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PART FOUR *OTHER INSURANCES*

Chapter 17. Special rules for fishing vessels and small freighters, etc.

General

Chapter 17 coordinates the rules relating to insurance of fishing vessels and small freighters, and contains conditions for hull insurance (sections 2 and 3), catch and equipment insurance (sections 4 and 5) and shipowners' liability insurance (sections 6 and 7). A number of rules which are common to these insurances are singled out in section 1. Furthermore, all the insurances under this chapter are subject to the rules in part I of the Plan (chapters 1-9).

Section 1 Common provisions

§ 17-1. Scope of application

This paragraph is new.

Chapter 17 provides a special insurance cover for small vessels and constitutes a supplement to the other rules of the Plan. The hull part of this chapter (sections 2 and 3) is an addition to the general hull part of the Plan (chapters 10-13), while the special insurance for catch and equipment (sections 4 and 5) and the liability insurance (sections 6 and 7) do not have any parallel in the Plan. However, there is no clear dividing line between ships that are insured according to chapters 10-13 of the Plan and ships that are insured according to chapter 17. Certain fishing vessels and freighters are thus insured on so-called hull conditions for ocean-going vessels (chapters 10-13). It is therefore necessary to have a rule determining the applicable cover if this is not clear. According to § 17-1 the rules in chapter 17, sections 1-7, shall only apply to the extent that this is explicitly stipulated in the policy. The provision has the greatest practical

significance in relation to the hull cover because there are two sets of rules to choose between here. If hull insurance has been effected on Plan conditions without chapter 17, sections 2 and 3, being mentioned in the policy, only the rules in chapter 1-13 shall apply.
Given that the provision relating to the scope of application is contained in section 1, sections 4 to 7 must be stated in the policy in order to be applicable. As mentioned, the Plan does not contain any alternative covers for these insurances. If it is not stated that a catch and equipment insurance or an owners' liability insurance has been effected, the ship will therefore be sailing without such cover on Plan conditions.
Insurance for catch and equipment according to sections 4 and 5 and owner's liability insurance according to section 6 and 7 may, as mentioned, be tied to a hull cover on the general hull conditions of the Plan in chapters 10-13. In that event, the common rules in section 1 apply to the catch and equipment insurance and the liability insurance, but not to the hull cover. The consequence of this is that the hull cover is not automatically renewed, cf. § 1-5, subparagraph 3, and that the ordinary rules relating to trading limits, classification and safety regulations must be adhered to.

§ 17-2. Renewal of the insurance/Re. § 1-5
This paragraph corresponds to Cefor Form 220 A and ICA section 3-6.
The non-mandatory rule in ICA section 3-6 concerning automatic renewal is waived in § 1-5, subparagraph 3, of the Plan, which establishes that the insurance is not renewed unless this has been specifically agreed. During the revision there were discussions concerning the need for a special rule for fishing vessel insurance in line with the rule which earlier existed in the Cefor Form 220 A, C 7. On the one hand, it was pointed out that many of the persons effecting insurances in this industry do not have professional offices. It may therefore be problematic for them to be required to ensure that the insurance is renewed, in particular if it expires while they are at sea. On the other hand, the reinsurance is frequently not finalised until immediately before the insurance takes effect, and insurers do not want to bear the risk if it turns out that reinsurance is not obtainable on the conditions anticipated 30 days before the renewal. The problem of reinsurance may, however, be resolved by the insurers terminating the insurance not less than 30 days before expiry if it is not clear whether satisfactory reinsurance is obtainable. The special rule has therefore been retained, but in a somewhat simplified form as compared to the conditions without there being any intended changes on points of substance.

§ 17-3. Trading limits/Re. § 3-15
The paragraph corresponds to Cefor Forms 251 B 1 to 4, and 244 B 1 to 2.
In the Special Conditions the rules relating to trading limits were contained in the hull conditions, at the same time as reference was made to them in the liability conditions. The consequence of the rules relating to trading limits now being placed in section 1 is that they automatically become applicable to both hull, equipment and liability insurance.
Subsection 1 establishes that the trading limits shall be stated in the policy. The provision is taken from Cefor 251 B 3, but this provision applied only to vessels other than fishing vessels and freighters. However, also regarding such vessels the parties had the right to agree on trading beyond the trading limits determined in the Special Conditions, cf. Cefor 251 B 1, subparagraph 2 (a), and 2, subparagraph 2, and Cefor 244 B 1, subparagraph 2. The possibility of making individual agreements is now regulated in subparagraph 1, which indicates that questions relating to trading limits must be resolved by the parties during the negotiations. The Special Conditions specified that extension of the trading limits in relation to the normal rules was subject to an additional premium. However, it is unnecessary to state this explicitly.
For vessels other than fishing vessels chapter 17 contains no further rules relating to trading limits. The special rules relating to trading limits for freighters in Cefor 251 B 2 and 4 have thus been deleted. If the trading limits for such vessels are not stated in the policy, the rules in the general part of the Plan, where the trading limits are defined in the appendix, shall therefore apply. The sanction system in § 3-15, subparagraphs 2 and 3, will then be tied to these trading limits in the normal way.
However, as regards fishing vessels it is necessary to have a definition of the trading limits different from those that follow from the appendix. On the one hand, parts of the fishing fleet operate close to Arctic waters and therefore need an extension of the normal trading limits towards the north. On the

other hand, there is a considerable risk associated with small fishing vessels that operate in remote waters. For this reason a special rule relating to trading limits for fishing vessels has been introduced in subparagraph 2. This rule is taken from Cefor Form 251 B 1 and 4 and 244 B 1 and 2, but in a simplified and updated form. The place names in 251 B 1 and 244 B1 have been deleted and the trading limits are instead defined by certain latitudes and longitudes in order to avoid a random geographical delimitation. Within the stated trading limits the determination of premium must be based on the individual area of operation of each vessel.

The limit to the east is determined to be the 50th degree of longitude east; further to the east there are no fisheries for Norwegian vessels. To the west an absolute limit has been introduced at the 65th degree west. The limit to the south, the 40th northern parallel is taken from the Special Conditions, cf. Cefor Form 244 B, subparagraph 1.

As regards the definition of the trading limits to the north, however, it is not expedient to take fixed parallels as a basis. The purpose of defining the trading limits to the north is to ensure that a vessel does not proceed into Arctic waters. Given that the "ice line" will vary considerably, there is a need for a definition which is more directly related to areas where there is ice. The committee considered whether the other rules concerning ice were sufficient to prevent navigation in Arctic waters, cf. §17-5 (a) prohibiting ice-forcing, and § 17-5 (b) concerning trading certificates. In this connection it was also a point that basically the trading limits shall be stated in the policy, cf. subparagraph 1, so that the regulation in subparagraph 2 will merely be a "safety net" in the event that no individual agreement has been made. The conclusion was nevertheless that there was a need for more direct regulation of trading limits in relation to ice. An attempt to achieve this has been made by tying the trading limits to the ice charts issued by the Meteorological Institute (DNMI). The ice charts distinguish between "ice free", "open water", "very open drift ice", "open drift ice", "close drift ice", "very close drift ice" and "fast ice". The trading limits to the north are stated to be the line between "very open drift ice" and "open drift ice", cf. the term "open/ scattered drift ice concentration (4/10-6/10 or higher)". 4/10 states the lower limit for "open drift ice".

The ice line may move during the period between the publishing of two ice charts. Decisive for the definition of the trading limits is the most recent ice chart available from the Meteorological Institute. The question as to whether or not the chart is available must be subject to an objective consideration. If the vessel has failed to obtain the most recent chart made available to the public, this must be the assured's risk.

If the ice line has moved from one chart to the next one, it is the assured's duty to get the vessel out of waters which have too high a concentration of ice. The vessel must nevertheless in such a situation be given time to proceed into a permitted trading area. Consequently, the vessel cannot be deemed to have proceeded beyond the trading limits if it reacts promptly to new information about the ice line, even if the vessel, strictly speaking, is for a brief period of time in an excluded trading area.

The definition of the trading limits in subparagraph 2 applies only to "fishing vessels". It was considered whether there was any need to define the term "fishing vessel", but due to the strict rules relating to marking and registration, this was considered unnecessary. If the vessel is registered as a fishing vessel and equipped with a fishing mark, it must be deemed to be a fishing vessel under § 17-3, even if it was in a certain situation to be used for some other purpose.

Subparagraph 3 is taken from Cefor Forms 251 B 4 (a) and 244 B 2 (a), but has been subject to some adjustments in accordance with the rules relating to a vessel proceeding beyond the trading limits in § 3-15. The provision relating to trading limits in the general part of the Plan stipulates ordinary trading limits, a conditional trading area and an excluded trading area. A ship may sail within the conditional trading area, but if the insurer has not been notified, an additional deduction shall be made in the event of damage. For fishing vessels and freighters a slightly simpler system is used: If the assured wishes to proceed beyond the trading limits defined in the policy or in the Special Conditions, an advance permission shall be obtained, possibly against payment of an additional premium. Areas beyond the trading limits stated in the policy or in the Special Conditions, are automatically regarded as excluded. Trading in these areas shall therefore be treated in accordance with the rules relating to excluded trading areas in § 3-15, subparagraph 3. This means that the insurance automatically ceases to be in effect when the vessel proceeds into the area, but that the insurance again comes into effect if the vessel leaves the

excluded area before expiry of the insurance period. As regards freighters, however, this provision shall only apply if the trading area is defined in the policy. Otherwise, the trading in the appendix to § 3-15, which distinguishes between conditional and excluded trading areas, shall apply, cf. above.
The rules in § 17-3 relating to trading areas must be seen in conjunction with the authorities' regulation of the trading area for certain vessels, cf. the Maritime Directorate's Regulation of 4 November 1989 no. 3793 relating to trading areas. The rules for fishing, whaling and sealing vessels are contained in chapter IV. The trading area stipulated by the authorities is normally described in a trading certificate for the vessel in question. Normally the trading certificate will have a more limited trading area than the stipulation in subparagraph 2. If the insurer wants the trading area under the insurance to coincide with the trading area in the trading certificate, this must follow from the policy, cf. subparagraph 1. However, normally this type of official regulationeffectively merely a special safety regulation in relation to the insurance, cf. § 17-5 (b). If a vessel proceeds beyond the trading limits specified in the trading certificate this will under these rules merely have consequences for the insurance coverage if the assured, or someone with whom he may be identified, can be blamed for this infringement, and if there is a causal connection between the transgression and the casualty. This means that the sanction will be less strict than it would have been under § 3-15, subparagraph 3.
If a vessel has lost its trading certificate, the rules in § 17-4 shall apply.
Cefor Forms 251 B 1-4 and 244 B 1-2 also contained certain rules relating to the use of the vessel. These provisions have allegedly not been used for the past 20 years and have consequently been deleted. However, it may in certain cases be expedient to state the vessel's type of use in the policy. Infringements of the stated type of use must in that event be considered an alteration of the risk under §§ 3-8 et seq. If the vessel is used contrary to the stated purpose, the insurer is free from liability, provided that he can prove that he would have accepted the insurance if he had known that the alteration would take place, cf. § 3-9 subparagraph 1. If he would have accepted the insurance, but on other conditions, he is free from liability if the casualty was caused by the alteration of the risk, cf. § 3-9, subparagraph 2. In addition, the insurer has the right to terminate the insurance, cf. § 3-10.

§ 17-4. Class and ship control/Re. § 3-14
This paragraph is new.
§ 3-14 of the Plan is based on the assumption that the ship has a class and establishes that the insurance will automatically cease to be in effect in the event of loss of class or change of classification society. However, there is no reason to introduce such an assumption for vessels that are insured under chapter 17, see subparagraph 1, which merely establishes that if the vessel is classed with a classification society at the inception of the insurance, § 3-14 shall apply in the normal way. The provision means that the insurance ceases to be in effect if the assured cancels the class and proceeds to sail illegally under the rules of the Norwegian Ship Control.
Vessels which do not have a class, will be subject to the rules of the Norwegian Ship Control. According to these rules, fishing vessels and freighters of more than 50 gross reg. tonnes will be issued with a trading certificate. For vessels of less than 50 gross reg. tonnes the rules differ to a certain extent for fishing vessels and freighters respectively. Fishing vessels shall - depending on their length - have an equipment certificate/safety certificate, which is a simplified form of trading certificate, whilst the freighters shall have a simpler form of equipment certificate called a survey certificate.
During the revision it was agreed that these various certificates should have the same significance as class has for larger vessels. At the same time it is a condition for coverage on Plan conditions that these are vessels with a length of 15 meters or more. Vessels with a length of less than 15 meters are insured on separate conditions according to the mandatory rules of ICA. Under subparagraph 2, first sentence, the insurance of a vessel that does not have a class is made subject to the condition that it has a valid certificate according to the rules of the Maritime Directorate. The term "certificate" covers trading certificate, equipment certificate/safety certificate, survey certificate and any other form of certificate which the Maritime Directorate might use. The lapse of a valid certificate will for such vessels result in the lapse of the insurance, cf. second sentence, which refers to the rules relating to the loss of class. This provision may seem strict, but the reaction is necessary because normally it should take a lot more to lose a trading certificate or another certificate than it does to lose the class.

Orders from the Norwegian Ship Control are regulated in § 3-24.

§ 17-5. Safety regulations/Re. § 3-24 and § 3-25

This paragraph corresponds to Cefor Forms 251 B 5 and 6, and 244 B 3 and 4.

The provision provides three different safety regulations for the insurance of fishing vessels and freighters and comes in addition to §§ 3-24 et seq. in the general part of the Plan.

Letter (a) concerning ice-forcing is taken from the hull conditions (Cefor Forms 251 B 5 and 244 B 3), but has been simplified without the intention of making any changes on points of substance. Due to the fact that it is incorporated in the section containing common rules, it is applicable also to equipment and liability insurance. The purpose of the provision is to avoid any deliberate fisheries, etc. under difficult ice conditions with a high risk of ice damage.

The provision constitutes "a special safety regulation laid down in the insurance contract" under § 3-25, subparagraph 2. This means that the assured must be fully identified with anyone "whose duty it is on behalf of the assured to comply with the regulation or to ensure that it is complied with". This will normally be the duty of the master of the vessel. As a special safety regulation § 17-5 (a) also prevails over the provision relating to the situation where the owner is the master of the ship in § 3-25, subparagraph 1, second sentence. If the owner himself is the master of the vessel, he will therefore forfeit coverage if the ship sustains damage by negligent ice-forcing.

This provision only applies to ice-forcing. Ice-forcing presupposes that the ship proceeds through ice as the result of a deliberate choice. It further follows from the rules relating to safety regulations that the damage must be a foreseeable consequence of this choice. If ice damage is sustained accidentally, e.g. by striking against drift ice in open sea, this does not constitute ice-forcing. Nor does the provision cover "ice-forcing" in order to avert major damage or total loss where a vessel has unexpectedly become ice bound; this would constitute a measure to avert or minimise loss. On the other hand, letter (a) will apply if the master has deliberately proceeded into an area where it is foreseeable that the vessel will become ice-bound.

It is further a condition that the forcing concerns "ice". If the ship is sailing in an open lane, this does not constitute ice-forcing. This was earlier stated explicitly in the Special Conditions, but is superfluous. Furthermore, the content of the term "ice" can be difficult to define precisely. The term must be defined on the basis of discretionary criteria, such as the thickness, solidity and extent of the ice. There may also be reason to take into consideration the time of year in question and whether any ice-breaker service has been organised. A certain support may also be obtained from the ice classification requirements.

Letter (b) concerns the trading certificate, which is referred to in § 17-3. As mentioned, the trading certificate defines the trading area as determined by the authorities for the vessel in question. The provisions contained in the trading certificate automatically constitute safety regulations under § 3-24. However, the advantage of mentioning them specifically here is that the identification rule in § 3-25, subparagraph 2, second sentence, becomes applicable.

Requirements from the Norwegian Ship Control are not subject to any special regulations. If the assured fails to comply with requirements issued by the Ship Control, the trading certificate becomes invalid, in which case the insurance will automatically lapse according to § 17-4.

Letter © is taken from Cefor Forms 251 B 6.3 and 244 B 4.3, but has been simplified. The provision concerns vessels at quay or laid up, and is consequently more extensive than § 3-26, which merely concerns vessels laid up. For fishing vessels and freighters it is more practical to stay in port than to be laid up. There is moreover a special need for safety regulations in connection with the risk of theft, because it is normally quite simple to gain access to this type of vessel. It is therefore the assured's duty to provide daily supervision of the vessel and its moorings and furthermore to secure the vessel and its equipment. The provision also contains a requirement that the equipment shall be kept in such a way that it can only be removed by the use of tools.

Cefor Forms 251 B 6 and 244 B 4 contain a number of special safety regulations concerning manning and the qualifications of the crew. These regulations were linked to public regulations and were therefore superfluous in addition to § 3-24, which makes all public regulations safety regulations. A breach of the manning rules may also result in the ship being deemed unseaworthy, cf. § 3-22.

§ 17-6. What the assured has saved

This paragraph corresponds to § 241 of the 1964 Plan.

The provision is taken from the P&I Conditions in the 1964 Plan, but contains a general principle under insurance law and has therefore been generalised.

Chap 17 - Section 2 Hull insurance - standard cover

General

Section 2 deals with the standard cover of hull insurance for fishing vessels and freighters (the Coastal Hull Insurance Conditions). In addition to the provisions in section 2, this insurance is subject to the common provisions in section 1 and the provisions in the general part I of the Plan (chapters 1-9) and part II relating to hull insurance (chapters 10-13).

The provisions in section 2 are based on conditions for hull insurance of coastal and fishing vessels with a length of 15 meters or longer (Cefor Form 251, March 1995) and Conditions for Hull Insurance of Fishing Vessels With A Length Of More Than 15 Meters Or Larger, Extended Cover (Cefor Form 244, December 1993). The system of a standard cover for fishing vessels and freighters and an extended cover for fishing vessels has been retained in that the standard cover is incorporated in section 2, while the extended cover is incorporated in section 3. With the exception of a few rules, the provisions of the normal cover are common to fishing vessels and freighters. It is therefore practical to deal with these collectively. As regards the few provisions which only concern one of the types, this will transpire from the actual provision and the Commentary.

A number of the earlier provisions in the Conditions for insurance of fishing vessels and freighters become superfluous when the insurance is incorporated in the Plan and the same solution is adopted as in the general part of the Plan. This applies to Cefor Forms 251 A 20 and 244 A 17 relating to the sum insured as a limit to the insurer's liability, Cefor Forms 251 A 21 and 244 A 21 relating to interest, Cefor Forms 251 D and 244 C relating to return of premium, Cefor Forms 251 A 5 and 244 A 3 relating to nuclear risk, Cefor Forms 251 A 6 and 244 A 4 relating to amendment of §148 of the 1964 Plan, Cefor Forms 251 A 7 and 244 A 6 relating to survey and estimate of damage, and Cefor Forms 251 A 19 and 244 A 20 relating to deductible. Cefor Forms 251 A 18 and 244 A 16 have been incorporated in chapter 13 of the Plan.

Cefor Forms 251 A 8 and 244 A 7 contained a provision which limited the insurer's cover of costs for surveyor, cf. § 4-5 of the Plan. Here it must be sufficient to fall back on the limitations in § 4-5, subparagraph 2, to the effect that it is a condition for covering the expenses of employing the assured's own surveyor that they are "necessary" and are based on "reasonable grounds".

Cefor Forms 251 A 22 and 244 A 22 relating to bottom painting have been deleted from the ordinary hull conditions and have therefore also been deleted here.

Cefor Form 251 A 4 contained an objective seaworthiness clause, which was stricter than both the Plan's rules relating to unseaworthiness in § 3-22 and ICA's rules relating to safety regulations, etc. During the revision it was seen as unfortunate that vessels which were so large that they were not covered by the mandatory rules of ICA, but so small that they fell outside the scope of the ordinary hull conditions, were to be treated more strictly than both of the other two groups. This provision has therefore been deleted.

Cefor Forms 251 C 3 and 244 A 5 contained a provisions for fishing vessels concerning an insurance of objects removed from the ship. However, this provision is also relevant for fishing vessels that are insured on the ordinary hull conditions and it has therefore been moved to § 10-2.

The Special Conditions contained deduction rules in the form of a deductible, cf. Cefor Forms 251 A 19 and 244 A 20, and machinery damage deductions, cf. Cefor Forms 251 A 16 and 244 A 14, and furthermore referred to the rules relating to new for old deductions in the 1964 Plan §§ 191 et seq.. In accordance with the general system of the Plan, the most practical approach is for deductibles and machinery damage deductions to be agreed on an individual basis. Hence, it is sufficient here to apply the rules in § 12-16 and § 12-18. There was also agreement that the new for old deductions were cumbersome and outdated, and that they should therefore be deleted and replaced by machinery

damage deductions and deductibles which took into account the age of the ship and machinery and the sum insured. However, the conditions for insurance without new for old deductions is that these deductions are compensated by the other deductions. If the assured is not willing to accept the deductible and machinery damage deductions on a sufficiently high level, the insurers must therefore be entitled to incorporate provisions concerning new for old deductions in the individual policy.
Cefor Forms 251 and 244 finally contained a rule relating to the loss of catch in the event of a collision with another vessel. This was unusual and casuistic and has therefore been deleted.

