledged by the market in order for it to be effective. Therefore, the municipal government emphasised the Chamber's importance as part of the city's legal and commercial infrastructure in various ways. For instance, the court's verdicts had the same force as the verdicts of the *Schepenbank* and fines and penalties were, likewise, formally collectable by the city's Sheriff.⁴⁵ Appeals were possible, at a cost of 12 guilders and within 10 days of the Chamber passing its verdict. Appeals were first directed at the city's *Schepenbank*, followed by the *Hof van Holland* and lastly at the *Hoge Raad* (High Court).⁴⁶

An important part of the city's strategy to firmly establish the Chamber's authority and jurisdiction was the appointment of its commissioners or *Assurantiemeesters* as they were known. The court consisted of three commissioners, who were assisted by a secretary, a sworn clerk and a messenger.⁴⁷ The first commissioners to be appointed in 1598 were Gerrit Bicker, Frans Hendrixsz Hoetgens van Waveren and Gillis Jansz Valckenier. Both Bicker and Hoetgens van Waveren had previously served as Eschevin.⁴⁸ In the two hundred years of the Chamber's existence, 110 commissioners served the Chamber of which many had been Eschevin or had served the municipal government in other ways. Renowned Amsterdam families are to be found on the list of *Assurantiemeesters*, like Bicker, Van Loon and Trip. Some family names appear several times on the list: Roeters, Raep, Reael, Blaeuw, Bicker, Hooft, Trip and Alewijn. Clearly, this was a position only attainable for the happy few, for men who were part of the famous Amsterdam *Regenten*.⁴⁹ Those appointed were, in spite of the Chamber's responsibilities, typically not lawyers; nor did they have formal legal training. In general, they had a background in commerce. The list of commissioners included primarily merchants, and ship-owners. The fact that the municipality preferred merchants instead of lawyers as *Assurantiemeesters* is an indication of the city's intentions and objectives with regard to the Chamber. The city gave precedence to daily practices and the routines of the market rather than legal details and the formulated regulations. This perspective had a profound impact on the Chamber's

⁴⁴See Noordkerk (n 1); Schöffner (n 43); Van Niekerk (n 6).

⁴⁵NEHA, BC 277, Archief Commissarissen folio 39r; see Van Niekerk (n 6) 216, n 90.

⁴⁶This seems to be in contradiction with the fact that the verdicts of the Chamber had the same force and were executed in the same manner as the verdicts of the *Schepenbank*. See Van Niekerk (n 6) 215, 218.

⁴⁷In 1764 and 1765 there were four commissioners: J Wagenaar, *Amsterdam in zijne opkomst, aanwas, geschiedenissen, voorregten, koophandel, gebouwen, kerkenstaat, scholen, schutterije, gilden en regeringen* (23 vols, Isaak Tirion 1760–1767) 400–44.

⁴⁸NEHA, BC 277, Archief Commissarissen, folio 17r.

⁴⁹P Burke, *Venice and Amsterdam: A Study of Seventeenth-century Elites* (Temple Smith, 1974); V Barbour, *Capitalism in Amsterdam in the 17th Century* (The Johns Hopkins Press, 1950); see Elias (n 24).

adjudications as well as on its influence on the development of the Amsterdam insurance market to which I will return later.

Underwriters hardly ever became *Assurantiemeester*. The fact that commissioners were not permitted to act as underwriters and thus had to forgo their income from these activities was most probably the primary reason for insurers not to seek a position as *Assurantiemeester*. The commissioners received remuneration for their efforts but this will probably not have fully compensated possible underwriting income.⁵⁰ Even though hardly any of the commissioners were officially listed as underwriters, most of these notables were linked, by blood or marriage, to underwriters.