§ 17-7. Amendment of the open or assessed insurance value/Re. § 2-2 to § 2-3
This paragraph corresponds to Cefor Forms 251 A 1 and 233 A 1-1 and 1-2.
According to the rules of the Plan, the parties may choose between open and assessed insurable value, cf. § 2-2 and § 2-3. An open insurable value is not assessed until the casualty has occurred, but is then fixed at the "full value of the interest at the inception of the insurance", cf. § 2-2. However, an assessed insurable value, fixed by agreement between the parties when the insurance is effected, cf. § 2-3. Such an assessed insurable value is according to § 2-3 binding unless the assured has given misleading information about matters that are relevant for the valuation. There are, however, possibilities of demanding a revision of the assessed insurable value in the event of market fluctuations, cf. § 2-3, subparagraph 2.
A common denominator for open and assessed insurable value is thus that in principle there is no basis for taking into account any changes in value after the contract is entered into (unless the right to a revision in § 2-3, subparagraph 2, becomes applicable). However, the conditions for fishing vessels and freighters contained significant restrictions on this principle as regards the use of assessed insurable value. During the revision there was general agreement that these restrictions went too far, and that the right to an adjustment / reduction of the assessed insurable value in connection with payments must be reduced. On the other hand, it was felt that the circumstances that might give rise to a need for adjustments were not only relevant to the assessed insurable value, but also to the open insurable value. The provision in § 17-7 therefore represents a restriction of the right to set aside the assessed insurable value at the same time as it contains a new right to demand an adjustment of an open insurable value.
According to Cefor Forms 251 A 3 and 244 A 1-2, subparagraphs 1, first sentences, the assessed insurable value could be set aside if it diverged so much from the real.
loss that it must be considered unreasonable. The background to the rule was first and foremost that the value of a fishing vessel may in practice be strongly influenced by whether or not the owner has a concession for certain types of fishing, and that it is not desirable to include such a coincidental value factor in the hull value. To this must be added the fact that total loss in coastal hull insurance is of greater significance than total loss in hull insurance for ocean-going vessels. During the revision there was general agreement that the provision as it was worded represented an unfortunate departure from the assessment system, and that it was furthermore unfortunate to have rules requiring an evaluation of reasonableness.
The provision was also a violation of the rule that the insurable value shall be fixed at the inception of the insurance, cf. § 2-2. At the same time it was, as mentioned, considered necessary to see both an assessed insurable value and an open insurable value in conjunction with any changes in the concession conditions of the vessel.
The first sentence imposes a duty of notification on the assured in two situations. In the first place, he is required to give notice of any changes in the concession conditions. Such changes may have a direct impact on the value of a fishing vessel and create the need for a renegotiation of the assessed insurable value. Similarly, there will in connection with the determination of an open insurable value be a need to take such factors into consideration. In the second place, the assured shall notify the insurer if he has accepted an offer of a state subsidy which is lower than the assessed insurable value. This provision is taken from Cefor Forms 251 A 1 and 244 A 1-1, subsections 1 b). The state will often make an offer for a subsidy to break up the vessel in order to reduce the fishing fleet. Because it may take some time from the offer is accepted until the vessel is taken out of service, the assured will need insurance in the interim period. If the assured has accepted an offer for such subsidy which is lower than the assessed insurable value, it is natural that the insurer is given a right to renegotiate the assessed insurable value. Similarly,

it should be possible to take this fact into account in connection with a subsequent calculation of an open insurable value.
The second sentence provides the insurer with a right to demand a reduction of special open or assessed insurable value in cases as mentioned in the first sentence. Contrary to the Conditions, this is thus not first and foremost a question of a right to set aside the assessed insurable value in the event of a claims settlement, but of a possibility of renegotiating the assessed insurable value during the insurance period. If the assured has failed to give the necessary notices, the insurer must nevertheless have the right to set aside the assessed insurable value in a subsequent settlement.
Cefor Forms 251 A 3 and 244 A 1-2, subparagraphs 2, established that the question of under-insurance was to be based on the assessed insurable value, even if it was set aside under subparagraph 1. This follows from § 2-4 and no reiteration is needed in chapter 17. The rule entails that if the assessed insurable value is 5, the real value 2.5, and the sum insured 4, the insurer will liable for 4/5 of 2.5, i.e. 2.
If the assured has accepted an offer for a state subsidy to break up the vessel, and the ship is damaged before being broken up, the insurer will be liable in the normal way. In the event of a total loss, the insurer will be liable for total-loss compensation. Such compensation will be deducted from the state subsidy. The same applies if the vessel at the time of condemnation has an unrepaired damage for which the insurer is liable. Damage which has already been repaired and indemnified will, however, not have any influence on the condemnation settlement.
If the parties disagree whether there is any reason to reduce the assessed insurable value, or about the size of the reduction, the provisions in § 2-3, subparagraph 3, shall apply. The question will then be decided with final effect by a Norwegian average adjuster designated by the assured. The provision shall be applied by analogy if the parties disagree about the significance of the said matters for a subsequent calculation of an open insurable value.
When the parties renegotiate the assessed insurable value, they shall also negotiate the possibility of a reduction in premium.
Cefor Forms 251 A 3 and 244 A 1-2, subparagraphs 3, contained a rule to the effect that the assessed insurable value could be set aside if it was higher than the selling price under a contract for the transfer of the vessel. This provision undermined the assessed insurable value system and has been deleted. Also the corresponding duty of disclosure has been deleted, cf. Cefor Forms 251 A 1 (a) and 244 A 1-1 (a).

§ 17-8. Damage to dories, fishing gear or catch/Re. § 4-7 to § 4-12 and § 4-16
This paragraph corresponds to Cefor Forms 251 C 1 and 244 A 18, but has been reedited and simplified.
The dories, fishing gear and catch have in principle been lifted out of the hull insurance through the exception in § 10-1, subparagraph 2. The insurer is nevertheless in principle liable for damage to such objects if the damage occurs during a measure to avert or minimise loss. Damage to or loss of such objects should, however, be covered by the owner himself on the basis of a “knock-for-knock” line of thought. Where several fishing vessels are operating together, it is foreseeable that equipment will be damaged in various connections. Instead of involving the owner’s own insurance company or that of the party causing the damage in an often difficult insurance settlement with complicated evidentiary problems, it is therefore more expedient to let the owner bear his own damage.
The provision in § 17-8 therefore explicitly excludes such damage from the cover in cases where it is connected with a measure to avert or minimise loss. The provision, which corresponds to Cefor Forms 251 C 1 and 244 A 18, subparagraphs 1, first sentences, only applies to fishing vessels and not to freighters.
Cefor Forms 251 C 1 and 244 A 18, subparagraphs 1, second sentences, also excluded liability under § 13-1 in the event of striking against dories, fishing gear and catch belonging to another fishing vessel. This provision now follows from § 17-15, subparagraph 1.
Cefor Forms 251 C 1 and 244 A 18, subparagraphs 2, established that the fishing vessel’s hull insurance was subsidiary to a separate insurance covering the vessel’s dory. This provision has been deleted.

§ 17-9. Hull and freight interest insurance/Re. § 10-12
This paragraph corresponds to Cefor Form 251 E.

According to the Special Conditions, the insurance was invalid if separate insurances against total loss (hull interest and freight-interest insurances) had been effected for the vessel. However, there is no reason to have such a strict reaction in the event that an interest insurance is effected. The insurer's interests can be safeguarded by means of a right to a reduction along the lines of the rules according to the ordinary hull insurance. The provision has therefore been rewritten patterned on § 10-12.
Today separate total-loss insurances for fishing vessels and freighters are not formally offered. However, the owners wish to have such an offer. It has therefore been stated explicitly that the hull insurer may consent to the effecting of an interest insurance. In that event, the reduction rule will only apply to interest insurances which are larger than what the hull insurer has consented to.

§ 17-10. Condemnation/Re. § 11-3
This paragraph corresponds to Cefor Forms 251 A 9 and 244 A 1-3.
The Special Conditions made the condemnation requirements stricter on several points. However, during the revision the conclusion was reached that the most important thing was the raising of the actual condemnation limit. Otherwise the ordinary rules could be followed. The Special Conditions did not contain any reference to the market value (the value of the vessel in repaired condition). This was probably due to an oversight, and such reference has therefore been added to the provision in accordance with the rule in § 11-3.
The condemnation limit has been raised from 80% to 90% in relation to § 11-3. A limit of 80% is too advantageous when taking into account that the average age of the fleet is far higher today than 30-40 years ago, that the international marine insurance market relies on a condemnation limit of 100%, and that the value of the concession forms part of the insurable value of fishing vessels, at the same time as this value is retained by the assured in a condemnation settlement.
Subparagraph 1, third sentence, of the Special Conditions kept the value of fixed equipment stored ashore out of the calculation of the insurable value. However, this already follows from § 10-2 relating to insurance of objects removed from the vessel in respect of this type of equipment, and it is therefore unnecessary to repeat this here.
Cefor Forms 251 A 9 and 244 A 1-3, subparagraph 1, also provided a right for the insurer to demand condemnation. This provision is superfluous. The insurer always has the right to be free from further liability by paying the sum insured, cf. § 4-21 and § 12-9, and can hardly be considered to need further protection.
Cefor Forms 251 A 9 and 244 A 1-3, subparagraph 3, contained rules to the effect that only damage from the current insurance period was to be included in the calculation, and that removal expenses were to be kept outside the condemnation formula. However, here the most natural approach will be to follow the ordinary condemnation rules, and these provisions have therefore been deleted.

§ 17-11. Hull damage to vessels not built of steel / Re. § 12-1
This paragraph corresponds to Cefor Forms 251 A 14 and 244 A 12, and § 176 (e) of the 1964 Plan.
Letter (a) is almost identical to letter (a) of the Special Conditions, but has been reedited and simplified. This provision is first and foremost relevant to insurance of vessel deserving of preservation.
Also letter (b) has been reedited in relation to the Special Conditions. Furthermore, the exception for vessels reinforced with proper ice protection plates has been deleted as superfluous given that wood and plastic vessels, etc. "reinforced with proper ice protection plates" allegedly do not exist in Norway. The provision is not intended to cover more unforeseeable forms of striking against ice, e.g. where an ice floe has drifted out from a branch of a fjord to an open area of water where there is normally no ice.
Letter © excludes caulking of hull and deck and is taken from § 176 (e) of the 1964 Plan. This is typical maintenance work, and it will not be easy to decide to what extent the caulking has in reality been necessitated by the casualty. The exclusion does not cover expenses incurred in caulking those parts of hull and deck which have to be replaced as a result of the casualty. Here the caulking represents a normal cost of renewal of a part of the ship, and it must therefore be covered.

§ 17-12. Damage to the machinery, electronic equipment, etc.
This paragraph corresponds to Cefor From 251 A 2.
The first part of the first sentence is almost identical to the Special Conditions, but has been rewritten to make it easier to understand.
The second part of the first sentence states the perils covered by the insurer. The provision is identical to the Special Conditions as regards the perils, “collision, striking, earthquake, explosion outside the machinery or fire”. However, the Special Conditions contained a provision to the effect that the assured had the burden of proving that the damage was attributable to the stated causes. This provision has been deleted. Here the general burden-of-proof rules of the Plan should be applied.
The insurer’s liability for “the vessel having sunk or capsized” is taken from subparagraph 2 of the Special Conditions, which however contained the condition that the assured must prove that “the vessel was seaworthy and properly moored at the time of the casualty”. If the vessel “springs a leak whilst afloat”, however, it follows from § 3-22, subparagraph 2, first sentence, that the assured has the burden of proving that it was seaworthy. The rule contained in the Special Conditions concerning burden of proof was therefore only of significance if the ship capsized. Generally speaking, the general burden-of-proof rules should, however, be relied on in so far as possible. The burden-of-proof rule in the Special Conditions has therefore been deleted.
Cover of the said damage if the vessel has capsized or sunk also applies when the ship is moored. This was earlier stated explicitly in subparagraph 4 of the Special Conditions, and the intention is not to make any change here.
The second sentence stipulates an exception to the rule in the first sentence as regards damage to electronic equipment. If such damage is caused by bad weather and the same casualty causes damage to hull or superstructure, the damage to the electronic equipment shall be covered.

§ 17-13. Costs incurred to save time/Re. § 12-7, § 12-8, § 12-11 and § 12-12 This paragraph corresponds to Cefor Forms 251 A 10 to 13 and 244 A 8 to 11. The provision excludes the time-loss element in the ordinary hull conditions from the cover under the coastal hull insurance conditions. It is practically identical to the Special Conditions, but has been rewritten and simplified without any intended changes on points of substance.
Letter (a) corresponds to Cefor Forms 251 A 10 and 244 A 8.
Letter (b) corresponds to Cefor Forms 251 A 11 and 244 A 9.
Letter © corresponds to Cefor Forms 251 A 13 and 244 A 11.
Last sentence corresponds to Cefor Forms 251 A 12 and 244 A 10.
§ 17-14. Deductions / Re. § 12-15, § 12-16 and § 12-18
This paragraph corresponds to Cefor Form 251 A 15 and Cefor Form 244 A 13 and 15.
The ice damage deduction in letter (a) is taken from Cefor Form 251 A 15 and Cefor Form 244 A 13. The provision reflects the high damage percentage for ice damage in the stated area. It is therefore difficult to provide normal insurance coverage here. Insurance without a special deduction might result in no insurance being offered at all. On the other hand, an increase in premium would affect all fishing vessels, and it is therefore preferable that those who are engaged in fishing in that area take on the problem of the ice damage through an increased deduction.
The provision represents a middle-of-the-road solution in relation to the Special Conditions, where the limit was in one case set at 74°N (Cefor Form 251 A 15), and in another at 76°N (Cefor Form 244 A 13). There is not much need for ice damage deduction south of 75°N.
In Cefor Form 244 A 13 the ice damage deduction was limited to the period from 16 November until 15 May. This limitation has been deleted.
The rules relating to ice damage deduction off Greenland are taken from Cefor Form 251 A 15. However, the rule relating to ice damage deduction for Newfoundland has been left out.
In the Special Conditions the ice damage deduction was set at 45% for all vessels. During the revision, however, it was emphasised that it was unfortunate that vessels with ice classification had the same deduction as vessels without ice classification. The deduction is therefore somewhat nuanced depending on the class. For vessels with ice classification ICE 1 B or better, i.e. ICE 1 B or ICE 05-Sealer, the deduction is set at 25%. ICE 1 B and ICE 05-Sealer refer to the requirements from Det Norske Veritas

with regard to hull structure and strength, rudder arrangement and the presence of ice fins. For vessels with ice classification ICE IC or without ice classification the Special Conditions' deduction of 45% has been retained.
According to the Special Conditions, the ice damage deduction applied to damage as well as to total loss and costs of measures to avert or minimise loss. According to the Plan, the deduction applies only to partial damage in accordance with the general system of the Plan.
Ice damage which occurs in areas that are not covered by the clause, is recoverable subject to a deduction of ¼ under § 12-15.
If the vessel has an ice class approved by the insurer, an extended cover against ice damage may be agreed against an additional premium.
Letter (b) corresponds to Cefor Form 244 A 15. The Special Conditions stipulated different deductions for electronic equipment depending on whether or not there was a new for old deductions clause. As mentioned in the introduction to section 2, the new for old deductions have been deleted from the Plan. There was also little difference between the rules. They have therefore been combined into a joint deduction for electronic equipment. In line with the general Plan system regarding deductions, the size of the deduction has been taken out of the Plan. This will instead be the subject of individual negotiations where inter alia the age of the equipment can be taken into account. It is therefore unnecessary to make the size of the deduction dependent on the age of the equipment in the actual Plan text. The provision has thereby been considerably simplified in relation to the Special Conditions. Reference is merely made to the deduction agreed in the policy.
The term "electronic equipment" covers three main groups, viz. radio equipment, fish-finding equipment and navigation equipment.
Radio equipment includes main transmitter with short-wave and receiver, watch-receiver, telephone watch for AM-VHF, VHF transmitter and receiver, lifeboat transmitter, direction-finding beacon, distress communication set for aircraft frequency, receiver and TV for mess rooms or cabins, walkie-talkie transmitter and receiver, intercommunication between bridge, engine room, cabins, mess rooms, and deck as well as a weather chart recorder.
Fish-finding equipment includes sonar, display screen, echo sounder, echo enlargements connected to main sounder, trawl watch, echo scope, echo sounder for trawl probe and probe receiver.
Navigation equipment includes gyrocompass, autopilot, course controller, all types of radar, electronic log for satellite navigator and display screen, radio sounders for AM VXF and WT, satellite navigator, Omega receiver and Loran C receiver.
In addition to deductions for electronic equipment, the Plan's rules relating to machinery damage deductions and deductibles, cf. § 12-16 and § 12-18 shall apply. For the sake of clarity, this is repeated in letters © and (d). As regards the basis for calculating the various deductions, § 12-19 applies so that all deductions shall be calculated on the basis of the full amount of compensation according to the Plan before deductions under any of the relevant provisions.
Given that the normal cover has not allowed for new for old deductions, the age of the vessel and the machinery, possibly also the sum insured, shall be taken into account when determining deductions and deductible. In the event that the agreed deductions do not compensate for the lack of new for old deductions, the insurer may have to agree on individual new for old deductions.

§ 17-15. Collision liability for fishing vessels/Re. § 13-1
This paragraph corresponds to Cefor Forms 251 C 1 and 2 and 244 A 18 and 19.
Subparagraph 1 corresponds to Cefor Forms 251 C 2 (a) and 244 A 19 (a), but has been rewritten in accordance with § 13-1, subparagraph 1. The provision entails a reduction of the collision liability according to Chapter 13 in that liability only covers damage to or loss of the injured party's vessel with fixtures. "Fixtures" means equipment which is normally on board, but is not necessarily "nailed down". Catch, fishing gear and dories which are not lifeboats are examples of objects which do not constitute "fixtures". Loss of catch and other loss of time are also all outside the scope of cover. The provision refers to the "knock-for-knock" principle which is mentioned in the explanatory notes to § 17-8. When several vessels participate in the same fishing team, collisions between the individual vessels and fishing gear, catch and dories which are in the sea are foreseeable. It serves little purpose to use resources on a

detailed distribution of liability in such cases. It is therefore assumed that each fishing vessel owner covers damage to his own equipment. A natural extension of such a "knock-for-knock" principle is to exclude such damage from the liability insurance of the person who has caused the damage. If, on the other hand, it is a question of collisions with random fishing vessels or other types of vessels, no such knock-for-knock principle shall apply. To the extent that such liability falls outside the scope of subparagraph 1, it must therefore be covered under the vessel's liability insurance. Cefor Forms 251 C 2 (b) and 244 A19 (b) contained a rule to the effect that the insurer did not cover liability in the event of a collision with fishing, whaling or sealing gear in the water. However, this provision already follows from the limitation of liability in subparagraph 1, cf. above, and has therefore been deleted. The same goes for the provision in Cefor Forms 251 C 1 and 244 A 18, subparagraphs 1, second sentences, which entailed that the insurer's collision liability under § 13-1 did not cover loss of or damage to the insured fishing vessel's dories, fishing, whaling or sealing gear or catch, which occurred while these objects were removed from the vessel.
Subparagraph 2 is a continuation of the "knock-for-knock" principle mentioned in subparagraph 1. When several vessels participate in the same fishing time or as pair trawlers, it is expedient to have a further limitation of the cover, so that also damage to or loss of the vessel with fixtures is excluded from the collision liability.

§ 17-16. Collision liability for freighters, including well boats, which carry live fish / Re. § 13-1 This paragraph corresponds to Cefor Form 251 A 18 A.
The provision has been rewritten and furthermore amended to emphasise that the exclusion also covers damage to the actual device and shall apply irrespective of what is loaded or discharged. The provision is first and foremost aimed at floating devices which are easily damaged, as for example where the vessel runs into an enclosure for fish and the fish escape. In such cases it is difficult or impossible to determine the extent of damage. The application of the provision is not subject to the condition that there is loss of or damage to live fish. The deciding factor is the nature of the device. Liability is excluded whether damage or loss occurs while the vessel is moored at the device, or on arrival and departure. If there are several independent devices in the same area, however, liability to another device than the one from which loading or discharging shall take place will be covered.

Chap 17 - Section 3 Hull insurance - extended cover for fishing vessels

§ 17-17. The relationship to Section 2
This provision is new.
As regards the sections on hull insurance for fishing vessels, section 2 contains the normal cover, while section 3 provides an extended cover. The difference consists in the fact that section 3 extends the cover for machinery damage, etc. Under § 17-12, the insurer's liability for such damage is significantly reduced in relation to the all-risk principle in § 2-8. In the event of damage to the objects stated in letter (a) to letter (e), the insurer will only be liable if the casualty is caused by the explicitly listed perils. Under § 17-18, this limitation to the cover has been significantly reduced in that it only applies to "damage to factory machinery for the working of or processing of catch, etc.". The fact that the second sentence establishes that § 17-18 applies instead of § 17-12 as regards damage to machinery, electronic equipment, etc. therefore means that the extensive reduction in § 17-12 is replaced by the less extensive limitation to the cover in § 17-18. Damage to machinery other than what is mentioned in § 17-18 is, however, covered by the insurer in the normal manner, based on the all-risk principle in § 2-8. In the event of damage to other objects than factory machinery, § 17-18 shall consequently not be supplemented with § 17-12.

§ 17-18. Damage to factory machinery
This paragraph corresponds to Cefor Form 244 A 2.
The first and second parts of the provision are identical to subparagraph 1 of the conditions, but the rule relating to the assured's burden of proof has been deleted, cf. the explanatory notes to § 17-12, subparagraph 1. The last part of the provision, which relates to the situation where the vessel has capsized or sunk, is taken from Cefor Form 244 A 2, subparagraph 2. However, this provision contained

the same special rules relating to seaworthiness as Cefor Form 251 A 2. These are commented on in further detail under § 17-12, subparagraph 2.

§ 17-19. Costs of removal of the ship/Re. § 12-13

This paragraph corresponds to Cefor Form 244 A 2, subparagraph 4.

The provision reflects the fact that previously winches, etc. were excluded from the extended cover of machinery damage. Later insurers agreed to cover damage to winches, etc. in addition to the damage to the actual machinery, but they have not been willing to cover costs of removal which are only associated with repairs of such damage. The provision retains this solution. A prerequisite for the exclusion is nevertheless that the damage is subject to deduction under § 17-14 ©.

If the removal concerns damage which comes within the scope of § 17-14 © and partly other damage, the costs of removal shall be distributed on a proportional basis.

Chap 17 - Section 4 Catch and equipment insurance - standard cover

General

Catch and equipment insurance corresponds to the former fishing insurance. In addition to this section, the general part of the Plan and chapter 17, section 1, shall apply. However, chapter 17, sections 2 and 3, shall not apply.

Section 4 is based on Cefor Form 254 (from 1996) and the former conditions Cefor Form 220 A (December 1989 / October 1992). Cefor Form 220 B relating to insurance of wages and crew's clothing, cf. § 237 of the 1964 Plan, has, however, not been included in the new Plan. The same goes for insurance of dories under Cefor Form 220 A, separate condition 2. Such boats are excluded from the Plan according to § 10-1, subparagraph 2.

Cefor Form 254 3 relating to the sum insured, 7.1 relating to interest and 7.3 relating to safety regulations have been deleted. Here the general part of the Plan shall apply. Paragraphs 5 and 7.2 of the Special Conditions have been moved to section 1, see § 17-3.

The sum insured for insurance of catch and equipment is determined in the policy on an annual basis or for a round voyage.

§ 17-20. Scope of the insurance

This paragraph corresponds to Cefor Form 254 1.

The provision states the objects and interests covered by the insurance. It corresponds to Cefor Form 254 1, but has been rewritten and simplified without any changes on points of substance being intended.

Letter (a), first sentence, concerns the catch and corresponds to paragraph 1.1, subparagraph 1, of the Special Conditions. By catch is meant the quantity taken on board the assured's own vessel. It is irrelevant whether it was caught by the relevant vessels itself or bought from others at sea. The provision also covers catch which has been processed, packaged and frozen. However, the provision is limited to the ship's operation as a fishing, whaling or sealing vessel, and does not apply if the vessel is used as a cold store whilst laid up.

Second sentence, which corresponds to paragraph 1.1, subparagraph 2, of the Special Conditions, establishes that the insurance, subject to certain specific conditions, also covers freight. This applies only where the catch has in actual fact been reported to a fish sales co-operative and the vessel directed to a specific place for unloading before the casualty occurred. It is not sufficient if the reporting, etc. takes place later. The Special Conditions contained a provision to the effect that a deduction should be made in the compensation for expenses which would have been incurred in order to earn the said freight, but which have been saved as a result of the casualty. Such deduction now follows from the general rule in § 17-6 and is therefore superfluous here.

In addition to catch and freight, the fishing insurance also covers fishing gear and accessories which are on board the vessel, cf. letter (b), which corresponds to paragraph 1.2 of the Special Conditions. It is a condition that the gear belongs to the assured. The assured can therefore not take on board seines which belong to other owners and obtain compensation for damage to these without this having been agreed in advance with the insurer. The gear must be on board the ship. Gear onshore or in the water therefore

falls outside the scope of cover. The gear is deemed to be in the water from the moment setting starts and until it is back on board again. Furthermore, the requirement that the object must be on board is commented on in more detail in § 10-1.

Letters © and (d) correspond to paragraphs 1.3 and 1.4 of the Special Conditions, but have been rewritten in order to be in accordance with § 10-1. The Special Conditions thus covered bunkers and lubricating oil on board, which are already covered by § 10-1. Paragraph 1.3 of the Special Conditions stated explicitly that the supply of bait was covered. However, this follows from the term "equipment in connection with fishing" in letter (d), and that part of the provision has therefore been deleted. The reference to § 10-1 in letter (d) is included for the purpose of making it clear that the cover under the fishing insurance will not be extended by agreeing on a more limited scope of cover under the hull insurance.
It follows from § 2-12 that the assured has the burden of proving that he has suffered a loss which is covered by the insurance. This rule entails that the assured must prove that the catch or the equipment was in actual fact on board when it was lost or damaged. This was stated explicitly in the Special Conditions as regards the catch, but is unnecessary to repeat.

§ 17-21. Insurable value
This provision corresponds to Cefor Form 252, Conditions for Transport Insurance of Goods of 1995, § 29.
The provision states the value of the interests covered by the insurance based on certain "objective" criteria. Subparagraph 1 regulates the insurable value of the catch, while subparagraph 2 determines the insurable value of the other objects which are insurable under an insurance of catch and equipment.
The provision does not prevent the parties to the insurance contract from agreeing on a specific insurable value. However, an assessment of the insurable value is not very common for insurance of catch, but is more widely used in insurance of fishing gear, etc.
The basis for the calculation of the insurable value of the catch is under subparagraph 1 the market price of the catch at the place of loading at the time of loading. The market price of the catch will be the value of the catch to the seller's hand, before he has incurred costs in connection with the forthcoming transport. The market price is the price at which the catch can be sold by taking into account the seller's place in the chain of distribution.
The value refers to price conditions "at the time of loading", i.e. at the time when the catch is loaded on board the vessel.
If the catch was reported to a sales cooperative and directed to a specific place for unloading, it follows from the provision that the insurable value also covers freight, "transport surcharge", see § 17-20 (a), second sentence.
Subparagraph 2 regulates the insurable value of objects covered according to § 17-20 (b), (c) and (d). Here the insurable value represents the replacement cost of the object at the inception of the insurance. The provision is in accordance with § 2-2. The "inception of the insurance" is the time when the insurer's liability takes effect. The time for calculating the insurable value under subparagraph 2 is accordingly different from that under subparagraph 1, where the value refers to the time of loading.

§ 17-22. Extraordinary costs of unloading the catch
This paragraph corresponds to Cefor Form 254 4.3.
The provision only concerns costs of removing the catch, not costs of removal in respect of other cargo. If costs are incurred in order to save the catch from a covered peril, the assured may furthermore make a claim for the additional expenses under §4-7.

§ 17-23. Excluded perils/Re. § 2-8
This paragraph corresponds to Cefor Form 254 2.11 to 2.16.
The provision states limitations to the perils covered by the insurance, and must be seen in conjunction with the provisions in § 2-8 to § 2-10. According to § 2-8 an insurance against marine peril covers any peril to which the interest is exposed, with the exception of the perils stated in letters (a) to (d). The war

peril has been taken out of the marine-perils cover through the exception in § 2-8 (a) and has been made subject to a separate war-risks insurance under § 2-9. If there is no specific statement as to what perils are covered by the insurance, the rule in § 2-10 is that the insurance covers marine perils under § 2-8.
The exclusions in § 17-23 largely reflect the general principle under insurance law that the insurance shall only cover unforeseeable losses. Losses resulting from the inherent nature of the catch, inadequate packaging, loss in weight or volume of the catch, etc. are foreseeable and should therefore fall outside the scope of cover. The provision is somewhat simplified as compared to the Special Conditions, without any changes on points of substance being intended.
Letter (a) excludes damage due to the inherent nature or condition of the catch when the catch was taken on board and concords with paragraph 2.11 of the Special Conditions, even though it is somewhat simplified. The exclusion also covers a case where the catch is unable to stand up to the foreseeable exposures on board. This provision is particularly relevant to mackerel and herring in bulk, which are unfit to stand movements on the way to port if the ship has remained for too long in the field with the fish on board.
Letter (b) regulates inadequate packaging and preservation and is taken from paragraph 2.12 of the Special Conditions. Inadequate preservation includes cases where frigerated or frozen catch did not have the correct temperature when refrigerated or frozen down. This was earlier stated explicitly, but has been deleted as unnecessary.
Letter © excludes loss as a result of ordinary loss in weight or volume and concords with paragraph 2.13 of the Special Conditions.
Letter (d) excludes loss due to excessive temperature of refrigerated or frozen cargo and is taken from paragraph 2.15 of the Special Conditions. The term “casualty” does not cover inadequate maintenance or inadequate supply of spare parts or thermo machinery which should be on board. According to general practice, the catch is regarded as “frozen” from the moment the freezing process starts.
Paragraph 2.16 of the Special Conditions excluded deterioration of catch due to sailing in heavy sea. Such deterioration will either be covered by letter (a), in that sailing in heavy sea is a normal strain, which the catch must be expected to stand, or by letter (c) concerning ordinary loss in weight or volume. The provision is therefore superfluous.
Paragraph 2.14 of the Special Conditions excluded “damage to the catch caused by delay, unless such delay causes further deterioration of a damage otherwise covered under this insurance occurring during transit to a port for unloading”. Also this provision is superfluous. If it is a loss resulting from a delay which has no connection with a preceding casualty, it follows from § 4-2 that the insurer is not liable. It is also conceivable that loss resulting from a delay is excluded through § 17-23 (a), in that the fish has to stand a few days’ delay. If, on the other hand, the delay is a result of an earlier casualty, the insurer must be fully liable in the normal way, cf. the cover of the further developments according to the Special Conditions. This follows from general rules of causation and applies independently of the cause of the delay or its duration. The fact that damage to the catch develops further during transport to the place of destination is a risk which must be covered by the insurance. However, the insurer’s liability for the delay is based on the assumption that the assured could not have averted this delay. If the assured, following a casualty, chooses instead of taking the ship directly to a port, to remain at sea in order to prevent loss of time, the loss caused by the delay is not a consequence of the casualty. If it is found that the loss is partly a result of the casualty, partly a delay, the rule of apportionment in § 2-13 shall be used.

§ 17-24. Deck cargo

This paragraph corresponds to Cefor Form 254 2.21.
The provision entails that further restrictions are made in the perils covered for deck cargo. In all essentials it concords with the Special Conditions, but it has been somewhat simplified.
In letter (b) the term “dirt” first and foremost covers pollution from the ship’s own machinery.

§ 17-25. Total loss

This paragraph corresponds to Cefor Form 254 4.1 and Cefor Form 252, § 35.
The provision regarding total loss in Cefor Form 254 4.1 has been replaced by the total-loss rules in the conditions relating to insurance of carriage of goods, Cefor Form 252 § 35. The total-loss rules there are

somewhat more detailed than the total-loss rules in Cefor Form 254, but in reality there is little difference. § 17-25 concerns all objects insured under the catch and equipment insurance, i.e. both the catch and the accessories, cf. the introductory words of the provision.
Subparagraph 1 defines when a total loss has occurred, and is taken from Cefor Form 252 § 35, subparagraph one, but in reality it concords with Cefor Form 254 4.1. Under letter (a), the total loss has occurred if the objects insured have been destroyed. The objects have been "destroyed" where they are totally burnt up, dissolved, evaporated or have leaked out, or where they are in some other way physically totally destroyed. In principle, all objects insured, including the entire catch, must be affected in order for it to constitute a total loss. The rules relating to loss in weight, cf. § 17-26, however, make subparagraph 1 of § 17-25 similarly applicable where part of the objects insured / catch are totally lost. The condemnation rules in letters (c) and (d) do not call for a more precise definition of the term "destroyed". On the other hand, the distinction between condemnation and partial damage may be difficult to make. Reference is made to the explanatory notes to § 17-27.
Under subparagraph 1 (b) a total loss has also occurred where the objects insured (including the catch) "have been removed from the assured without any possibility of his recovering them". The objects have been "removed from" the assured if he does not have physical disposal of them. They have sunk, been washed over board, stolen, impounded or handed over to a wrongful recipient. There is, however, no requirement that the objects shall be physically damaged or impaired. The actual removal must be complete. The objects must have been removed from the assured "without any possibility of his recovering them".
If the objects have disappeared without there being any basis or information to indicate how this happened, the assured has the burden of proving that the total loss was caused by a peril covered by the insurance.
Rules relating to condemnation are contained in subparagraph 1 © and (d). The provision in © is taken from Cefor Form 254 4.1, and sets the condemnation limit at 100% for fishing gear and accessories. For other objects, however, the condemnation limit is 90% in line with the solution in Cefor Form 252 § 35, subparagraph 1 number 4. The reason for the difference is that catch, packaging and supplies may be considered equivalent to goods, while the insurance of fishing gear is more similar to an ordinary property insurance.
The condemnation rules apply when the objects insured are so extensively damaged that at least 100% or 90% of their value must be considered lost. When deciding whether the objects are condemnable, damage must be assessed under § 17-26 and § 17-27 and be seen in relation to the insurable value. In the assessment only loss of value resulting from damage covered by the insurance shall be taken into account. If several insured incidents occurred during the transport, it is the aggregate damage which must have resulted in a loss of value of 100% or 90% respectively.
Subparagraph 2 regulates the further content of a total-loss settlement. The provision corresponds to Cefor Form 252 § 35, subparagraph 2. In the conditions for fishing insurance there was no such rule. The fundamental principle is that the assured is entitled to payment of the sum insured for the object insured, however, limited to its insurable value, cf. first sentence.
If the objects, before becoming a total loss, sustain damage, it follows from the second sentence that no deduction shall be made for such damage in the total-loss claim. It is, however, a condition that the damage occurred during the insurance period. For pre-existing damage prior to the inception of the insurance, deductions shall be made, given that such damage will reduce the insurable value of the object correspondingly.

§ 17-26. Damage to or loss of catch

This paragraph is new, and is taken from Cefor Form 252 § 37.
The provision regulates the claims settlement where catch is damaged or lost without the rules relating to total loss in § 17-25 becoming applicable. Because there is no question of any repairs in respect of a catch in the event of damage or partial loss, as would be the case for other objects covered by the insurance, the provision determines that the assured will in these cases always be entitled to compensation. As regards the size of this compensation, it shall be determined in the same way as under § 17-27, subparagraph 2, and reference is therefore made to the commentary on that provision.

§ 17-27. Damage to other objects

This paragraph is new, and is taken from Cefor Form 252 § 37 and § 38.

The provision regulates settlement in the event of damage to fishing gear, accessories and equipment insured according to § 17-20 (b), (c) and (d).

Subparagraph 1 is taken from Cefor Form 252 § 37, subparagraph one, and establishes that the insurer is always entitled to demand that damage be repaired, thus ruling out any compensation to the assured for unrepaired damage. Repair means that the object is restored to its original state. Only the insurer may demand repairs. The assured will be reduced to the compensation alternative in subparagraph 2. He may not against the insurer's protest carry out repairs and claim compensation for the costs incurred in that connection.

The insurer's right to demand that damage be repaired is not unconditional. Repairs must be feasible without "unreasonable" loss or inconvenience to the assured. In the evaluation of this question, the length of time such repairs will take must amongst other things be taken into account.

Presumably the costs of repairs will constitute a smaller amount than the sum insured; if not, it will be a case of condemnation under § 17-25, subparagraph 1 © or (d). If the insurer has demanded repairs under § 17-27, subparagraph 1, and these repairs turn out to be significantly more expensive than anticipated, he must, however, pay all costs in full. The same applies if the repairs turn out to be inadequate.

Subparagraph 2 regulates settlement when the damage is not repaired, either because the insurer is not entitled to demand it, or chooses not to do so. The provision is taken from Cefor Form 252 § 37, subparagraph 2. In such cases a cash settlement shall be made based on the determination of a damage percentage for the object. The damage percentage shall reflect the final reduction in the value of the damaged objects, i.e. the market value of the object in undamaged condition in proportion to the value in damaged condition at the place of destination. The damage percentage shall be calculated on a discretionary basis

When the damage percentage has been determined, the insurer's liability will be the product of the damage percentage and the insurable value. However, if the sum insured does not cover the entire insurable value, such under-insurance must be taken into account by a pro-rata calculation of the insurer's liability, cf. § 2-4.

Subparagraph 3 is taken from Cefor Form 252 § 38 and concerns damage to or loss of an object which consists of several parts. It is mainly relevant in the event of damage to fishing gear and similar equipment. Under the provision, the insurer's liability is limited to covering repairs or renewal of the part that is lost. The assured therefore never has the right to demand a new object in the event of such damage.

§ 17-28. Survey of damage

This paragraph is new.

Insurance of catch and equipment is not subject to the rules in chapter 12. It is therefore necessary to have a reference to § 12-10 in order to have an authority for carrying out a survey of damage.

§ 17-29. Deductible

This paragraph corresponds to Cefor Form 254 4.2.

The provision is in reality identical to Cefor Form 254 4.2, but is rewritten in order to concord with the other deductible provisions of the Plan. The deductible shall apply both to damage, total loss and loss incurred by measures to advert or minimise loss.

Chap 17 - Section 4 Catch and equipment insurance - standard cover

General

Catch and equipment insurance corresponds to the former fishing insurance. In addition to this section, the general part of the Plan and chapter 17, section 1, shall apply. However, chapter 17, sections 2 and 3, shall not apply.

Section 4 is based on Cefor Form 254 (from 1996) and the former conditions Cefor Form 220 A (December 1989 / October 1992). Cefor Form 220 B relating to insurance of wages and crew's clothing, cf.

§ 237 of the 1964 Plan, has, however, not been included in the new Plan. The same goes for insurance of dories under Cefor Form 220 A, separate condition 2. Such boats are excluded from the Plan according to § 10-1, subparagraph 2.
Cefor Form 254 3 relating to the sum insured, 7.1 relating to interest and 7.3 relating to safety regulations have been deleted. Here the general part of the Plan shall apply. Paragraphs 5 and 7.2 of the Special Conditions have been moved to section 1, see § 17-3.
The sum insured for insurance of catch and equipment is determined in the policy on an annual basis or for a round voyage.

§ 17-20. Scope of the insurance
This paragraph corresponds to Cefor Form 254 1.
The provision states the objects and interests covered by the insurance. It corresponds to Cefor Form 254 1, but has been rewritten and simplified without any changes on points of substance being intended.
Letter (a), first sentence, concerns the catch and corresponds to paragraph 1.1, subparagraph 1, of the Special Conditions. By catch is meant the quantity taken on board the assured's own vessel. It is irrelevant whether it was caught by the relevant vessels itself or bought from others at sea. The provision also covers catch which has been processed, packaged and frozen. However, the provision is limited to the ship's operation as a fishing, whaling or sealing vessel, and does not apply if the vessel is used as a cold store whilst laid up.
Second sentence, which corresponds to paragraph 1.1, subparagraph 2, of the Special Conditions, establishes that the insurance, subject to certain specific conditions, also covers freight. This applies only where the catch has in actual fact been reported to a fish sales co-operative and the vessel directed to a specific place for unloading before the casualty occurred. It is not sufficient if the reporting, etc. takes place later. The Special Conditions contained a provision to the effect that a deduction should be made in the compensation for expenses which would have been incurred in order to earn the said freight, but which have been saved as a result of the casualty. Such deduction now follows from the general rule in § 17-6 and is therefore superfluous here.
In addition to catch and freight, the fishing insurance also covers fishing gear and accessories which are on board the vessel, cf. letter (b), which corresponds to paragraph 1.2 of the Special Conditions. It is a condition that the gear belongs to the assured. The assured can therefore not take on board seines which belong to other owners and obtain compensation for damage to these without this having been agreed in advance with the insurer. The gear must be on board the ship. Gear onshore or in the water therefore falls outside the scope of cover. The gear is deemed to be in the water from the moment setting starts and until it is back on board again. Furthermore, the requirement that the object must be on board is commented on in more detail in § 10-1.

Letters © and (d) correspond to paragraphs 1.3 and 1.4 of the Special Conditions, but have been rewritten in order to be in accordance with § 10-1. The Special Conditions thus covered bunkers and lubricating oil on board, which are already covered by § 10-1. Paragraph 1.3 of the Special Conditions stated explicitly that the supply of bait was covered. However, this follows from the term "equipment in connection with fishing" in letter (d), and that part of the provision has therefore been deleted. The reference to § 10-1 in letter (d) is included for the purpose of making it clear that the cover under the fishing insurance will not be extended by agreeing on a more limited scope of cover under the hull insurance.
It follows from § 2-12 that the assured has the burden of proving that he has suffered a loss which is covered by the insurance. This rule entails that the assured must prove that the catch or the equipment was in actual fact on board when it was lost or damaged. This was stated explicitly in the Special Conditions as regards the catch, but is unnecessary to repeat.