On average, commissioners held their position for six years, mostly consecutively, but here too there were exceptions. Never were all the *Assurantiemeesters* replaced in one year. Evidently, the municipality and others involved acknowledged the importance of continuity and stability of procedures and verdicts of this principal commercial court. Although the appointment of *Assurantiemeester* was only attainable for the city's élite, it was not a political appointment. Commissioners seem to have been chosen for their knowledge and capabilities, rather than their political orientation. In 1672 and 1748, when political unrest resulted in a number of officials being replaced, the composition of the Chamber did not alter significantly.⁵¹

The archives of the Chamber from the period before 1700 have unfortunately been lost. There is, however, a manuscript that has survived for the past four hundred years. This manuscript, the Statute Book, starts in 1598.⁵² The last entries relate to the 1620s. The Statute Book contains not only the original Ordinance, names of the officials and the oaths they took but also references to and

⁵⁰There were exceptions to the rule of course, Jacob van Neck being the most notable one. Van Neck had been a successful merchant in Italy but apparently he was less successful as underwriter. This may have been a motive for him to become a commissioner. He served from 1648 until 1668 and again from 1669 until 1673. He went bankrupt in 1673 and consequently, he had to step down from his formal commissions, including as *Assurantiemeester*. Apart from Jacob van Neck, Joan Hulft (1652–54), Matthijs Ooster (1785–87) and perhaps Dirk van der Meer (1735–38) were also known as underwriters: see Van Niekerk (n 6) 209, 604, 608.

⁵¹In 1650 a number of provinces of the Republic did not have a Stadholder (*Stadhouder*) after the sudden death of William II before the birth of his son. This first so-called Stadholderless Period ended in 1672 with the 'disaster year'. During this period three provinces, including Holland, were governed by their respective States: see Israel (n 22) 609. The second Stadholderless Period started in 1702 after the death of William III. This ended in 1747: see Go, *Marine Insurance* (n 6) 103–104.

⁵²It was long thought that the Chamber only became active in 1612 when the official Charter was granted by the Estates of Holland and West-Friesland. However, as Van Niekerk has argued, the Chamber was active from its foundation in 1598. The manuscript dating back to 1598, the Statute Book, unequivocally proves that the Chamber was effective as of 1598. NEHA, BC 277, Archief Commissarissen; see Van Niekerk (n 6) 208; Go, *Marine Insurance* (n 6); 'The Amsterdam Chamber' (n 2).

explanations of verdicts. The manuscript does not contain original verdicts but it does refer to specific cases and the texts of the original adjudications have been copied.⁵³ Lacking the original archives, the Statute Book offers valuable information – on the scope and scale of Amsterdam’s trade network in general and on the insurance market in particular. But, more importantly for the issue at hand, it shows the evolution of regulations and the interpretation and enforcement of municipal law in Amsterdam. The manuscript is evidence of how the commissioners interpreted the law they were to enforce, how they assessed and weighed the – often incomplete – information and how they came to certain verdicts. The period covered by the manuscript was crucial: it was in these first decades that the Chamber established its authority and jurisdiction. There is a certain order in the setting of the various regulations. In the first years of the existence of the Chamber, quite basic procedures and routines were determined. Also, certain terms were defined and explained.⁵⁴ Standard calculations were elucidated with examples.⁵⁵ Furthermore, the texts of the verdicts made clear which documents were to be handed over to support a case. Verdicts regarding insurance cases invariably started with ‘As seen by the Commissioners of the Chamber of Insurance in this city, the policy of insurance ...’.⁵⁶

The oldest references to adjudications deal with relatively simple issues, like unpaid premiums. In later years, the cases referred to are more complex. Clearly, the basics had by then been settled upon.⁵⁷ The strategy of the *Assurantiemeesters* is evident: by explaining how they reached certain verdicts, how the clauses of the ordinance were interpreted and calculations were made, their aim was to minimise uncertainties regarding their procedures and verdicts. The less uncertainties merchants, ship-owners and other parties were confronted with regarding insurance, the more likely they were to underwrite policies, buy insurance or facilitate transactions. Transparency and accountability were key. It is clear that the *Amsterdammers* knew ambiguity was bad for business.