§ 17-21. Insurable value
This provision corresponds to Cefor Form 252, Conditions for Transport Insurance of Goods of 1995, § 29.

The provision states the value of the interests covered by the insurance based on certain "objective" criteria. Subparagraph 1 regulates the insurable value of the catch, while subparagraph 2 determines the insurable value of the other objects which are insurable under an insurance of catch and equipment.
The provision does not prevent the parties to the insurance contract from agreeing on a specific insurable value. However, an assessment of the insurable value is not very common for insurance of catch, but is more widely used in insurance of fishing gear, etc.
The basis for the calculation of the insurable value of the catch is under subparagraph 1 the market price of the catch at the place of loading at the time of loading. The market price of the catch will be the value of the catch to the seller's hand, before he has incurred costs in connection with the forthcoming transport. The market price is the price at which the catch can be sold by taking into account the seller's place in the chain of distribution.
The value refers to price conditions "at the time of loading", i.e. at the time when the catch is loaded on board the vessel.
If the catch was reported to a sales cooperative and directed to a specific place for unloading, it follows from the provision that the insurable value also covers freight, "transport surcharge", see § 17-20 (a), second sentence.
Subparagraph 2 regulates the insurable value of objects covered according to § 17-20 (b), (c) and (d). Here the insurable value represents the replacement cost of the object at the inception of the insurance. The provision is in accordance with § 2-2. The "inception of the insurance" is the time when the insurer's liability takes effect. The time for calculating the insurable value under subparagraph 2 is accordingly different from that under subparagraph 1, where the value refers to the time of loading.

§ 17-22. Extraordinary costs of unloading the catch
This paragraph corresponds to Cefor Form 254 4.3.
The provision only concerns costs of removing the catch, not costs of removal in respect of other cargo. If costs are incurred in order to save the catch from a covered peril, the assured may furthermore make a claim for the additional expenses under §4-7.

§ 17-23. Excluded perils/Re. § 2-8
This paragraph corresponds to Cefor Form 254 2.11 to 2.16.
The provision states limitations to the perils covered by the insurance, and must be seen in conjunction with the provisions in § 2-8 to § 2-10. According to § 2-8 an insurance against marine peril covers any peril to which the interest is exposed, with the exception of the perils stated in letters (a) to (d). The war peril has been taken out of the marine-perils cover through the exception in § 2-8 (a) and has been made subject to a separate war-risks insurance under § 2-9. If there is no specific statement as to what perils are covered by the insurance, the rule in § 2-10 is that the insurance covers marine perils under § 2-8.
The exclusions in § 17-23 largely reflect the general principle under insurance law that the insurance shall only cover unforeseeable losses. Losses resulting from the inherent nature of the catch, inadequate packaging, loss in weight or volume of the catch, etc. are foreseeable and should therefore fall outside the scope of cover. The provision is somewhat simplified as compared to the Special Conditions, without any changes on points of substance being intended.
Letter (a) excludes damage due to the inherent nature or condition of the catch when the catch was taken on board and concords with paragraph 2.11 of the Special Conditions, even though it is somewhat simplified. The exclusion also covers a case where the catch is unable to stand up to the foreseeable exposures on board. This provision is particularly relevant to mackerel and herring in bulk, which are unfit to stand movements on the way to port if the ship has remained for too long in the field with the fish on board.
Letter (b) regulates inadequate packaging and preservation and is taken from paragraph 2.12 of the Special Conditions. Inadequate preservation includes cases where frigerated or frozen catch did not have the correct temperature when refrigerated or frozen down. This was earlier stated explicitly, but has been deleted as unnecessary.
Letter © excludes loss as a result of ordinary loss in weight or volume and concords with paragraph 2.13 of the Special Conditions.

Letter (d) excludes loss due to excessive temperature of refrigerated or frozen cargo and is taken from paragraph 2.15 of the Special Conditions. The term "casualty" does not cover inadequate maintenance or inadequate supply of spare parts or thermo machinery which should be on board. According to general practice, the catch is regarded as "frozen" from the moment the freezing process starts.
Paragraph 2.16 of the Special Conditions excluded deterioration of catch due to sailing in heavy sea. Such deterioration will either be covered by letter (a), in that sailing in heavy sea is a normal strain, which the catch must be expected to stand, or by letter (c) concerning ordinary loss in weight or volume. The provision is therefore superfluous.
Paragraph 2.14 of the Special Conditions excluded "damage to the catch caused by delay, unless such delay causes further deterioration of a damage otherwise covered under this insurance occurring during transit to a port for unloading". Also this provision is superfluous. If it is a loss resulting from a delay which has no connection with a preceding casualty, it follows from § 4-2 that the insurer is not liable. It is also conceivable that loss resulting from a delay is excluded through § 17-23 (a), in that the fish has to stand a few days' delay. If, on the other hand, the delay is a result of an earlier casualty, the insurer must be fully liable in the normal way, cf. the cover of the further developments according to the Special Conditions. This follows from general rules of causation and applies independently of the cause of the delay or its duration. The fact that damage to the catch develops further during transport to the place of destination is a risk which must be covered by the insurance. However, the insurer's liability for the delay is based on the assumption that the assured could not have averted this delay. If the assured, following a casualty, chooses instead of taking the ship directly to a port, to remain at sea in order to prevent loss of time, the loss caused by the delay is not a consequence of the casualty. If it is found that the loss is partly a result of the casualty, partly a delay, the rule of apportionment in § 2-13 shall be used.

§ 17-24. Deck cargo
This paragraph corresponds to Cefor Form 254 2.21.
The provision entails that further restrictions are made in the perils covered for deck cargo. In all essentials it concords with the Special Conditions, but it has been somewhat simplified.
In letter (b) the term "dirt" first and foremost covers pollution from the ship's own machinery.

§ 17-25. Total loss
This paragraph corresponds to Cefor Form 254 4.1 and Cefor Form 252, § 35.
The provision regarding total loss in Cefor Form 254 4.1 has been replaced by the total-loss rules in the conditions relating to insurance of carriage of goods, Cefor Form 252 § 35. The total-loss rules there are somewhat more detailed than the total-loss rules in Cefor Form 254, but in reality there is little difference. § 17-25 concerns all objects insured under the catch and equipment insurance, i.e. both the catch and the accessories, cf. the introductory words of the provision.
Subparagraph 1 defines when a total loss has occurred, and is taken from Cefor Form 252 § 35, subparagraph one, but in reality it concords with Cefor Form 254 4.1. Under letter (a), the total loss has occurred if the objects insured have been destroyed. The objects have been "destroyed" where they are totally burnt up, dissolved, evaporated or have leaked out, or where they are in some other way physically totally destroyed. In principle, all objects insured, including the entire catch, must be affected in order for it to constitute a total loss. The rules relating to loss in weight, cf. § 17-26, however, make subparagraph 1 of § 17-25 similarly applicable where part of the objects insured/catch are totally lost. The condemnation rules in letters (c) and (d) do not call for a more precise definition of the term "destroyed". On the other hand, the distinction between condemnation and partial damage may be difficult to make. Reference is made to the explanatory notes to § 17-27.
Under subparagraph 1 (b) a total loss has also occurred where the objects insured (including the catch) "have been removed from the assured without any possibility of his recovering them". The objects have been "removed from" the assured if he does not have physical disposal of them. They have sunk, been washed over board, stolen, impounded or handed over to a wrongful recipient. There is, however, no requirement that the objects shall be physically damaged or impaired. The actual removal must be complete. The objects must have been removed from the assured "without any possibility of his recovering them".

If the objects have disappeared without there being any basis or information to indicate how this happened, the assured has the burden of proving that the total loss was caused by a peril covered by the insurance.
Rules relating to condemnation are contained in subparagraph 1 © and (d). The provision in © is taken from Cefor Form 254 4.1, and sets the condemnation limit at 100% for fishing gear and accessories. For other objects, however, the condemnation limit is 90% in line with the solution in Cefor Form 252 § 35, subparagraph 1 number 4. The reason for the difference is that catch, packaging and supplies may be considered equivalent to goods, while the insurance of fishing gear is more similar to an ordinary property insurance.
The condemnation rules apply when the objects insured are so extensively damaged that at least 100% or 90% of their value must be considered lost. When deciding whether the objects are condemnable, damage must be assessed under § 17-26 and § 17-27 and be seen in relation to the insurable value. In the assessment only loss of value resulting from damage covered by the insurance shall be taken into account. If several insured incidents occurred during the transport, it is the aggregate damage which must have resulted in a loss of value of 100% or 90% respectively.
Subparagraph 2 regulates the further content of a total-loss settlement. The provision corresponds to Cefor Form 252 § 35, subparagraph 2. In the conditions for fishing insurance there was no such rule. The fundamental principle is that the assured is entitled to payment of the sum insured for the object insured, however, limited to its insurable value, cf. first sentence.
If the objects, before becoming a total loss, sustain damage, it follows from the second sentence that no deduction shall be made for such damage in the total-loss claim. It is, however, a condition that the damage occurred during the insurance period. For pre-existing damage prior to the inception of the insurance, deductions shall be made, given that such damage will reduce the insurable value of the object correspondingly.

§ 17-26. Damage to or loss of catch
This paragraph is new, and is taken from Cefor Form 252 § 37.
The provision regulates the claims settlement where catch is damaged or lost without the rules relating to total loss in § 17-25 becoming applicable. Because there is no question of any repairs in respect of a catch in the event of damage or partial loss, as would be the case for other objects covered by the insurance, the provision determines that the assured will in these cases always be entitled to compensation. As regards the size of this compensation, it shall be determined in the same way as under § 17-27, subparagraph 2, and reference is therefore made to the commentary on that provision.

§ 17-27. Damage to other objects
This paragraph is new, and is taken from Cefor Form 252 § 37 and § 38.
The provision regulates settlement in the event of damage to fishing gear, accessories and equipment insured according to § 17-20 (b), (c) and (d).
Subparagraph 1 is taken from Cefor Form 252 § 37, subparagraph one, and establishes that the insurer is always entitled to demand that damage be repaired, thus ruling out any compensation to the assured for unrepaired damage. Repair means that the object is restored to its original state. Only the insurer may demand repairs. The assured will be reduced to the compensation alternative in subparagraph 2. He may not against the insurer's protest carry out repairs and claim compensation for the costs incurred in that connection.
The insurer's right to demand that damage be repaired is not unconditional. Repairs must be feasible without "unreasonable" loss or inconvenience to the assured. In the evaluation of this question, the length of time such repairs will take must amongst other things be taken into account.
Presumably the costs of repairs will constitute a smaller amount than the sum insured; if not, it will be a case of condemnation under § 17-25, subparagraph 1 © or (d). If the insurer has demanded repairs under § 17-27, subparagraph 1, and these repairs turn out to be significantly more expensive than anticipated, he must, however, pay all costs in full. The same applies if the repairs turn out to be inadequate.
Subparagraph 2 regulates settlement when the damage is not repaired, either because the insurer is not entitled to demand it, or chooses not to do so. The provision is taken from Cefor Form 252 § 37,

subparagraph 2. In such cases a cash settlement shall be made based on the determination of a damage percentage for the object. The damage percentage shall reflect the final reduction in the value of the damaged objects, i.e. the market value of the object in undamaged condition in proportion to the value in damaged condition at the place of destination. The damage percentage shall be calculated on a discretionary basis

When the damage percentage has been determined, the insurer's liability will be the product of the damage percentage and the insurable value. However, if the sum insured does not cover the entire insurable value, such under-insurance must be taken into account by a pro-rata calculation of the insurer's liability, cf. § 2-4.

Subparagraph 3 is taken from Cefor Form 252 § 38 and concerns damage to or loss of an object which consists of several parts. It is mainly relevant in the event of damage to fishing gear and similar equipment. Under the provision, the insurer's liability is limited to covering repairs or renewal of the part that is lost. The assured therefore never has the right to demand a new object in the event of such damage.

§ 17-28. Survey of damage

This paragraph is new.

Insurance of catch and equipment is not subject to the rules in chapter 12. It is therefore necessary to have a reference to § 12-10 in order to have an authority for carrying out a survey of damage.

§ 17-29. Deductible

This paragraph corresponds to Cefor Form 254 4.2.

The provision is in reality identical to Cefor Form 254 4.2, but is rewritten in order to concord with the other deductible provisions of the Plan. The deductible shall apply both to damage, total loss and loss incurred by measures to advert or minimise loss.

Chap 17 - Section 6 Liability insurance - scope of the insurance

General

Sections 6 and 7 relating to liability insurance are based on chapters 16 and 18 of the 1964 Plan and Conditions For Hull Insurance of Coastal and Fishing Vessels With a Length of 15 Metres or Larger, cf. Cefor Form 252 A. (July 1995). Chapters 16 and 18 of the Plan provided general P&I insurance conditions for shipowners, but have not been retained in a general form in the new Plan, because P&I insurance of larger ships is no longer effected on Plan conditions. Liability insurance for coastal and fishing vessels, cf. Cefor Form 242 A is, however, based on the 1964 Plan's P&I conditions, and it is therefore necessary to have such rules in chapter 17.

In addition to the rules in this section, the common rules in chapter 17, section 1, and furthermore the general part of the Plan, shall apply. It follows from § 4-17, subparagraph 1, that in the event of insurance on Plan conditions the rules in ICA section 7-6, subsection one, relating to an injured party's right to file a direct claim against the insurer do not apply. In contrast, ICA section 7-8 is mandatory in any liability insurance.

Cefor Form 242 A I 3 (nuclear risk) and II 8 (interest) have been deleted, because these rules now follow from the general part of the plan.

Sections 6 and 7 are patterned on chapters 16 and 18 of the 1964 Plan, so that section 6 contains the rules relating to the liability insurer's scope of cover, while section 7 states the limitations to the liability.

§ 17-34. Perils covered

This paragraph corresponds to § 224 of the 1964 Plan and Cefor Form 242 A I 2.

Subparagraph 1, first sentence, is practically identical to § 224, subparagraph 1, first sentence, of the 1964 Plan and specifies the perils covered by the insurance as losses mentioned in § 17-35 to § 17-45. The provision reflects the basic principle that the P&I insurance only covers liability and other losses which are specifically stated. In other words, this is not a general liability insurance. On the other hand, a series of different losses, which are not in the nature of liability, viz. various forms of expenses and damage which the assured may incur, are covered. Also in respect of such expenses and damage it is a requirement that they must be specifically stated.

The provisions in § 17-35 to § 17-45 partly state the nature of the loss, partly the extent to which the loss is covered. Both sets of conditions must be satisfied in order for the insurer to be liable.
While § 17-35 to § 17-45 state the extent of liability, §§ 17-46 et seq. state limitations to the cover. The provision in § 17-34 must therefore also be seen in conjunction with these limitations.
Another fundamental principle for owner's liability insurance is that the cover only includes liability and loss which "has occurred in direct connection with the running of the vessel covered by the insurance". The claims filed must have direct connection with the running of the insured vessel. Liability and other loss which concern the shipping business in general, or which are common to several ships, are normally not covered.
Accordingly, all liability and losses in connection with the running of the assured's shore installations, social and other expenses which are not associated with any specific vessel are excluded from the cover. However, it is not a requirement that the loss occurred on board the vessel, or that it was caused by the crew.
The liability which is covered must be a legal liability for damages. That the assured feels obligated from a business or moral standpoint to cover a loss is not sufficient. Legal liability normally means the personal obligation for which the assured is liable to the extent of all his assets. However, also liability in rem where the assured is only liable with certain objects, typically the vessel and freight, is covered by the insurance. The country under whose law the liability occurs is also irrelevant, whether it is a contractual liability (e.g. cargo liability), or liability outside contractual relations (e.g. collision liability), and it is irrelevant on what basis the liability is founded. However, contractual liability is subject to certain limitations according to § 4-15.
The second sentence corresponds to Cefor Form 242 A II 5 a, and entails that the cover is in certain situations extended to include liability incurred by other vessels than the insured vessel.
Subparagraph 2, first sentence, is taken from § 224, subparagraph 1, second sentence, of the 1964 Plan and establishes that the insurer covers liability according to subparagraph 1, irrespective of whether the liability is caused by marine perils or war perils. The liability insurance is therefore basically an insurance against marine perils, cf. § 2-8, as well as against war perils, cf. § 2-9. The war-risks cover is, however, somewhat limited under the second sentence. This provision corresponds to Cefor Form 242 A I 2, second and third sentences, but has been modified to adjust to the rules in chapter 15 of the Plan relating to war-risks insurance.
§ 224, subparagraph 2 of the 1964 Plan and Cefor Form 242 A I 3 contained a limitation of the insurer's liability for nuclear risk. Such limitation is now contained in § 2-8 (d) and § 2-9, subparagraph 2, (b).

§ 17-35. Liability for personal injury
This paragraph corresponds to § 225of the 1964 Plan and Cefor Form 242 A II 1, first sentence.
Subparagraph 1 is taken from § 225 of the 1964 Plan and defines the cover in the event of personal injury or loss of life. The main rule in the first sentence affords a very comprehensive cover. If the injury is "sustained in direct connection with the running of the insured vessel", the insurer covers the assured's liability regardless of where and how the injury was inflicted and regardless of whether the assured is liable as personal wrongdoer, or is liable on the basis of the rules relating to vicarious liability in section 151 of the Norwegian Maritime Code. The assured's liability to crew and passengers is nevertheless subject to certain limitations, cf. below.
Nor are any limitations stipulated as regards which items of loss shall be covered. In the event of "personal injury", liability covers both expenses for treatment, expenses for artificial limbs, loss of income during the treatment and loss of future earnings as a result of full or partial disability, cf. section 3-1 of the Compensatory Damages Act. In the event of losses more in the line of consequential losses, the assured's, and hence the insurer's, liability will, however, be limited by foreseeability considerations.
The term "personal injury" also covers shock and other mental injuries, including "compensation for permanent injury" according to section 3-2 of the Compensatory Damages Act. However, the liability will normally not cover non-economic loss under section 3-5 of the Compensatory Damages Act. Such liability presupposes that the assured has personally caused the bodily injury intentionally or with gross negligence, in which event the insurer's liability will normally lapse under the rules in § 3-32 and § 3-33.

If it is a question of “loss of life”, liability will cover loss of provider and funeral expenses, including expenses for shipping home the coffin or urn, cf. section 3-4 of the Compensatory Damages Act.
Liability under subparagraph 1, first sentence, also covers liability for salvage award in the event of the saving of life. Such salvage remuneration will only be relevant where a ship or cargo has been salvaged at the same time, cf. section 441 of the Norwegian Maritime Code. As regards the salvage award for the salvaging of ships and cargo, the owner of these assets may recover these assets as costs of measures to avert or minimise loss under the hull insurance and the cargo insurance respectively. In the same way, the liability insurer covers salvage award for the saving of life under §§ 4-7 et seq., if the salvage operation is in effect a measure to avert or minimise loss. However, the provision in § 17-35 provides an independent authority for the coverage of salvage award, regardless of whether or not it qualifies as a cost of measures to avert or minimise loss. On the other hand, only salvage award determined separately on the basis of the saving of life is covered. It is not sufficient that the salvage award as such has probably increased due to the saving of life, without this being specified in a judgment or an agreement.
It is only the assured’s liability for life-saving which is covered by the liability insurer. The assured may not claim a refund from the liability insurer for that part of the salvage award which may have been allocated to the cargo interests without liability for the assured. Nor does the liability insurer cover the liability in respect of which the assured may claim cover from the hull insurer under the relevant hull conditions, cf. § 17-46.
As regards the persons who shall be covered by the assured’s liability, certain limitations are stipulated. In the first place, the cover under subparagraph 1, second sentence, does not include the assured’s liability to the crew or their dependents for wages in the event of a shipwreck, death, illness or injury. The provision corresponds to § 225 of the 1964 Plan, which referred this liability to an insurance of wages and effects under § 237. This insurance is not included in the Plan, and the definition has therefore been incorporated directly in § 17-35. This liability will today normally be covered under an occupational injuries insurance. However, the insurer does cover certain social benefits to the crew under § 17-43.
The crew’s personal effects are excluded under § 17-43, subparagraph 2 ©.
The delimitation applies only in relation to “the crew”. In the event of injuries sustained by others who work in the service of the vessel without belonging to the crew, e.g. persons who carry out work on board or in connection with the vessel while it is in port, the insurer covers the assured’s liability under subparagraph 1, first sentence.
Secondly, the assured’s liability for injury sustained by or loss of passengers is only covered where this has been specifically agreed, cf. subparagraph 2. The provision corresponds to Cefor Form 242 A II 1, first sentence, but has been amended from applying to passengers and “other persons accompanying the vessel without belonging to the crew” to merely applying to “passengers”. Under Skuld’s and Gard’s P&I Conditions liability for passengers is included in the normal cover. According to the Plan’s rules, however, it is necessary to have a separate agreement about this. The requirement for a separate agreement, however, only applies to ordinary paying passengers. Family, friends or others who accompany the ship are therefore covered in the usual way.
The cover under § 17-35 must be seen in connection with the limitations of liability in § 17-46, subparagraph 3, relating to insurance and social benefits for the crew, and the requirement for limitation of liability as regards liability to passengers in § 17-47.

§ 17-36. Liability for property

This paragraph corresponds to § 226 of the 1964 Plan and Cefor Form 242 A II 2 and II 6.
Subparagraph 1 is practically identical to § 226, subparagraph 1, of the 1964 Plan but a simple adjustment has been made. The provision contains the practically speaking most important cover provision in liability insurance and provides that the insurer covers the assured’s liability for damage to or loss of an object which “does not belong to the assured”. Loss in the event of damage to or loss of the assured’s own objects does not belong under a liability insurance subject to the limitations which follow from § 4-16. The 1964 Plan tied the cover to objects which “belong to a third party”. The amendment has been made in order to emphasise that the insurance also includes liability for damage to objects which

are not subject to private ownership, e.g. shell fish and seaweed which are damaged by oil pollution with the result that those who exploit them for business purposes suffer a loss.
By “object” is meant objects of every type or form, real estate as well as chattels. The object may be on board the insured vessel, on board another vessel, or on shore. Certain objects which are on board are nevertheless excluded in subparagraph 2, cf. below. The term “object” furthermore comprises another vessel, a ship or other floating structure. “Damage” means any form of physical impact on the object which results in a deterioration in value: breakage, water damage, decay, infection, smell and radiation damage, etc. “Loss” does not only cover cases where the object has physically been destroyed, but also where it has been stolen, impounded or mislaid so that the owner cannot expect to recover it within the foreseeable future.
The insurer covers liability for property damage regardless of the basis on which the liability is founded. It is irrelevant whether it is liability under contract law or non-contractual liability, and it is further irrelevant whether liability is non-statutory or is founded on statutes. The liability therefore covers cargo liability, liability to tugs, liability for property damage in the event of a collision, liability for property damage in the event of oil pollution and other liability for property damage outside contractual relations, provided liability has “occurred in direct connection with the running of the vessel covered by the insurance”, cf. § 17-34. Cargo liability is subject to certain limitations, see § 17-50 and the assured is furthermore obliged to exclude liability for damage to and loss of cargo to the extent that this is allowed under current rules of law, see § 17-47.
§ 17-36 only regulates liability for property damage. Loss resulting from incorrect description of goods in the bill of lading or from the goods being handed over to a wrongful recipient does not constitute liability for property damage. However, these types of liability are in certain contexts covered under § 17-37 and §17-38. But, if liability for property damage occurs, then not only the part of the liability which corresponds to the reduction in the value of the object will be covered, but also the part which is associated with any consequential loss, cf. the wording “liability resulting from damage to or loss of”.
Subparagraph 2 (a) is identical to § 226 (a) of the 1964 Plan, while letter (b) is taken from 1964 Plan § 226 (b) and (c) and Cefor Form 242 A II 2. Cefor Form 242 A II 2 also contained an exclusion for damage to or loss of the vessel with accessories, equipment and stores. This provision is normally superfluous, see § 4-16, second sentence, which excludes the relevant objects if they are owned by the assured. Furthermore, the provision in § 17-46 will exclude these objects if they are insurable under the rules in part II, part III or part IV chapter 17 sections 3 to 5, of the Plan.
§ 226 © of the 1964 Plan also excluded « bunkers ». Bunkers is now included in the hull cover, cf. § 10-1, and thereby falls outside the scope of the P&I insurance according to § 17-46.
Letter © is taken from § 226 (d) of the 1964 Plan.
Subparagraph 3 is taken from Cefor Form 242 A II 6, but has been amended. According to Cefor Form 242 A II 6 ©, the limitation also concerned damage to or loss of deck cargo. This provision has been deleted because the charterer under the rules of the Norwegian Maritime Code can no longer reject liability for such damage.
Under the rules of the Norwegian Maritime Code, it may be uncertain whether the assured has the right to reject liability for damage to or loss of live fish. However, the insurers are under no circumstances willing to accept this liability. It is therefore excluded from the cover according to letters (b) and (c), which are taken from the Special Conditions. The provision must be seen in conjunction with the limitation of liability in § 17-16, which establishes that the hull insurer does not cover liability under § 13-1 for damage to or loss of fish or device for keeping live fish in connection with calling at such installation for loading or discharging.
Cefor Form 242 A II 6 contained rules in letters (d) and (e) relating to damage to a loss of goods arisen prior to loading or after discharging, or while the goods were in the custody of another carrier. These rules are superfluous alongside § 17-50, and have therefore been deleted.

§ 17-37. Liability under bills of lading
This paragraph corresponds to § 227 of the 1964 Plan.

The first sentence concords with § 227 of the 1964 Plan and establishes that the insurer covers the assured's liability for inadequate or incorrect description of the goods or other incorrect information in the bill of lading or similar document.
In principle, the liability covers all types of liability under bills of lading. If liability is imposed under the principle of estoppel, see section 299, subparagraph 3, of the Norwegian Maritime Code, it will, however, normally be a cargo damage liability and accordingly be covered under the rules in § 17-36.
Liability is covered even if the ship's crew or the owner's employees have been grossly negligent in connection with the issue of the bill of lading. By contrast, the assured will not be covered if he has himself been grossly negligent, cf. § 17-48, subparagraph 1.
Liability under bills of lading applies to "a bill of lading or similar document". The term "bill of lading'" comprises both shipped bill of lading (section 292 of the Norwegian Maritime Code), through bill of lading (section 293 of the Norwegian Maritime Code) and received-for-shipment bill of lading (section 294 of the Norwegian Maritime Code). In connection with transhipment, not only liability under bills of lading where the bill of lading is issued in connection with the loading of the insured vessel is covered, but also where the bill of lading is issued by an earlier carrier on behalf of all concerned.
By other "similar documents" is meant other documents issued as evidence of goods received for carriage. A practical example is the non-negotiable sea waybill (section 308 of the Norwegian Maritime Code). Admittedly, goods in transit will rarely be bought or paid for on the strength of the description of the goods in such a sea waybill, but it does happen. If the assured then becomes liable under general liability rules for negligent, incorrect or incomplete description of the goods, etc., this will be covered under this provision.
The last part of the provision contains a limitation of the insurer's liability. If the assured or the master of the ship knows that the description in the document of the cargo, its quantity or condition is incorrect, the insurer is not liable. This part of the provision is new in relation to the 1964 Plan, but concords with the solution in, e.g. Gard's P&I Conditions. On the one hand, it is sufficient that the master of the ship knows that the description is incorrect. The assured is not required to know. On the other hand, the exclusion does not cover negligence. The assured or the master must have definite knowledge that the description is incorrect.

§ 17-38. Liability for wrongful delivery of goods
This paragraph corresponds to § 228 of the 1964 Plan.
Under the 1964 Plan, the insurer covered the assured's liability for delivery of goods carried to a recipient who was not entitled to them. If the goods were delivered without the presentation of proper bills of lading or other bearer documents for value, liability was, however, only covered where reasonable security had been provided, or it was otherwise justifiable to hand over the goods.
The Plan restricts the cover of the assured's liability for wrongful delivery significantly, a restriction patterned on inter alia Gard's P&I Conditions. The basic principle is admittedly still that the assured's liability for wrongful delivery is covered, see subparagraph 1. However, due to subparagraph 2, this principle will in reality only be relevant where the goods are carried on a sea waybill or some other non-negotiable document. In that case liability for wrongful delivery acquires an entirely different content than in the event of carriage under a bill of lading, because such non-negotiable document do not constitute evidence of the right to the cargo. The assured's duty to hand over the goods is therefore not in the same way as under a bill of lading tied to the document, where he is obliged to hand over the goods to the third party who presents the document in the port of discharge. In the event of non-negotiable documents, the assured shall hand over the goods to the consignee stated in the document, possibly to some other consignee named by the consignor, see section 308 of the Norwegian Maritime Code. If the goods are handed over to someone else, and the assured incurs liability in that connection, such liability will be covered under subparagraph 1.
Subparagraph 2 initially establishes that liability for wrongful delivery is not covered if the goods are handed over to a person without presentation of due bill of lading. The main rule where the relevant carriage takes place under a bill of lading, will thus be that the insurer does not cover the liability for wrongful delivery incurred by the assured because the goods were handed over to someone who is not entitled to them without presentation of bill of lading. However, the rest of subparagraph 2 stipulates a

small exception to this rule. The assured's liability for wrongful delivery in such a situation is in fact covered if the goods were carried by the assured in accordance with a sea waybill or some other non-negotiable document and handed over as prescribed by this document, but he incurs liability under a bill of lading or some other negotiable document issued by or on behalf of someone else for carriage partly in the assured's ship, partly in another ship. Such a situation may arise if a non-negotiable document and a negotiable document have been issued for the same cargo, and the bearer of the negotiable document is someone other than the cargo consignee named in the non-negotiable document. An example may illustrate the situation. Carrier A issues a bill of lading for a shipment from Kristiansund to Kiel. A is in charge of the shipment from Kristiansund to Oslo, while the shipment from Oslo to Kiel shall be handled by sub-carrier B. Under the bill of lading, the individual carrier is liable for damage to or loss of the goods while they are on board his vessel. B has issued for his leg of the shipment a non-negotiable document with the same named consignee as stated in the bill of lading. However, the bill of lading is transferred to someone else, and this new bearer of the bill of lading demands that the goods be delivered to B. If B has already handed over the goods in accordance with the non-negotiable document, his liability to the bearer of the bill of lading will be covered under the provision.
Cefor Form 242 A III 1 b contained a special safety regulation with regard to liability for wrongful delivery for freighters. However, this regulation is of little independent importance in view of the limitation of liability in § 17-37 and has therefore been deleted.

§ 17-39. General average contributions
This paragraph corresponds to § 229 of the 1964 Plan.
Subparagraph 1 is taken from § 229, subparagraph 1, of the 1964 Plan and establishes that the insurer covers the assured's loss resulting from his being precluded from claiming cargo's contribution in general average by reason of a breach of the contract of affreightment. In the event of general average, the assured will normally be entitled to recover cargo's contribution from the cargo owner or his insurer. Basically this also applies where the general average is caused by the assured's breach of contract, e.g. where a fire with major fire-extinguishing damage is caused by defects in the vessel when it last left port, and where this defect was known, or ought to have been known, to the vessel's crew and made the ship unseaworthy. However, in such cases the cargo owner may have recourse against the assured for the general average contributions they are obliged to pay, cf. YAR rule D and ND 1993, p. 162 NH Faste Jarl. If it is the assured who has incurred the general average expenses and who collects the contributions, the cargo owner will exercise his recourse claim by a set-off. If the counterclaim succeeds, the cargo owner will not have to pay the general average contribution, and the assured suffers a loss. This loss is covered by the liability insurer under subparagraph 1. This cover may be seen as a continuation of the coverage of the assured's cargo liability: Formally, the assured will not be precluded from claiming a contribution, but he has to accept being held liable for the loss which the cargo owner has suffered by the imposition of the duty to pay contribution.
The provision in § 229, subparagraph 1, of the 1964 Plan also applied where the cargo's contribution was irrecoverable for other reasons than a breach of the contract of affreightment, e.g. because of the cargo owner's unwillingness or inability to pay. This provision has been deleted in line with a corresponding limitation in the ordinary P&I Conditions.
The general average contribution may be lost or reduced also for other reasons than a breach of contract or the cargo's unwillingness or inability to pay, e.g. where the assured does not comply with the time limit for filing the claim. This will in that event be the assured's risk. Nor does the cover extend to excess general average contributions from the cargo, where a loss arises for the assured because sacrifices and disbursements exceed the value of the contributions, at the same time as the cargo owner's liability is limited to the value of the cargo.
The provision applies only in relation to the cargo's contribution. This is due to the fact that the freight contribution shall normally be covered by the assured. However, in the event of sub-chartering, the contribution shall be allocated to the charterer. The failure to pay contributions which may then occur is, however, not covered by the liability insurer.

§ 229, subparagraph 2, of the 1964 Plan contained a rule to the effect that liability for irrecoverable contributions was contingent on the provision of an average bond and reasonable security, where such security must be deemed necessary and obtainable. However, in view of the fact that the insolvency risk has been removed from the liability insurance, it is not necessary to make insurance coverage contingent on an average bond. Another matter is that such an average bond must be submitted under any circumstances in connection with the general average adjustment.
Subparagraph 2 is identical to § 229, subparagraph 3 of the 1964 Plan. Expenses incurred in connection with the collection of general average contributions will often be recoverable as costs of measures to avert or minimise loss, cf. § 4-7 and §4-12. However, subparagraph 2 imposes a direct obligation on the liability insurer to cover such costs regardless of whether or not they qualify as costs of measures to avert or minimise loss. The provision is of particular importance if legal proceedings must be instituted in connection with general average, but it also covers others cost in connection with collecting cargo's contribution, e.g. costs in connection with out-of-court collection.
As regards the assured's duties to maintain and secure the claim against the cargo, § 5-16 shall apply.

§ 17-40. Liability for removal of wrecks
This paragraph corresponds to § 230 of the 1964 Plan.
The provision provides that the insurer shall cover the assured's liability for removal of wrecks, provided such removal is ordered by the authorities. If the assured becomes liable for the removal of a wreck, it is normally because the vessel has been involved in a collision with another vessel or object, or because it has run aground. To the extent that the liability is covered by the vessel's hull cover, it falls outside the scope of the liability insurance, cf. § 17-46, subparagraph 1 (a) with the exception of excess collision liability, cf. subparagraph 2. Under the Plan, the hull insurance covers liability for the removal of the wreck of another ship with which the insured vessel has collided, cf. § 13-1, subparagraph 1, but not liability for the removal of the wreck of the vessel itself, cf. § 13-1, subparagraph 2 (i). Liability for the removal of the wreck of the insured vessel is therefore in its entirety covered under § 17-40. Excess collision liability for an oncoming vessel, i.e. liability for the removal of wreck for the oncoming vessel which exceeds the sum insured for collision liability is covered partly under § 17-40, partly under the rule of cover for the assured's ordinary liability for property damage, cf. § 17-36.
The scope of the provision is reduced in relation to the 1964 Plan in that it merely covers liability for the removal of wrecks "ordered by the authorities". This restriction entails that liability for the removal of wrecks according to contract is not covered by the insurance. Otherwise, the cover is very general. It covers any basis for liability and liability for the removal of wrecks which present an obstruction to traffic according to the port regulations of the country concerned. Cf. for Norwegian law the Ports and Waters Act of 8 June 1984 no. 51, section 18, subparagraph 3, second and third sentences, liability for removal of wrecks because the vessel has gone down at a location where the cargo may cause damage, and liability for removal of wrecks as a result of collision to the extent that this liability is not covered under the hull insurance. Both strict liability (e.g. under the Ports Act) as well as culpa liability are included. It is also irrelevant whether the costs incurred in removing the wreck concern the insured vessel or another vessel, and it is irrelevant whether the vessel becomes a wreck due to a casualty or for other reasons.
Under § 230 of the 1964 Plan, the insurance only covers liability for the removal of wrecks where the vessel was lost in consequence of other causes than war perils. This was due to the fact that the war-risks hull insurer covered liability for the removal of wrecks where the ship was lost as a result of a war peril. In the Plan, liability for the removal of war wrecks have been incorporated in the liability insurance part in chapter 15 on war-risks insurance, cf. § 15-21. It must therefore also be included in the liability insurance under chapter 17.
A vessel is a "wreck" when salvage has been abandoned because it would be unprofitable, i.e. the value of the object to be salvaged is less than the costs involved in salvaging it. It is irrelevant whether the vessel is condemnable under the Norwegian Maritime Code or under the hull conditions. In practice, it may be difficult to decide when the insurer 's liability for removal of wrecks is triggered. When an owner is instructed to remove a wreck, he must without undue delay decide whether he wants to

salvage the vessel so that the insurer may start the work of removing the wreck before the port authorities do it.
If the insurer pays the costs involved in removing the wreck, the proceeds will accrue to him, even if the wreck should prove to be worth more than the costs involved in removing it.
The term “liability for the removal of wrecks” also covers the costs of removing the cargo, etc. to the extent that this is necessary in order to remove the wreck. Otherwise the removal of other wreckage than the actual shipwreck will not be covered, e.g. cargo which the ship has lost, or parts of vessel or cargo which have sunk. Nor does the cover include liability for obstructions to traffic vis-à-vis owners of ports, canals, etc. It is only the actual wreck-removal expenses that are covered.

§ 17-40A. Liability for special salvage compensation
This paragraph is new.
According to this provision the insurer is required to cover the assured’s liability for special compensation to the salvor where the assured is required to pay such compensation under the rules of section 449 of the Maritime Code of 1994 or other rules of law or contract rules which are based on article 14 of the International Convention on Salvage of 1989. Article 14 of the Convention, on which section 449 of the Maritime Code of 1994 is based, arises from the amendments to the international salvage rules relating to prevention of damage to the environment. It appears from section 446 (b) of the Maritime Code, cf. article 13 paragraph 1 (b) of the Convention that the ordinary salvage reward shall be fixed taking into account ”the skills and efforts of the salvors in preventing or minimizing damage to the environment”. The concept ”damage to the environment” is defined in further detail in section 441 (d) of the Maritime Code of 1994, cf. article 1 (d) of the Convention. If therefore the result of the salvor’s efforts is that the ship has been salved, wholly or in part, at the same time as damage to the environment has been prevented or minimized, this will be taken into consideration and the salvage reward will be increased. The total salvage reward will be apportioned in the general average adjustment which shall take place after a salvage operation, cf. Rule VI (a) subparagraph 2 of the York Antwerp Rules. The ship’s general average contribution will be covered by the (hull) insurer in the normal manner according to the rules in § 4-8. If the conditions for a general average adjustment are not met, either because ship, freight and cargo belong to the same person, or because the ship is in ballast, the (hull) insurer will nevertheless cover the ship’s contribution in an assumed general average adjustment under the rules of § 4-9 and § 4-11 respectively.
If the salvor has incurred costs in connection with ”salvage operations in respect of a ship which by itself or its cargo threatened a risk of damage to the environment”, he is entitled to a special compensation from the owner equivalent to his expenses, see section 449, first paragraph, of the Maritime Code, cf. Article 14.1 of the Convention. If the ship has been salved, wholly or in part, such special compensation shall, however, be paid only to the extent that it exceeds the fixed salvage reward, see section 449, first paragraph, 2nd sentence, of the Maritime Code, cf. Article 14.1 of the Convention. However, it is not a condition for claiming special compensation that the efforts were a success in the sense that damage to the environment was prevented or minimized. But, if the efforts were successful, ”the special compensation may be increased by about 30% of the expenses incurred by the salvor”, and if deemed ”fair and just” by ”up to 100%”, see section 449, 2nd paragraph, of the Maritime Code, cf. Article 14.2 of the Convention. This special compensation is not recoverable in the general average adjustment, see Rule VI (b) of the York-Antwerp Rules and, accordingly, will not be covered by the (hull) insurer as part of the ship’s general average adjustment contribution.
It follows from the provision that the assured’s liability for such special compensation is recoverable under insurance of fishing vessels and small freighters according to the rules in the liability section. This is subject to the condition that liability is provided for by section 449 of the Maritime Code of 1994, or rules of law in other countries which are based on Article 14 of the International Convention on Salvage of 1989. Liability may also be provided for in contract clauses which are based on this Convention, see e.g. Lloyds’ Form (LOF 1995) clause 1 (b). Given that liability for special compensation must be regarded as a special rule relating to costs of measures to avert or minimize loss, cf. § 4-12 relating to costs of particular measures taken to avert or minimize loss, liability is not recoverable within the sum insured

under § 17-53, but under the separate sum insured for costs of measures to avert or minimize loss, cf. § 4-18, subparagraph 1, second and third sentences, and the Commentary to § 17-53.

§ 17-41. Stowaways

This paragraph is practically identical to § 231 of the 1964 Plan.

The provision regulates expenses and liability relating to stowaways. The assured's liability and direct expenses resulting from the vessel having stowaways on board are covered. Such liability is first and foremost relevant in the event of deportation, etc., if the stowaways get ashore in a port where they are not wanted.

The term "direct expenses" merely covers "out-of-pocket expenses" in contrast to loss of earnings.

According to the second part of the provision, an exception is made for expenses for board and lodgings which could otherwise have been provided on board. Such maintenance expenses will normally be so low that there is no point in having the insurance cover them.

This provision applies only to "stowaways". It does not cover the situation where the vessel for humanitarian reasons takes refugees on board.

§ 17-42. Liability for fines, etc.

This paragraph corresponds to § 232 of the 1964 Plan.

The insurer's liability for fines is limited somewhat as compared to the 1964 Plan, cf. subparagraph 2. Subparagraph 1 © has furthermore been amended in order to concord with the provision in § 17-34.

According to subparagraph 1 (a), the assured's liability for immigration and customs fines is covered regardless of who has committed the offence. It is sufficient that the assured becomes liable and that liability has been incurred in direct connection with the running of the vessel. This latter requirement will normally satisfied if the assured becomes liable for the conduct of the crew or the passengers, even if the offence has no connection with the service or the vessel. That the assured becomes liable in such cases is a risk in connection with the running of the vessel.