Although it seems that the Chamber had firmly established its authority, there seems to have been rising concern in the Amsterdam government that they had overstepped their boundaries by setting up the Chamber. They therefore applied for the Chamber’s official charter in 1612 at the Estates of Holland and West-Friesland. The municipality argued the importance of the Chamber, that all citizens of the city benefited from the existence of the institution and that the Eschevin Court had been relieved of the many insurance and average cases.⁵⁸ The Charter was

⁵³NEHA, BC 277, Archief Commissarissen. See Go, ‘The Amsterdam Chamber’ (n 2).

⁵⁴For example, the term *Gelt van Versekeringh* (money of insurance) was defined as the amount including all premiums and fees of insurance and reinsurance: NEHA, BC 277, Archief Commissarissen, folio 36v.

⁵⁵NEHA, BC 277, Archief Commissarissen.

⁵⁶NEHA, BC 277, Archief Commissarissen, folio 81r 82r.

⁵⁷NEHA, BC 277, Archief Commissarissen; see Go, ‘The Amsterdam Chamber’ (n 2).

⁵⁸See Van Niekerk (n 6) 208; Noordkerk (n 1) 652–53.

granted – it included permission to make alterations to the insurance ordinance in the future.⁵⁹ After the Chamber had received its official Charter in 1612 there seem to have been no more issues regarding the validity of its verdicts or its jurisdiction. Moreover, the Amsterdam initiative had been copied by other cities in the Republic: in Middelburg a Chamber was instated in 1600 and Rotterdam followed in 1604.⁶⁰ Although these Chambers were not exact copies of Amsterdam's court, there are many important parallels.⁶¹ The general set-up was the same: generalised courts serving all, with merchants rather than lawyers as commissioners adjudicating on complex insurance disputes.⁶²

V. The Chamber of Insurance in the eighteenth century

The insurance market continued to grow in numerous ways – insuring became a generally accepted business routine rather than an oddity of extra-careful merchants. New variations of insurances were developed, like the time-based insurance or the insurance that excluded certain war risks.⁶³ Insured values increased whereas the insurance premium, over all, decreased, making insurance an ever more interesting method to deal with the risks of long-distance trade. As a consequence, the number of actors involved in the market increased too.⁶⁴

Although we lack 'hard' data, as it was not mandatory to have insurance authenticated by a notarial deed and only a limited number of policies have survived over the past four hundred years. However, from a few surviving sources, like the two Copy Policy Books of the unauthorised broker De Vos, we can conclude that by the mid-eighteenth century the insurance market had fully matured. These manuscripts contain a summary of the various insurances facilitated by the broker. Some of the policies concerned considerable amounts like an insurance of 50,000 guilders on a ship carrying gold from Lisbon to Rotterdam in 1759.

⁵⁹See Noordkerk (n 1).

⁶⁰The city of Dordrecht may have had a *Watergerecht*, a court dealing with bottomry and average cases as of 1439 although the date is disputed. The city issued its first insurance ordinance in 1775 after which this court adjudicated on marine insurance cases; see Van Niekerk (n 6) 223–24.

⁶¹See Van Niekerk (n 6); Go, *Marine Insurance* (n 6).

⁶²See Vergouwen (n 6); Van Niekerk (n 6).

⁶³See Vergouwen (n 6).

⁶⁴In 1700 there were nearly 400 authorised brokers and circa 700 to 800 unauthorised ones. Of the authorised brokers, around 200 were no longer active. After 1700 the groups merged into one group of brokers as the Guild no longer fought to have its monopoly acknowledged and unauthorised brokers basically acquired the same status as their colleagues from the Guild. Consequently, there is no hard data on the number of brokers active within the city. Unfortunately there is even less information on the number of underwriters. Some sources state that there were fifty underwriters in 1740, increasing to circa ninety in 1782. As most underwriters had other activities as well and were thus not formally listed as insurers, there were probably far more active within the city. See Go, *Marine Insurance* (n 6) 130–31.

Also, De Vos, in spite of being an interloper, had prominent clients, including from outside the city: the *Royal Danish East India Company* of Copenhagen for example insured a vessel with a total value of 110,000 guilders.⁶⁵ The manuscript demonstrates that the development of standardisation had continued. The books do not contain the complete texts of the policies but only a summary of the most important facts, like the names of the vessel, beneficiary of the policy and of the captain, usually the harbours of departure and arrival, the insured value and the premium rate. De Vos seems to have dealt with a number of underwriters frequently – these underwriters were referred to with a specific number, undoubtedly to facilitate administrative procedures.⁶⁶

The standardisation of procedures and routines of the Chamber of Insurance also continued. From 1700 onwards, an important part of the Chamber's archives was preserved. From this we can conclude that by this time, the administrative procedures had clearly been formed. The two responsibilities of the Court, average cases on the one hand and insurance cases on the other hand, were dealt with separately. Two independent administrations were kept. When an insurance case was registered, it was registered in the *Rol van Assurantie zaken*.⁶⁷ The registration would include the name of the unfortunate ship, its master, the ports of departure and intended arrival or the route. This registration was crossed out after a verdict had been heard and a summary had been registered in the *Vonnissen ter zake van Assurantie*.⁶⁸ Similarly, there were registers for average cases as well as recordings of the adjudications of these cases.⁶⁹ Apart from these, there were registers named *Authorisatien van Assuradeuren benevens abandonnementen en Insinuatien*.⁷⁰ In these registers we find the cases in which underwriters were informed by the Chamber of possible problems with their insurance. It was originally the responsibility of the relevant broker to inform an underwriter in case a ship went missing or if misfortune was suspected. However, apparently brokers were not always keen on delivering the bad news to underwriters whom they might need in the future to co-insure another policy. Underwriters were therefore informed too late or not at all of the insurance claims that might await them. The Chamber consequently ruled in 1640 that from then on all *Insinuatien* were to be handled by the Messenger or the Secretary of the Chamber.⁷¹ Thus, the Chamber

⁶⁵Stadsarchief Amsterdam (hereafter SAA), Toegangsnummer 557 Archief Assurantiebeporzorgers De Vos en Zoon (1758–1955) (hereafter 557, Archief De Vos), inventory no 24, nos 1234 and 1483.

⁶⁶SAA, 557 Archief De Vos, inventory no 24.

⁶⁷SAA, Toegangsnummer 5061, Archief van Schout en Schepenen, van Schepenen en subalterne rechtbanken (1524–1811) (hereafter 5061 Archief Schout) inventory numbers 2633–35.

⁶⁸SAA, 5061 Archief Schout, inventory nos 2791–805.

⁶⁹SAA, 5061 Archief Schout, inventory nos 2636–58, 2806–924.

⁷⁰SAA, 5061 Archief Schout, inventory no 2925–3050.

⁷¹See Vergouwen (n 6) 44–45.

extended its mandate at the expense of another party involved in the market. The position of brokers, which was not very strong to begin with, was thus further weakened by the policy of the *Assurantiemeesters*. The fact that the commissioners had started accepting policies drafted by unauthorised brokers had already been the last nail in the coffin of the Brokers' Guild's monopoly claim.⁷²

Whereas legal representation was initially not permitted, in the eighteenth century it was not uncommon for litigants to be represented. Abraham Mijlius, an Amsterdam notary, appears in several verdicts as a representative of some of the litigants.⁷³ This development is evidence that the market was increasingly professionalised, minimising ambiguity and uncertainty about the outcome of potential marine conflicts. As in the preceding century, the commissioners played an important role. The stability of the composition of the bench benefited the continuity of the Chamber's policy and the predictability of its adjudications. Apart from the commissioners, the Chamber's secretary was pivotal. Although the names of only a few secretaries are known, those were – as the *Assurantiemeesters* – members of the city's élite. And they too served a number of years, furthering the Court's reputation of constancy and predictability.⁷⁴

During the eighteenth century the commissioners dealt, in total, with more than 2400 insurance cases.⁷⁵ The registers show that in times of war and political turmoil, the number of cases brought before the Chamber, increased. Apparently underwriters, brokers, merchants and ship-owners sought to minimise any insecurity by relying on the Chamber and its commissioners. The municipality and the Chamber responded by sustaining the court's stability and continuity. At the end of the eighteenth century, when the winds of revolution swept over Europe, the Chamber was not entirely immune to the changes. The name of the court was changed, as was the wording of the verdicts. The tenor of the adjudications, however, seems to have been largely unaltered.⁷⁶

Even two centuries after the Chamber had been established to govern the insurance industry, to bring 'peace and speedy justice' to the market, the city's strategy was intact: to advance transparency, reduce ambiguity and thus further the insurance market in particular and Amsterdam's trade and commerce in general.