The precondition for the cover is that it is a question of "fines", i.e. a definite penal sanction. Charges in the form of customs duties or taxes are not covered, even if they might be of a certain penal nature.

Letter (b) covers fines resulting from the conduct of the crew. Such fines are covered regardless of the nature of the fine, but the cover concerns only fines caused by the master or the crew. Fines attributable to offences committed by passengers or the assured's people ashore are not covered.

Under letter ©, expenses in connection with deportation orders of the crew, passengers or other persons accompanying the vessel without belonging to the crew are covered. Such expenses are to the assured in effect the same as fines when he is liable for them. The provision concerns all persons who have accompanied the ship, i.e. also persons who are neither passengers nor members of the crew, e.g. an itinerant repairman. However, the deportation of stowaways is covered under § 17-41. The cover also extend tos a deportation which is foreseeable, e.g. where passengers go ashore or crew is signed off in a port where they have no permit of residence and no home journey has been arranged for them.

The cover under subparagraph 1 presupposes that the assured has "liability" for the fine or the expenses, i.e. a personal liability. However, subparagraph 2 extends the cover to include such cases where payment can be enforced by detaining the ship, e.g. by a formal arrest or by denying clearance to depart, or by obtaining security in the ship, e.g. because there is a maritime lien or some other legal mortgage for the claim. A fine for which the assured is not liable and where payment furthermore cannot be enforced is, however, not covered by the liability insurer.

Subparagraph 3 makes an exception to the insurer's liability under subparagraphs 1 and 2 for a certain number of specified fines. Letter (a) excludes fines resulting from overloading of the vessel. By "overloading" is meant that the ship lies lower in the water than the allowed mark, normally due to excess cargo, bunkers, ordinary water or ballast water. The reason for the exception is that overloading entails a significant increase in the risk of damage to ship, cargo and passengers. A similar exception is contained in letter (b) as regards the fact that the vessel has more passengers than allowed.

The exception in letter © concerning illegal fishing has to do with the fact that increased competition combined with reduced fish resources has resulted in an increased risk of excessive fishing. Many coastal states have strict regulations for permitted fishing zones, the use and size of equipment and

prohibition against fishing certain types of fish. Fines resulting from a breach of these rules should not be covered by the liability insurance.
Letter (d) excludes fines resulting from inadequate maintenance of lifesaving or navigation equipment and has as its background the increased focusing on safety. Lifesaving equipment does not only include life boats and life buoys, but also equipment such as life jackets, flares and water tight lights. Maintenance of this equipment includes routine repairs and replacements. By navigation equipment is meant e.g. radar, echo sounder and charts. Most coastal states have minimum requirements regarding the lifesavings equipment which must be on board the ship. Breach of such regulations will normally result in a fine, which is thus not covered under the liability insurance.
The exclusion in letter (e) concerns the flag state's requirement that a ship shall at all times carry the mandatory certificates on board. As far as Norway is concerned, this is a certificate required by the Norwegian Maritime Directorate. According to §17-4 the insurance cover will lapse if the valid certificate lapses. In that event, the exclusion in letter (e) is superfluous. The provision is therefore only relevant where the vessel does have a valid certificate, but it is not on board.

§ 17-43. Liability for social benefits for the crew
This paragraph corresponds to § 233 of the 1964 Plan and Cefor Form 242 A II 3.
Paragraph 1, which is identical to § 233 of the 1964 Plan, establishes that the insurance covers the assured's liability for certain specific social benefits for the crew in accordance with the law or collective wage agreements.
Under (a), the care and maintenance of the crew on shore in the event of illness or injury is covered. The provision reflects the fact that a seaman who has fallen ill or been injured is, under section 28 no. 1, cf. section 27 of the Norwegian Seaman's Act, is entitled to nursing for the assured's account, on board or ashore, for the duration of his service. If he is ill or injured on termination of his employment, he has the same rights for up to 16 weeks. It is only the expenses for care and maintenance ashore which are covered, not on board the ship.
The insurer also covers costs in connection with the crew's travelling, including maintenance to their place of residence in the event of illness or injury or following a shipwreck, cf. letter (b). A seaman who is left in a Norwegian or foreign port due to illness or injury, or who on signing off suffers from an illness which would have made signing off necessary, is under section 28 no. 3 of the Seaman's Act, entitled to a free return with maintenance to his home for the assured's account. If his service terminates as a result of a shipwreck or condemnation, the seaman is entitled to a free return journey with maintenance to his home, cf. section 18 of the Seaman's Act.
According to letter © costs in connection with the funeral and sending home of the urn and the deceased's effects are covered. An assured is obliged to cover such expenses if a seaman dies whilst still in service or whilst he is entitled to nursing or whilst he is travelling for the assured's account, cf. section 31 of the Seaman's Act.
Subparagraph 2 is practically identical to Cefor Form 242 A II 3, second sentence, and establishes that no deductible shall be calculated in respect of compensation under § 17-43, unless this has been specifically agreed.
Cefor Form 242 A II 3, first sentence, limits the insurer's liability to the part of the costs which exceeded the benefits from public social security schemes. This provision has been moved to § 17-46, subparagraph 3.

§ 17-44. Travelling expenses for replacement crew
This paragraph is practically identical to § 234 of the 1964 Plan.
The first sentence establishes that the insurer shall cover the necessary expenses of a replacement, and is based on the fact that a number of countries have rules concerning minimum manning and refuse to let a ship leave a port unless these requirements are met. If the master or an officer of a ship dies or falls ill, it may therefore be necessary to have a replacement in order for the ship to be allowed to leave the port. The cause of death, injury or illness is irrelevant, but the illness or injury must be the primary reason for the termination of service.

It is only the expenses of the outward journey that are covered, but the place of departure is irrelevant. The cover includes all expenses, e.g. ticket, maintenance, accommodation during the journey, etc. The cover is, however, subject to the condition that the expenses are deemed "necessary". If an acceptable replacement can be found locally, the assured does therefore not have the right to send a replacement from elsewhere at the insurer's expense.
The second sentence restricts the cover further. Only travelling expenses to first port of call following the death, or the port where the person in question signed off, even if the replacement is in actual fact sent to a port further away.

§ 17-45. Disinfection and quarantine expenses
This paragraph is almost identical to § 235 of the 1964 Plan.
The first sentence deals with the cover of the costs of quarantine orders and disinfection of the ship. By "quarantine orders" is meant orders from public authorities, and the expenses are "necessary" to the extent that they must be incurred in order to comply with the order. The reason for the order is irrelevant. It may be a relevant danger of infection or a general fear of infection.
The cover of necessary expenses in connection with the disinfection of ship or crew is limited to cases of infectious diseases on board and does thus not cover extermination of insects, bugs, vermin, etc. Nor does it apply to preventive measures, unless they constitute measures to avert or minimise loss.
Under the second sentence, operating expenses during the stay will not be covered. Loss of time and other consequential losses will also fall outside the scope of cover.

Chap 17 - Section 7 Limitations of the liability insurance
General
The provisions in this section are to a large extent based on chapter 18 of the 1964 Plan, but it has on certain points been supplemented with the solutions of the General Conditions.

§ 17-46. Limitation due to other insurance, etc.
This paragraph corresponds to § 238 of the 1964 Plan, Cefor Form 242 A II 1 and 3 and 5 (d).
Subparagraph 1 is almost identical to § 238 of the 1964 Plan, with the exception of two additions: (a) also refers to the hull insurance rules in chapter 17, and in letter (b) an addition has been incorporated concerning liability for towage of vessels which belong to the same fishing team, taken from Cefor Form 242 A II 5 (d).
The definition in letter (a) concerns losses which according to their nature are insurable under a hull insurance according to part II of the Plan, or part IV, chapter
17, sections 1-5, or other large-ship insurance in part III of the Plan. The provision gives a strictly complementary delimitation between the liability insurance and the above mentioned insurances. It is irrelevant whether the insurance in question has in actual fact been effected or whether it is limited quantitatively so that the assured will not get full cover, cf. "according to their nature". This applies both in relation to limitations which follow from the actual standard conditions, and limitations which follow from individually agreed deductions or deductibles. However, an important exception to this rule concerns collision liability, cf. below.
Of decisive importance is further the cover according to the Plan's provision. If the assured has taken out an insurance on conditions which afford a cover inferior to that of the Plan's provisions, this will accordingly not result in any extension of the scope of cover of liability.
Overlapping between hull cover and liability cover occurs, partly where the liability insurer covers damage to or loss of the assured's effects, and partly where the hull insurance covers the assured's liability, see further Brækhus/Rein: Handbook of P&I Insurance, pp. 248 et seq. The most frequently occurring overlapping situation concerns collision liability, where the hull insurer according to § 13-1, cf. § 17-15, covers liability in connection with "collision" causes by the vessel with accessories, equipment and cargo, or tug used by the vessel. However, this cover is subject to a whole series of limitations, cf. § 13-1, subparagraph 2, § 17-15, subparagraph 2, and §17-16, where the liability insurer comes in (with the exception of § 13-1, subparagraph 2 (a), cf. below). In addition, the liability insurer covers liability which

is not covered by the rule in § 13-1, cf. § 17-15. Reference is here made to the Commentary on § 13-1 and § 17-15, and to Brækhus/Rein 1.c. pp. 250 et seq.

According to letter (b), first sentence, the liability insurer does not cover losses as mentioned in § 13-1, subparagraph 2 (a), i.e. liability which arises while the vessel is engaged in towage, or which is caused by the towage, unless it is a salvage operation. The reason for this exclusion clause is the increase in the collision risk which arises when the insured vessel engages in towage. The second sentence, which is taken from Cefor Form 242 A II 5 (d), however, modifies this exclusion as regards liability incurred during towage of a vessel belonging to the same fishing team.

Letter © concerns losses as mentioned in § 4-16 and contains a delimitation in relation to fire insurance, cargo insurance or other general insurance. According to §4-16, the liability insurer will in certain cases be liable for damage to the assured's own property. However, also on this point, the liability insurer's liability is strictly complementary to general insurance. Losses which according to their nature are insurable under the said general insurances fall outside the scope of the liability insurance. The provision means that the assured normally may not claim compensation for damage to his own cargo according to § 17-36. Such damage could have been covered by a cargo insurance.

Subparagraph 2 represents an important exception to the principle that liability insurance is complementary to hull insurance. The liability insurer covers collision liability which exceeds the amount which the assured may claim under a hull insurance with a sum insured which is equivalent to the full value of the vessel. The liability insurance here provides a complementary excess cover of the assured's collision liability. The provision is identical to the 1964 Plan, with the exception that the word "ship" has been replaced by "vessel".

The excess cover concerns liability in excess of "the amount which according to §13-3 is recoverable under a hull insurance with a sum insured that covers the full value of the vessel". The "full value" of the vessel means the value (normally the market value) at the time the casualty occurs, not the insurable value in relation to the hull insurance, which is the full value of the interest at the inception of the insurance, cf. § 2-2. However, the assessed hull value will be relevant as an element in the assessment of the real value. If the vessel is undervalued, the excess cover does not apply to the amount between the assessed hull value and the "full value" of the vessel.

Subparagraph 2, second sentence, provides a separate rule regarding collision liability for collision with the assured's own vessel, cf. § 4-16. For excess collision liability for sister ships, a deduction will be made for amounts which could have been covered under insurances as mentioned in letters (a) and (c). On this point the cover is thus subsidiary also in relation to insurances mentioned in letter (c).

Subparagraph 3 is taken from Cefor Form 242 A II 1, third sentence, and 3, first sentence, but has been rewritten and simplified, patterned on subparagraph 1. The provision makes the liability insurance partly subsidiary, partly complementary, in relation to benefits from the Norwegian National Insurance, pension schemes, the Occupational Injuries Insurance and other personal insurance benefits funded by the liable employer. The provision comes in addition to the protection against liability for personal injury which the assured, and hence the liability insurer, already have under Norwegian law pursuant to section 3-1, subsection 3, and section 3-7 of the Compensatory Damages Act, and which entails that a deduction shall be made in the claims settlement (on an exact amount basis or on a discretionary basis) for the relevant benefits, at the same time as the assured will normally not have any liability to the party who makes the payments. However, the delimitation in subparagraph 3 goes further than the rules of the Compensatory Damages Act.

The provision applies to any type of personal injury, regardless of who the injured party is, and therefore covers any liability for personal injury covered under § 17-35. In addition, it applies to the liability for social benefits for the crew, cf. § 17-43.

According to letter (a), the cover has been made subsidiary to national insurance benefits and benefits from employee or occupational pension schemes. The deciding factor here is the actual amount which the injured party receives from the said schemes. The provision applies only to "employee or occupational" pension schemes. Private pension insurance agreements which the injured party might have therefore fall outside the scope of cover.

As regards benefits covered by insurance agreements which are mandatory under collective wage agreements and which are funded by the liable employer, the cover of liability has, however, been made

complementary, cf. letter (b). The provision is relevant where the assured becomes liable for persons for whom he is the employer, i.e. the vessel's crew and any other employees who might be injured in connection with the running of the vessel. If the assured in his capacity of employer has neglected to take out the mandatory insurance, defaulted on payments of premium, etc., and therefore does not obtain a deduction for these benefits in accordance with section 3-1, subparagraph 3, of the Compensatory Damages Act, the assured must cover this part of the liability himself.
Letter © makes the cover of liability complementary to the occupational injury insurance. According to section 3 of the Occupational Injury Insurance Act, an employer is obliged to take out insurance to cover industrial injuries and industrial diseases for his employees. Losses which according to their nature are covered under this insurance are removed from the liability cover. This applies both in relation to the assured's own employees, to persons whom the assured uses in the service of the vessel, but for whom the assured is not an employer, and for total outsiders, e.g. an injured party on an oncoming vessel in connection with a collision. As regards the industrial injuries insurance, the assured therefore bears the risk that other employers have in actual fact fulfilled their obligation to take out insurance. In practice, the injury will be covered by a pool arrangement if no industrial injuries insurance has been taken out. In view of the fact that the insurance companies involved have recourse against both the employer and the party causing the injury (the assured), cf. sections 7 and 8 of the Industrial Injuries Insurance Act, cover under the assured's liability insurance may give the industrial injuries insurance company a motive for a recourse claim against him. However, such injuries should remain with the employer or with the industrial injuries insurance companies jointly.

§ 17-47. Safety regulations/Re. § 3-24 and § 3-25
This paragraph corresponds to Cefor Form 242 A III.
Cefor Form 242 A III 1 (a) and 2 (b) contained a detailed regulation of the exclusions of liability which the assured's contracts of affreightment and shipment documents were to contain. The provision was partly in contravention of the rules of the Norwegian Maritime Code of 1994. During the Plan revision it was decided that there would not be much point in preparing a new and detailed safety regulation adapted to these rules. Instead a simple model was chosen patterned on the limitation of liability rule in inter alia Gard's Conditions, but in the form of a safety regulation. The assured's duty to incorporate disclaimers of liability is now tied directly to his right to exclusion of liability and limitations of liability according to current rules of law.
By "current rules of law" is meant the rules in force in the State where the liability arises, as well as relevant international conventions. As far as Norway is concerned, the rules are today first and foremost contained in sections 171 ff. of the Norwegian Maritime Code.
In view of the fact that this is a special safety regulation, the loss of cover is subject to the condition that the assured or anyone who on his behalf is obliged to comply with the regulation, has been negligent, and that there is a causal connection between the negligence and the liability, cf. § 3-25, subparagraph 2.
Cefor Form 242 A III 2 (a) contained a regulation to the effect that passenger vessels must be approved for the conveyance of persons. This provision is unnecessary, because such a requirement already follows from § 3-24, cf. § 3-25, which requires the assured to comply with public regulations.
Cefor Form 242 A II 1 (b) contained a safety regulation relating to the delivery of goods without presentation of bill of lading. The provision is superfluous in view of the limitation of the liability for wrongful delivery under § 17-37, second sentence, and has therefore been deleted.

§ 17-48. Privity of the assured
This paragraph corresponds to § 239 of the 1964 Plan and Cefor Form 242 A II 4.
Subparagraph 1 is identical to § 239, subparagraph 1, of the 1964 Plan and regulates the event insured against caused by a negligent act or omission. The provision supplements and modifies §§ 3-32 et seq. It follows from § 3-32 that the insurer does not cover liability which the assured has intentionally caused, whereas in the event of gross negligence a reduction may be made under § 3-33. However, under § 17-48, the rules have been made stricter: the insurer is completely free from liability if the assured has brought about the loss by gross negligence, or on the basis of a negligent understanding of rules of law

or contractual terms. The reason is the very comprehensive liability cover, inter alia in view of the fact that the insurance covers the assured's contractual liability.
The deciding factor according to the first alternative, is that the loss was "brought about" by the assured "by a grossly negligent act or omission". The assessment of the negligence shall therefore be tied to the act or omission, and not to the consequent damage. The gross negligence is not required to have been deliberate.
The second alternative is a special rule relating to mistake of law in connection with the performance of a contract. In such cases the criterion gross negligence is often difficult to apply. In a business context the assured will often have to take chances, and he may not automatically be deemed to have been grossly negligent if he chooses a solution which may lead to liability. He makes his choice between the various possibilities based on an evaluation as to what will give him the best result. If he is lucky, the profit is his. If he is unlucky, he should not be entitled to transfer the loss to the liability insurer. The rule acquires special significance in relation to so-called "liberty" clauses in charterparties, i.e. deviation, ice, war or strike clauses.
Conception of law is "wrong" when it is in contravention of clear law or practice. That the understanding is "uncertain" means that it is disputed, so that one must be prepared that the courts resolve the issue in the disfavour of the assured. It is not decisive whether arguments may also be submitted in favour of the assured.
Subparagraph 2 is taken from Cefor Form 242 A II 4, and gives special rules for an assured who is a master of the vessel (the master owner) or a member of the crew. The provision in the Special Conditions was difficult to understand and also created problems in relation to the provisions relating to master owner, etc. in § 3-22, subparagraph 1, and § 3-25, subparagraph 1. The provision has therefore been amended and patterned on § 3-22 and § 3-25, subparagraph 1, without this entailing any major changes on points of substance. Reference is furthermore made to the explanatory notes to § 3-22, subparagraph 1, second sentence, and § 3-25, subparagraph 1, second sentence.
§ 239, subparagraph 2, of the 1964 Plan established that the insurer was not liable if the loss was a consequence of a defect in the ship, which affected its seaworthiness and which might threaten its safety or endanger human lives, or a consequence of a similar defect in the moorings inadequate supervision while the ship was laid up, provided that the assured was, or ought to have been, aware of such defects and had failed to remedy them. The same applied if the assured knew, or ought to have known, that recommendations had been issued in respect of the ship by a classification society or a public ship control and had failed to comply with them. The provision was to a large extent superfluous given the seaworthiness rule in § 3-22. Nor did it fit in very well with the regulation of recommendations from classification societies in § 3-24, subparagraph 2. It has therefore been deleted.
Under § 239, subparagraph 3, of the 1964 Plan the assured's own conduct was to be judged according to the laws and standards of his own country. Also this provision has been deleted. It creates problems in relation to the jurisdiction and choice-of-law clause in § 1-4.

§ 17-49. Rights of the insurer in the event of liability
This paragraph corresponds to Cefor Form 242 A IV.
Cefor Form 242 A IV contained detailed provisions regarding the assured's duties in the event of liability. However, most of these rules had their parallels in other rules in the Plan and have therefore been deleted. This applied to no. 1 relating to assessment of damage to fishing gear in order to prevent the gear from being dumped and evidence removed. Such a duty follows from § 5-9, no. 2, subparagraph 1, regarding the assured's duty to notify the insurer, which follows from § 3-29 and § 5-9, no. 2, subparagraph 2, first sentence, concerning the duty to obtain information and document and limit the claim. These duties follow from § 3-30, § 5-1, § 5-9, § 5-15 and § 5-16, no. 2, subparagraph 3, which required the assured not to admit to any duty to pay compensation or to negotiate such a duty without the insurer's consent, unless it was a case that had been subjected to mediation before the Norwegian Fisheries Inspectorate and the amount was less than NOK 10,000. This is superfluous in addition to § 4-17, subparagraph 3, no. 2, subparagraph 4, to the effect that the insurer conducts the case and covers litigation costs. This is based on § 4-4 and § 5-10. No. 2, subparagraph 2, last sentence, contained a rule to the effect that the assured had a duty to seek an amicable settlement with the injured party if the insurer

so requested. The provision has no direct authority in the Plan, nor is it in accordance with ICA, and it has therefore been deleted.
However, no. 2, subparagraph 5, of the Special Conditions, has been retained, cf. subparagraph 1. By the term "the liability amount" is meant the lowest of the injured party's claim, the limitation amount under the law and the insurer's maximum liability under § 17-53.
Subparagraph 2 is taken from no. 2, subparagraph 6, of the Special Conditions and refers to the mandatory provision in ICA section 7-8 of ICA The fact that the injured party does not otherwise have a direct claim against the insurer appears from § 4-17, subparagraph 1.

§ 17-50. Liability for loss occurring during other transport, etc.
This paragraph corresponds to §§ 242 and 243 of the 1964 Plan.
The provision has on certain points been rewritten in order to take into consideration the changes that have taken place in the mandatory carrier liability through the Norwegian Maritime Code of 1995. Letter (a) refers to sections 254 and 274 of the Maritime Code, while letter (b) refers to section 285 of the same Act. The provision must also be seen in conjunction with the basic principle in § 17-34 to the effect that the liability insurer only covers loss occurred in direct connection with the running of the insured vessel.
Letter (a) excludes liability for cargo occurring during the period prior to loading or after discharging or during transport to and from the ship covered by the insurance when the cargo is not in the carrier's custody. If the cargo is in the carrier's custody, e.g. where it is carried out to the ship in the carrier's boats, the assured will be liable under section 274 of the Norwegian Maritime Code, and the liability must normally be deemed to have occurred in direct connection with the running of the vessel. For passengers a corresponding distinction shall apply according to letter (d).
It follows from letters (b) and (c) that the assured's liability to passengers and cargo is not covered while passengers or cargo are in transit with or in the custody of another carrier. As far as the cargo is concerned, it follows from section 285, subsection 2, of the Norwegian Maritime Code that the assured can in such cases normally disclaim liability. The same follows from section 431, subsection 3, of the Norwegian Maritime Code as regards passenger transport.
§ 243 of the 1964 Plan contained a provision relating to liability for loss occurred during storage. This has now in reality been incorporated in letters (a) and (b) and has therefore been deleted.

§ 17-51. Limitation of liability for fishing vessels
This paragraph is identical to Cefor Form 242 A II 5 (b).
The provision refers to the "knock-for-knock" principle which is mentioned in the Commentary on § 17-8 and § 17-15. When several vessels are fishing together in the same fishing team or as pair trawlers, damage to the assured's own and other vessels with accessories and catch is foreseeable. It is therefore more expedient for the individual owner to cover damage to his own object, possibly via his hull insurance, rather than having a claims settlement in connection with the liability insurance.
Cefor Form 242 A II 5 (a) is incorporated in § 17-34, subparagraph 1, second sentence.
Cefor Form 242 A II 5 (d) is incorporated in § 17-46, subparagraph 1 (b).
Cefor Form 242 A II 5 © contained a rule to the effect that the insurer did not cover liability resulting from the vessel or the fishing team to which it belonged having breached the rules of the Act on Salt-Water Fishing, etc. of 3 June 1983 no. 40, chapter V. It was not quite clear whether the rule was to be deemed a safety regulation or an absolute limitation of liability. However, chapter V contains rules regarding operations in the fishing field, and under the Plan system it is natural to regard the provision as a safety regulation. In that case, it is superfluous. It follows from § 3-24 that any statutory provision to prevent loss constitutes a safety regulation under the Plan. The provision has therefore been deleted.

§ 17-52. Limitation of insurer's liability for measures to avert or minimise loss This paragraph is almost identical to § 245 of the 1964 Plan. Basically the liability insurer covers costs of measures to avert or minimise loss according to the rules in §§ 4-7 et seq. Provided that the conditions are met, the insurer will be fully liable regardless of the nature of the loss, damage or expenses in question. As regards liability insurance, however, § 17-52 contains a number of restrictions to this principle. The provision must be regarded as a continuation of the restrictions which follow from § 4-12 concerning particular

measures to avert or minimise loss. This means that it cannot be interpreted antithetically, but must be supplemented with § 4-12.
Letter (a) is based on the point of view that proper loading and stowage is an operating expense which the assured shall pay himself. This also applies if the work is initially done so inadequately that is has to be done over again. The vessel may be "too heavily loaded" without being overloaded in the ordinary sense.
Letter (b) excludes costs of measures which were or could have been taken by the vessel's crew or by the proper use of the vessel or its equipment. Typical costs here are wages and overtime of the crew and bunkers consumption. If such costs were to be covered as costs of measures to avert or minimise loss in all cases where the measures must be regarded as unforeseeable or extraordinary, cf. § 4-12, this could result in an unnecessarily complicated settlements. The distinction between operating costs and costs of measures to avert or minimise loss is often difficult to make. Certain costs shall be regarded as operating costs even if they are incurred by measures which, seen in isolation, are unforeseeable or extraordinary, e.g. a minor deviation to avoid a storm centre. It is therefore important to have an inflexible rule in order to reach a conclusion. The provision entails that costs as mentioned in letter (b) are not covered, even if the measures are of an extraordinary nature or are qualified as unforeseeable. Wages and bunkers in connection with a port of refuge call in order to recondition the cargo shall therefore not be covered. As regards the use of the vessel, it is, however, a condition that it is "justifiable". If it is necessary to force the engine so that there is a deliberate risk of damaging it, the costs of potential damage shall not be covered. Similar considerations apply to the exclusion in letter (d).
Letter © entails that the liability insurer will not cover as a cost of measures to avert or minimise loss the liability the assured may incur if such by such a measure delays the vessel.

§ 17-53. The sum insured as a limit to the insurer's liability
This paragraph corresponds to Cefor Form 242 A I 4.
The provision is taken from Cefor Form 242 A I 4, but has been amended in accordance with the other rules of the Plan, cf. § 4-18. The limitation also applies if the injured party files the claim directly against the insurer. If the assured, according to current rules of law, is entitled to limit his liability to the injured party, obviously also the insurer is entitled to invoke this limitation vis-à-vis the injured party.
The sum insured applies only to the actual liability for compensation associated with the casualty. If costs of measures to avert or minimise loss have also been incurred, special rules shall apply in accordance with § 4-18, subparagraph 1, second and third sentences.
Subparagraph 2 is new and specifies that payments under § 4-19 are made in addition to the maximum amount of the policy.
§ 17-54. Deductible
This provision corresponds to Cefor Form 242 A II 7.
In accordance with the other deductible provisions of the Plan, the actual amount of deductible has been removed from the provision.

Chapter 18. Insurance of offshore structures

General
The chapter is new in the Plan and is based on Oil Risk Pool Form No. 6/Cefor Rig Form No. 1 A, and certain Special Conditions. The references to the Special Conditions concern Cefor Rig Form No. 1 A. The Commentary is partly taken from Norwegian "Conditions for Hull Insurance of Drilling vessels with Commentary" of 1975.
Cefor Rig Form was written in English. It was not considered expedient to have English conditions in the Norwegian version of the Plan, and it was also natural to give the conditions a "Norwegian" form. A number of formulations in the Special Conditions have therefore been simplified or deleted altogether, either because they are seen as unnecessary repetitions or superfluous alongside the other provisions of the Plan. The fact that a formulation has been changed does not therefore necessarily mean that changes on points of substance have been made. Changes on points of substance will appear from the Commentary on the individual provisions.

A number of the Special Conditions have become superfluous after insurance of offshore structures has been incorporated in the Plan. This applies to II, 1, 2 on nuclear risk, II, 2, on interventions from State Powers, II, 3, on information from classification societies, II, 5, on responsibility for measures to avert or minimise loss, II, 6, 1, on loss in connection with measures to avert or minimise loss under another insurance, II, 7, on venue, II, 10, on interest insurances, II, 14, on costs to expedite repairs, II, 15, on removal, II, 18, on foreign currency, II, 19, on interest, II, 20, on change of ownership, II, 21, on change of class, II, 22, on time-limit for repairs, II, 23, on duty of notification, II, 24, on limitation, II, 25, on fraud in connection with claims settlements, IV, on trading limits, and V, on return of premium.
Cefor Rig Form II, 13, established that § 176 letter (l) shall not apply. This provision has been deleted in the Plan and the exclusion has accordingly become superfluous.

Section 1 Hull insurance

§ 18-1. Scope of application and applicable rules
This paragraph is new.
The first sentence establishes that it must appear from the policy that the insurance is effected in accordance with chapter 18. The background to the rule is the fact that there is no clear distinction between ordinary ships that are insured under the general hull insurance conditions of the Plan, chapters 10-13, and offshore structures that are insured in accordance with chapter 18, cf. what is stated about the distinction between “ship” and “vessel” in connection with § 17-1. If hull insurance has been effected without any specification that the rules in chapter 18 shall apply, it must therefore be taken as a basis that this is an ordinary hull insurance. This must apply, even if the insurance is effected for a structure which could have been covered under chapter 18.
Cefor Rig Form was associated with insurance of “mobile offshore units”, and defined this term in I, 1, (1) as “mobile units used in connection with the exploration or exploitation or storage of natural resources of the seabed or the subsoil thereof, or in aid of such activity”. However, this definition has no legal significance in relation to the rules in the Plan and have therefore been deleted. It will therefore be up to the parties to decide whether an offshore structure shall be insured in accordance with the rules in chapter 18.
In practice, however, chapter 18 will first and foremost be used for vessels and other mobile installations that are used for the exploration for, exploitation or storage of natural resources of the seabed, or in support of such activity. The designation of the insurance as an insurance of “offshore structures” means that it accordingly covers both various forms of vessels operating on the continental shelf, and various forms of mobile installations. It is irrelevant whether the structure is designed like a ship and is a ship (e.g. a drilling vessel or production vessel), or if it falls outside the normal ship’s concept, e.g. jack-up or semi-submersible structures / installations.
According to the definition in the Special Conditions, it was a prerequisite that the structure was “mobile”. Fixed or stationary installations, e.g. platforms resting on poles rammed into the seabed, where thus not included. Nor did the rig conditions cover other types of stationary facilities, e.g. pipelines. Chapter 18 is not based on any such absolute distinction between mobile and stationary facilities or structures. The normal situation will nevertheless be that mobile installations are insured on Plan conditions, while fixed installations are insured under a more comprehensive energy insurance. By fixed installations are thus meant steel-fixed or concrete-fixed installations which are placed in the field to be used throughout the life of the field. However, there is no point in drawing a sharp line between a mobile and a fixed installation.
The second sentence states the rules applicable to insurance under chapter 18, section 1. In addition to chapter 18, the rules in the hull part of the Plan (chapters 10-13) shall apply to the extent that they are not departed from in chapter 18. The general part of the Plan (chapters 1-9) shall obviously also apply. However, it is not necessary to state this explicitly. Cefor Rig Form I, 2 contained a provision to the effect that insurance of drilling rigs, etc. was effected on full conditions in accordance with §10-4 of the Plan. This provision is superfluous when reference is made to the ordinary hull conditions, because it appears from § 10-4 that the insurance is regarded as effected on full conditions, unless otherwise provided.

§ 18-2. Objects insured/Re. § 10-1

This paragraph corresponds to Cefor Rig Form I, 3.

Cefor Rig Form I, 3 contained partly rules relating to the objects insured, partly rules relating to insurance of objects removed from the vessel. This provision is divided into two and patterned on § 10-1 and 10-2. § 18-2 regulates the objects of the insurance, while the cover of objects removed from the structure is contained in §18-3. Furthermore, the rules represent a retention of the Special Conditions, but the cover is somewhat extended.

Letter (a) is taken from the Special Conditions I, 3 (1), first sentence. The insurance first and foremost covers the structure stated in the policy. The type of structures which are normally covered under this chapter are described in further detail in § 18-1.

Damage to or loss of the structure will first and foremost affect the owner, and he is the primary assured. Any mortgagees are automatically co-assured under the rules in chapter 7. However, a number of other persons will be co-assured under the policy, see § 18-9, subparagraph 2, and chapter 8 of the Plan. The owner will also normally be the person effecting the insurance. However, insurance under chapter 18 can also be effected by others, e.g. a lessee or a contractor. In those cases the owner will normally be co-assured.

As a rule, a separate insurance will be effected for each individual structure, but several structures may also be insured collectively. If the same policy is to cover several structures, an (assessed) insurable value will be stated for each structure. A natural interpretation of such assessment is that each structure shall be regarded as being insured separately. However, to avoid any misunderstanding, this should be stated explicitly in the policy. A corresponding interpretation is natural where separate insurable values are agreed for equipment, machinery, etc.

The fact that the individual structures (possibly parts of a structure) are insured separately, will in the first place be of significance in case of a total loss. It will be sufficient that the conditions for compensation for total loss (e.g. the condemnation conditions) are met for the individual entity. The same applies to § 6-3 on premium in the event of total loss. Further, a deductible according to § 18-13 shall be calculated separately for each entity.

According to letter (b), which is taken from the Special Conditions I, 3 (1) and (3), the insurance also covers machinery, equipment and spare parts for structure, machinery and equipment. The term “spare part” is new, but concords with the conception in practice that equipment included spare parts.

The first sentence of letter (b) is taken from the Special Conditions I, 3 (3), but has been rewritten in accordance with § 10-1. The provision establishes that it is only machinery, equipment and spare parts which belong to the assured, or which have been borrowed, leased or purchased with a sales lien or similar reservation, which are covered. The provision reflects the fact that equipment used in the petroleum industry often has different owners. It may belong to the owner of the structure, the licensee for whom the structure is carrying out a contract, a charterer of the vessel or an independent contractor. Often certain parts of the equipment will belong to one party, while other parts of the equipment will belong to others.

The Special Conditions provided that the cover applied to objects which were “in the care, custody or control” of a person who was co-assured according to II, 9, viz. “owners, charterers, drilling contractors, and operators of the insured unit”. It is, however, more expedient to state the association with the object by means of the same terminology as in § 10-1, and this hardly entails any change on points of substance. This solution also makes it unnecessary to refer to the co-insurer’s provision in § 18-9, subparagraph 2. The term “assured” automatically included anyone who is co-assured under the insurance. In other words, all equipment on board which is either owned by or in the care, custody or control of the co-insured persons in their capacity of borrower, lessee or purchaser under a vendor’s lien, is covered by the insurance.

If the person operating the structure leases the equipment and operates the equipment himself, the owner of the equipment will normally be co-assured. By contrast, a firm or a person who or which is subcontracted by the contractor and operates his or its own equipment, e.g. a divers’ firm with its own diving equipment, will normally not have the position of co-assured. If, as an exception, such a firm should have such status, the equipment will be covered under § 18-2 (b). On the other hand, equipment which belongs to the crew of the structure will always fall outside the scope of cover.

Item (2) in letter (b) has been rewritten in relation to the Special Conditions. According to these, the rule was that machinery and all equipment, with the exception of drilling equipment, were required to be on board, whereas the drilling equipment was covered also “while above water, under water or in the drilling hole”. Such definition was natural as long as the cover mainly concerned drilling vessels. In view of the fact that the cover has now been extended to cover off-shore structures in general, there is, however, a need to cover also other equipment while used during various operations away from the actual structure, in particular because part of this equipment is very costly. The extension of the cover to include while “above water, under water or in the drilling hole” has therefore been generalised.

Given that all equipment is covered, it goes without saying that this includes drilling equipment, even if this is not explicitly mentioned. The drill string and safety equipment against blow-outs located in the water are therefore also covered. However, the cover of the drill string is subject to important limitations, see § 18-11.

The provision will not cover suction anchors, piggybacks, auxiliary or buoyancy buoys or blow-out preventers which are either left on the seabottom when the structure leaves the place of operation, or which are launched in advance, e.g. before drilling. Anchors, anchor chains, etc. which are launched in advance are, however, covered under § 18-3, subparagraph 1 (b), and for blow-out preventers an extended cover is given in § 18-3 (c).

Letter © is new, but concords with § 10-1, subparagraph 1 ©, according to which the hull insurance covers bunkers and lubricating oil on board.

Subparagraph 2 contains certain limitations of the cover of accessories. The provision concords with the Special Conditions, but has been simplified. Letter (a) is taken from the Special Conditions I, 3 (4) (b), and excludes, in accordance with the principle in § 10-1, subparagraph 2, of the Plan certain articles of consumption from the scope of cover. The assumption is that such articles will be covered under a special equipment insurance. The Special Conditions also excluded bunkers and lubricating oil. However, in accordance with the principle in § 10-1, the cover has been extended to such objects.

The Special Conditions I, 3 (4) (a) contain a corresponding rule specifically aimed at drilling operations, and excluded pipes for casing and tubing, drilling mud, cement, chemicals and other materials or supplies intended for use in connection with such operations. However, this rule is superfluous, given the explicit exclusion “other articles” than those listed “intended for consumption” and has therefore been deleted, without this entailing any difference on points of substance.

Letter (b) is taken from the Special Conditions I, 3 (4) (c), and excludes helicopters from the cover. Helicopters may be covered by the term “equipment ... on board” in subparagraph 1 (b), and in the absence of a specific exclusion, they could therefore come within the scope of cover, provided they were owned, etc. by one of the assured. However, the natural solution is for helicopters with equipment and spare parts to be covered under a separate aircraft hull insurance. In the Special Conditions the exclusion was limited to helicopters stationed on board. However, the exclusion should be general and also cover helicopters which land on the structure due to, e.g. engine problems.

Letter © excludes “blueprints, plans, specifications, logs, etc.”. The provision is taken from the Special Conditions I, 3 (4) (d), but the exclusion for “blueprints” is new. On the other hand, the Special Conditions also covered “copies”. This is now covered by the term “etc.”, which is added after “logs”. The exclusion covers various documents which may be of considerable value (in particular the logs kept of drilling operations may contain very valuable information about the geological structure of the seabed and accordingly concerning the probability of finding petroleum in the area. The reason why the documents are nevertheless excluded from cover are partly difficulties in assessing their value in terms of money, partly the access which the interested parties have to running transmission of important data to shore.

Letter (d) is new and excludes many submarines and remote controlled vehicles whilst in operation. This type of equipment is basically covered by subparagraph 1 (b), item (2), cf. “under water”. However, the most expedient solution is for such equipment to be covered under a separate insurance, because practice as regards the use of the equipment varies. Submarines, etc. are therefore only covered under the structure’s insurance up until the time where they may be said to be “in operation. Normally, the object is deemed to be “in operation” when rigging, lifting, etc. starts. There is in other words no

requirement that the object shall be removed from the structure in order for it to be deemed to be “in operation”.

§ 18-3. Objects temporarily removed from the structure/Re. § 10-2

This paragraph corresponds to Cefor Rig Form I, 3.

The provision supersedes the provision relating to “insurance of objects removed from the ship” in § 10-2, which does not quite fit in with offshore insurance.

Letter (a) is taken from the Special Conditions I, 3 (2) which provides an “insurance of objects removed from the rig” in respect of machinery and equipment and corresponds to § 10-2 for hull insurance of ships. By comparison with the Special Conditions, the text is simplified, and furthermore extended in accordance with the Special Conditions. Subparagraphs (1) and (2) are taken from the Special Conditions, while subparagraph (3) concerning permanent storage is new.

As in the case of the Special Conditions, this part of the insurance covers in the first place machinery and equipment as well as spare parts for the structure, machinery or equipment, if the objects are on board a “vessel, structure or fixed installation” which is moored to or is in the vicinity of the insured structure and has been used in connection with that structure, cf. subparagraph (1). The Special Conditions used the term “vessels”. On this point a certain expansion has thus been made. However, as in the case of the Special Conditions, the insurance of objects removed from the structure is limited, in terms of function as well as location: It must be a vessel/structure/installation which is used in the operations carried out by the insured structure, and which is either moored to the insured structure or is in its vicinity.

Secondly, the insurance of objects removed from the structure covers machinery, equipment, etc., which are temporarily removed from the structure for repairs, rebuilding, storage, etc., cf. subparagraph (2). In Cefor Rig Form 1 3 (2) this part of the insurance was limited to temporary storage. Also on this point there has thus been a certain extension of cover. The cover includes transport to and from the structure in connection with work or storage as mentioned. However, only objects which have been on board, cf. “removed”, are covered. The scope of cover consequently does not comprise new equipment in storage at the base and in transit for the first time to the structure. However, a certain cover of such objects is provided in subparagraph (3), cf. below. The insurance of objects removed from the structure further does not cover - subject to the exceptions which follow from letters (b) and (c) - equipment which is left behind when the structure has to leave the place of operation temporarily because of repairs of damage, etc.

The third element of the insurance of machinery, equipment, etc., removed from the structure covers storage which falls outside the scope of subparagraph (2). This part of the insurance is new. The cover includes storage of the object, regardless of the purpose of the storage or its duration. Nor is there any requirement that the stored object must be removed from the structure. Also new objects, which were purchased for the structure, but which are kept in storage before being used on board, are therefore included. A fundamental reprequisite for cover is, however, that the object concerned “belongs to” the insured structure. If the object can be used on several structures, and it has not been clearly decided during the storage period that it is going to be used on the insured structure, it must be covered under a separate storage insurance. If an object is purchased and stored with a view to the insured structure, but is later taken on board a different structure than the one insured, the cover will cease under subparagraph (3) as soon as the decision has been made that the object is to be shipped to another structure.

The cover under subparagraph (3) is, however, subject to certain limitations. In the first place to a limitation in amount: the objects in question are covered up to 10% of the sum insured under the hull insurance. This has to do with the fact that practice regarding storage varies considerably, and the insurers need to have control of this part of the cover. If the assured wants more comprehensive cover, a separate insurance must be effected. On the other hand, the insurer is fully liable for any damage up to the stated amount, cf. the fact that § 2-4 relating to under-insurance does not apply.