⁷²SCPJ Go, 'Amsterdam 1585–1790: Emergence, Dominance and Decline' in A Leonard (ed), *Marine Insurance, Origins and Institutions, 1300–1850* (Palgrave Macmillan, 2016) 106–29.

⁷³SAA, Toegangnummer 5061, Archief Schout, inventarisnummer 2798; I van Eeghen, 'De Vos & Zoon en de Amsterdamse assurantiebezorgers' (1980) 72 *Jaarboek Amstelodamum* 44.

⁷⁴See Van Niekerk (n 6) 210.

⁷⁵SAA, 5061 Archief Schout, inventory nos 2791–805.

⁷⁶SAA, 5061 Archief Schout, inventory no 2805.

VI. Conclusion

The resolution of commercial conflicts may not always have received the same academic interest as military conflicts even though these too can have a far-reaching and long-term impact. More recently a number of scholars have contributed to the debate regarding the efficiency of methods of resolution. In this contribution I have focused on the case of Amsterdam. In this city, rising to commercial dominance during the sixteenth century, a new method of conflict resolution was instated when the Chamber of Insurance and Average was founded. Contrary to its predecessors, there were no consular courts in Amsterdam. Even though other cities, in particular Antwerp, had also harboured forms of generalised courts, it was in Amsterdam that this type of court came to the forefront as the principal means of formal contract enforcement.⁷⁷ The city's objective was to deal with insurance and average related conflicts as efficiently and effectively as possible in order not to hamper the development and expansion of the city's commerce in general and of the insurance market in particular. The city's strategy was to establish a subsidiary court with commissioners chosen for their experience with the insurance market rather than their knowledge of the law. By clearly defining concepts, procedures and calculation methods and by elucidating the Chamber's verdicts the municipality and the commissioners aspired to reduce uncertainties that might have arisen over the outcome of these types of commercial conflicts. The emphasis was on the practices and routines of the day-to-day business. This strategy has profoundly impacted the choices and conduct of the actors and the development of the market – for example, when the *Assurantiemeesters* chose to accept policies that had been facilitated by unauthorised brokers, thereby disregarding formal municipal regulations and undermining the Brokers' Guild's position. The commissioners undoubtedly went beyond their original mandate. They did not restrict themselves merely to solving insurance conflicts. By setting and altering ordinances or even disregarding certain municipal by-laws, they directly influenced the market structure as well as the balance of power between certain groups of actors.

Whether the Chamber was successful and met its original objectives is difficult to ascertain – partly because of the lack of archival sources and partly because the effectiveness of a court of justice is somewhat similar to that of an army in times of peace. Its mere existence may have prevented certain fraudulent or questionable actions. However, based on the available information we may carefully conclude that it seems the Chamber was relatively successful: its set-up was copied by several cities. Although some policies stated that in case of problems the Chamber would be left out of any procedures, it seems that these clauses were mainly added to avoid the costs of the commissioner's adjudication. Moreover, there are no indications that potential litigants sought the resolution of their

⁷⁷See Gelderblom, *Cities of Commerce* (n 4) 121–26.

conflicts elsewhere. To the contrary – there are examples of insured or underwriters from outside Amsterdam submitting their case to the Amsterdam *Assurantiemeesters*.⁷⁸

Disclosure statement

No potential conflict of interest was reported by the author.

⁷⁸NEHA, BC 277, Archief Commissarissen, folios 58r, 62 r, 68r and 68v; see Go, ‘The Amsterdam Chamber’ (n 2).