Secondly, a separate deductible shall be calculated for this part of the cover. The fact that a deductible shall be calculated in the event of damage to stored objects goes without saying. However, the provision relating to a separate deductible becomes significant if one and the same incident should, in exceptional cases, occur to both the structure and the objects stored. In that event, two deductibles must be

calculated in the claims settlement (unless it is a case of total loss). If only one deductible has been agreed, a deduction of twice that amount shall thus be made. If the assured wants a lower deductible for objects covered under subparagraph (3) than for the structure in general, this must be specifically agreed in the policy.
Objects covered under subparagraph (3) shall be kept out of a total-loss settlement concerning the structure. The value of these objects must therefore be deducted from the insurable value in the event of a condemnation settlement. However, objects covered under subparagraph (2) shall be included in the total-loss settlement in the normal way.
Letter (b) is new and extends the cover to "anchor, anchor chain, etc.", which are used for the structure at the operation site. In addition to the anchor, this cover includes buoyancy buoys which constitute an integral part of the mooring system. Further, both anchor chain and other types of moorings, e.g. wires or nylon lines, cf. "etc.", are covered. The cover applies both to the place where the anchor, etc., was launched before the arrival of the structure, and if the anchor is left behind after the structure has departed, e.g. in connection with repairs. Cover is, however, subject to the condition that it is an anchor or anchor chain which forms part of the insured structure's equipment. If the anchor or anchor chain is left behind in connection with a replacement of structures in order to be used by the new structure, they will no longer belong to the insured structure.
Letter © is also new and entails cover of blow-out preventers left on the sea bottom due to casualty or measures to avert such casualty. The provision only covers "blow-out preventers", and not any other type of valve.
Normally a blow-out preventer left behind will be located at the top of the pipes for casing and tubing, but the provision also covers the situation where the blow-out preventer is left next to these pipes. That a blow-out preventer is "left behind" means that a decision is made to leave it.
The cover only concerns the situation where the blow-out preventer is left behind due to a casualty or measures to avert or minimise such casualty. If the blow-out preventer is left behind as part of the normal operation of the structure, it is therefore not covered by the insurance.
The expenses involved in lifting a blow-out preventer left behind are recoverable as costs of measures to avert or minimise loss. Such expenses are incurred for the purpose of averting a total loss of the said preventer.

§ 18-4. Perils insured against/Re. § 2-8 and § 2-9
This paragraph corresponds to Cefor Rig Form II, 1 (3).
The provision contains a limitation in the cover of perils and must be seen in conjunction with the rules relating to perils insured in § 2-8 to § 2-10. The Plan has two main types of perils: "marine perils", cf. § 2-8, and "war perils", cf. § 2-9. The rules in chapter 18 are applicable to insurance against marine perils (section 1), as well as to insurance against war perils (section 3). If no special agreement concerning perils insured against has been made, the insurance will according to § 2-10 only cover "marine perils". There is obviously nothing to prevent one and the same policy from covering marine perils as well as war perils.
An insurance "against marine perils" is basically an "all risk" insurance: The insurance covers all perils to which the interest is exposed, unless specific exclusions are stated. The exclusions from marine perils appear from § 2-8 (a) to (d). In connection with insurance against marine perils the provision in § 18-4 will therefore come as an addition to these exclusions.
By contrast, the perils under an insurance against war perils are "specifically defined", they only comprise the perils enumerated in § 2-9. § 18-4 will here stipulate an exclusion, to the extent that this risk could be deemed to be included in the perils enumerated.
The provision in § 18-4 must also be seen in conjunction with the limitations of the perils insured against which follow from chapters 10-13 on hull insurance, in particular the exclusion for loss due to ordinary use in § 10-3, and the exclusions for damage due to inadequate maintenance in § 12-3, and error in design, etc., in § 12-4.
The provision is a direct translation of the Special Conditions, but has been simplified in that "for the purpose of controlling or attempting to control" is superseded by "for the purpose of controlling". Furthermore, "with another unit" is superseded by "another structure or fixed installation". As regards

the term “structure”, reference is made to what is stated above in § 18-1. From a linguistic point of view, the term may comprise mobile as well as fixed structures. However, to avoid any misunderstanding, “or fixed installation” has been added.
The background to the provision is the risk of blow-outs, i.e. uncontrolled ejecting of drilling fluid through the drilling hole and into the sea or the air, followed by uncontrolled emission of oil, gas or fluid from the well and into the sea or the air caused by a pressure from the underground. Such blow-out will often be followed by a fire. This risk of blow-outs and fires can be eliminated by the drilling of a relief well. It is perfectly conceivable that an insured drilling structure requested to drill one or more such wells in order to assist another structure/installation, and it may, depending on the prevailing circumstances, be natural, or even necessary, for such a request to be complied with. Nautical casualties with subsequent salvage operations are a natural parallel. For the insured structure to embark on a salvage operation will very often represent a relevant alteration of the risk under the hull insurance, cf. § 3-8 and § 3-9. However, according to § 3-12, subparagraph 2, the insurer automatically covers the added risk involved in “measures taken for the purpose of saving human life or by the insured ship salvaging or attempting to salvage ships or goods during the voyage”. A salvage operation which consists in the drilling of a relief well is, however, in a special position. The risk to the salvaging structure may be considerable, and it is first and foremost the licensees’/operator’s interests which are at stake: the risk of the oil well being destroyed and the risk of extensive pollution liability, etc. The consideration of mutuality which may be said to be the background to § 3-12, subparagraph 2, in ordinary hull insurance is missing here. The provision therefore excludes this special “salvage risk” from the perils insured against. This obviously does not prevent the possibility of having the risk covered under a separate agreement, possibly against an additional premium.
The exclusion for the drilling of a relief well must apply, even if the drilling is ordered by the authorities. According to § 2-8 (b), third sentence, “measures taken by a State power for the purpose of averting or limiting damage” are admittedly covered by the insurance, provided the risk of such damage is caused by a peril covered by the insurance against marine perils. However, the provision in § 18-4 must, as a special clause, prevail over the general provision in § 2-8. It is therefore irrelevant for the insurer’s liability whether it is the operator who decides that a relief well shall be drilled, or whether the operator is acting on the instructions of the authorities.
In II, 1 (1) the Special Conditions contained an exclusion for earthquake and volcanic eruption. This has been removed from the Special Conditions and has therefore also been left out in the Plan. In particular, regarding structures operating in the North Sea the limitation was of little practical significance. If the insurers want to reincorporate the exclusion for structures operating in other parts of the world, this will have to be done in the individual policy.

§ 18-5. Alternation of the risk/Re. § 3-8
This paragraph corresponds to Cefor Rig Form II, 4.
The provision is a direct translation of the Special Conditions. The reason is that the storage and use of the stated material is a perfectly normal occurrence during operations on the Continental Shelf and therefore constitutes a foreseeable risk which the insurer can calculate when entering into the contract.
The provision merely states that storage does not constitute an alteration of the risk. It provides no basis for the cover of damage resulting from the use of explosives or radioactive material. Whether such damage is covered, must be decided by the general provisions relating to perils insured against. § 2-8 relating to marine perils contains no limitation concerning damage resulting from storage or the use of explosives. Explosion, fire and other damage resulting from such storage or use must therefore be covered in the normal way, unless the assured has breached any of the obligations in chapter 3. However, § 2-8 (d) contains a general exclusion for “the release of nuclear energy”. If the storage or use of radioactive material causes such “release of nuclear energy”, resulting loss or damage will therefore fall outside the scope of cover. The same applies to insurance against war perils, see § 2-9, subparagraph 2 (b).

§ 18-6. Safety regulations/Re. § 3-24 and § 3-25
This paragraph corresponds to Cefor Rig Form III, 1 and 2.

The provision is simplified in relation to the Special Conditions, and states two safety regulations which must be regarded as "a special safety regulation laid down in the insurance contract" according to § 3-25, subparagraph 2, first sentence.
Letter (a) provides that the drilling hole/well shall be equipped with blow-out preventer(s) which is safety equipment to prevent blow-outs. As mentioned in § 18-4, a blow-out may occur when reaching oil or gas which is under higher pressure than the fluid in the drilling well. The oil or gas will then be pressed up through the hole and into the sea, or even into the air below the surface, unless it is stopped by a blow-out preventer. The result may be extensive pollution damage. It has also happened that the oil or gas has ignited with extensive fire and explosion damage as a result. Some types of loss resulting from such a blow-out will, according to their nature, fall outside the scope of cover under chapter 18, inter alia liability for personal injury and liability in connection with the flowing of oil into the sea. However, also the actual structure may be damaged or become a total loss as a result of a blow-out, e.g. as a result of an explosion or fire. Losses of this nature are normally covered under chapter 18, subject to the exceptions which follow from §18-7, cf. also § 18-4. It is therefore of the utmost importance for the insurers that all reasonable measures are taken in order to prevent a blow-out. Most important of all in this connection is the use of blow-out preventers.
Offshore petroleum activities are normally subject to extensive safety regulation through public regulations, cf. as far as Norway is concerned Regulation on Safety, etc. of 28 June 1985, no. 1215. These regulations also stipulate requirements that drilling and well work shall be carried out in a safe manner, and that a program shall be prepared for the work to be carried out (§§ 46 and 47). According to § 3-24, such regulations are also safety regulations in relation to the insurance contract. By incorporating the rule relating to blow-out preventers in the Special Conditions, the result is, however, that it becomes a "special regulation" in relation to § 3-25, subparagraph 2.
According to the provision it is the "drilling hole/well" which shall be equipped with blow-out preventers. This concords with the Special Conditions, cf. the term "well and/or hole". In accordance with the Special Conditions, the provision concerns only "blow-out preventer(s)" and not other valves, such as production valves and test valves.
Cefor Rig Form III, 1 stated that blow-out preventers were to be in place "in all operations". This wording is slightly unfortunate. There is no point in requiring the installation of a blow-out preventer before this is in effect feasible. The deciding factor as to when the blow-out preventer shall be installed must therefore be what follows from "standard practice". The same requirement applies to the procedures for the installation, the number and the testing of the blow-out preventers. By "standard practice" is meant the procedure which the contractors are normally obligated to follow under contracts when installing blow-out preventers in the relevant area. As a rule "standard practice" will be in accordance with the decisions of the relevant authority, but if standard practice in the industry has stricter requirements regarding certain conduct than what the authorities require, standard practice shall be decisive. As regards the type of blow-out preventer, reference is made to "standard issue".
The safety regulation in letter (a) only applies to structures which are engaged in drilling. If drilling takes place on another structure in breach of the rules in letter (a) and this results in damage to the insured structure, the structure will not loose its insurance cover.
Letter (b) is taken from the Special Conditions' no. 2 but has been significantly amended on the basis of practice. The Special Conditions contained detailed rules relating to the approval of place of operation and removal and the assured's duty to act on recommendations from an institution approved by the insurers. The provision made it necessary to clear every removal with the classification society or the relevant authorities, something that was perceived as cumbersome and costly. In practice special conditions were therefore applied, which allowed removal without approval, provided it was in accordance with the operation manual of the structure, and this manual was approved by the classification society. Departure from the approved operation manual had to be approved by the classification society. However, this type of special conditions presuppose the existence of operation manuals for the structure approved by the classification society or the authorities. This is the case for operations in the North Sea. For operations in other areas, however, the insurer still needs to have control of the removal.

Against this background, it was not considered necessary to maintain the strict and detailed requirements for approval tied to the place of operation and removal. However, in order to give the insurer control of the removal risk, a requirement has been introduced for a "removal plan" patterned on the rules concerning a "lay-up plan" according to § 3-26. Prior to removal, the assured must therefore prepare a removal plan, which shall be approved by the claims leader, cf. letter (b), first sentence. If a operation manual exists which is approved by the classification society or the authorities, it may be used as a basis for the removal plan. If no such manual has been prepared, the requirement for a removal plan entitles the insurer to demand that the classification society or the authorities be brought in to evaluate the question of removal.
The removal plan shall be adhered to during the removal and act as a special safety regulation under § 3-25, subparagraph 2, cf. letter (b), second sentence.
In the Special Conditions the requirements for approval of the removal varied depending on the type of structure in question. On this point the rules have been simplified: The requirement for approval of the removal plan applies to the removal of all types of structures. The term "removal" covers removal from the coast to an area of operation and between areas of operation as well as to removal between places of operation within the same area of operation. Minor adjustments of the location of the structure within an area of operation shall, however, not be regarded as "removal".
If the removal entails a change of the area of operation, both parties may demand an adjustment of the premium according to § 18-8.
In contrast to the Special Conditions, the Plan does not contain any requirement for approval of the place of operation. However, the question of area of operation, i.e. the area within which the structure may operate without any change in premium, must be clarified with the insurer when the insurance is effected, cf. § 18-8. Normally, the places of operation within the area of operation will have been defined by the authorities in the relevant Shelf State. This regulation will in that event automatically function as a safety regulation according to § 3-24. If the insurer also wants to have control of the place of operation, this will have to be incorporated in the policy.

§ 18-7. Measures to avert a blow-out, etc./Re. § 4-7 to § 4-12 This paragraph corresponds to Cefor Rig Form II, 6 (2).
The provision is an almost direct translation of the Special Conditions and limits the insurer's liability for costs incurred in controlling blow-out and cratering, or fire in connection with a blow-out.
As regards the term "blow-out" reference is made to the explanatory notes to §18-4. "Cratering" is an after-effect of a blow-out in that a submarine crater is formed in the subsoil around the well due to uncontrolled emission of oil, gas or fluid. If oil or gas is suddenly released in large quantities, the pressure conditions in the subsoil may change to such an extent that the area around the oil well collapses so that an underwater crater is formed. For a platform resting on the sea bottom (a totally submersible or jack-up structure) such a "cratering" may result in the foundation being pulled away with the result that the platform looses its stability.
Blow-out and cratering, possibly accompanied by fire, will first and foremost threaten the actual oil source. There will often be a risk of the loss of human life and economic assets, in addition to a major potential pollution liability. Normally, extensive measures will be initiated to get the flow of oil under control. However, this is first of all the licensees' responsibility. They are the ones who must bear the liability of any pollution damage, etc., and they are the ones to suffer the loss caused by the destruction of the oil well. Where a structure is brought into the efforts to fight a blow-out, etc., the regard for the safety of the actual structure will often merely be a side motive. If the Plan's rules were to be applied in full in such cases, this would require a discretionary allocation of the overall loss in connection with the salvage operation among the interests at stake for the owner and the licensees, cf. § 4-12, subparagraph 2. Only the portion attributed to the owner would be recoverable from the hull insurer. However, it would not be easy to carry out such an apportionment, first and foremost because the assets at stake for the licensees (including the potential oil pollution liability) are difficult to estimate. The proportion that would be attributed to the owner of the structure would normally be fairly modest. Given that § 18-7 excludes this item from cover, the owner has a strong incentive to secure an agreement with the licensees (in practice the operator) to the effect that they shall cover the costs of averting or minimising

the loss in connection with a blow-out, etc., in full. This is also in concordance with the allocation of risk normally used in drilling contracts.
Only measures aimed at gaining control of a blow-out, etc., are covered by the provision. If a fire has broken out on board the structure as a result of a blow-out, the costs (possibly salvage award) incurred in connection with the fire fighting or the towing of the structure away from the area of danger, will have to be covered by the insurer under the rules in §§ 4-7 et seq. of the Plan.
Cefor Rig Form II, 6 (1) contained a rule about the insurer's right to be subbrogated to the assured's claim against another insurer if a loss was recoverable as a cost of measures to avert or minimise loss with this insurer. This provision has now been incorporated in § 2-7, subparagraph 3, of the Plan.

§ 18-8. The area of operation / Re. chapter 6
This paragraph corresponds to Cefor Rig Form II, 8.
The provision is an almost direct translation of the Special Conditions, and regulates the insurer's right to adjust premiums in the event of a change of the area of operation.
Subparagraph 1 establishes that the area of operation shall appear in the policy. The area of operation is the area within which the structure may operate without any adjustments of premium being required. Often the description will be relatively narrow, e.g. associated with the wells to be drilled during the policy period. However, the description may also refer to the field, e.g. Ekofisk or a larger area, e.g. the North Sea or the Gulf of Mexico. If the assured changes the area of operation, this may, depending on the circumstances, represent an alteration of the risk according to §3-8. The change from one field in the North Sea to another, e.g. from Ekofisk to Statfjord, will normally not represent an alteration of the risk. If, however, the new area of operation is considerably further away, e.g. from the North Sea to the Gulf of Mexico, the result may be different, in particular if the removal must take place during a period with a high climatic risk, or where it involves a structure where towage is particularly risky. If the change of the area of operation represents an alteration of the risk the insurer is entitled to terminate the insurance, cf. § 3-10. If the assured has failed to give notice of the change, and a casualty occurs, the insurer is also free from liability provided that he can prove that he would not have accepted the insurance if he had known about the change. If, however, the insurer would have accepted the insurance even if he had known of the change, but would have agreed different conditions, he will not be liable unless the casualty was not caused by the change, cf. § 3-9.
If the policy does not mention the area of operation, the structure may operate all over the world within the trading area, cf. § 3-15 on the trading area and the appendix to that provision. The removal of the structure from one area of operation to another will in that event not represent an alteration of the risk, as long as the structure remains within the ordinary trading area. However, it follows from § 18-6 (b), first sentence, that any removal of the structure shall be made in accordance with a removal plan approved by the claims leader. This applies irrespective of whether or not the area of operation is stated in the policy. In the event of a breach of such a safety regulation, the insurer may be free from liability according to § 3-25.
Subparagraph 2, first sentence, imposes a duty on the assured to notify the insurer if the structure is to change its area of operation in relation to what is stated in the policy. A removal between areas of operation stated in the policy does not give rise to any duty to notify the insurer, but will still require approval according to §18-6, see above. The provision does not stipulate any sanctions if the assured fails to give notice of the removal. However, the insurer will normally get to know about the removal under any circumstances, so that an increase in premium, if relevant, may be calculated afterwards.
The second sentence authorises both parties to demand an adjustment of the premium in the event of a change of the area of operation, while the third sentence establishes that in the event of an increase in premium, the insurer must notify the person effecting the insurance not later than 14 days after the insurer has received notice of the changed area of operation.

§ 18-9. Waiver of subrogation and co-insurance of third parties / Re. § 8-1 This paragraph corresponds to Cefor Rig Form II, 9.
An insurance effected on the basis of the Plan automatically also covers a mortgagee's interest, cf. § 7-1. However, other third parties' interests are not covered, unless specifically agreed, cf. § 8-1. In connection

with the insurance of offshore structures there is, however, a need for a more extensive cover of third parties' interests than what follows from chapters 7 and 8.

Cefor Rig Form II, 9 resolved this question by making "owners, charterers, drilling contractors and operators of the insured unit" co-assureds under the insurance, cf. subparagraph 1, first sentence. At the same time it was emphasised in the third sentence that the insurer in relation to these co-assureds waived rights of subrogation against those parties. Given that the waiver of subrogation was in this way tied to co-insurance, it was in reality superfluous. Such protection against subrogation is precisely part of the protection which a co-assured has.

To the extent that a co-insured third party has ownership interests or other economic interests in the capital value of the insured structure, machinery or equipment, a co-insurance will, in addition to protection against subrogation, also afford him insurance cover of the said economic interest. That the said persons have such ownership interests is in particular relevant in connection with various types of equipment covered under the insurance of the structure. Where the relevant third parties do not have such economic interest, it is the protection against subrogation, and not the rest of the co-insurance cover, which will be the entire purpose of the co-insurance. The background to the protection against subrogated claims is that the party in question is in such a position that he risks causing damage to the structure or the equipment. At the same time the contract between the owner of the damaged object and the person causing the damage will normally be based on a "knock-for-knock" principle, which means that it is the owner, and not the person causing the damage, who shall cover the damage. The owner has in other words waived the right to hold contractor, charterer, etc., liable for damage which they may cause to the structure or the equipment. The basis of the "knock-for-knock" principle is, however, that the insurer is not entitled to be subbrogated to the assured's claim against the person causing the damage in recourse proceedings, cf. section 4-3 of the Norwegian Compensatory Damages Act and § 5-13 of the Plan. Protection against subrogation under the insurance therefore becomes an important part of the "knock-for-knock" regulation.

During the revision of the Plan it was found expedient to distinguish between those situations where there was merely a need for protection against subrogated claims, and those situations where there was a need for a more extensive co-insurance protection. This has been done by subparagraph 1 regulating the protection against subrogated claims, while subparagraph 2 regulates co-insurance.

According to subparagraph 1, the insurer waives the right of subrogation against any person causing damage who has according to contract excluded liability for damage to the structure and reserved the right to protection against recourse from the insurer. The protection against subrogated claims has in other words been given those persons causing damage who have, on a contractual basis, been given an undertaking that the insurer shall not be entitled to claim against them, and is not given to any specifically named groups of persons. In this way the insurance contract comes in as an extension of the "knock-for-knock" agreements entered into concerning the use of the structure or the equipment in offshore operations. Often the protection against recourse will benefit such persons as mentioned in the Special Conditions, typically contractor, charterer, or licensees in the area of operation in question. However, the protection may also be extended to others, e.g. another contractor/supplier engaged by the licensees (the operator) to carry out certain services or work in connection with the structure.

The provision stipulates the condition that the relevant contractual regulation, where the person causing the damage excludes liability and reserves the right to protection against recourse "is regarded as customary in the activities in which the structure is involved". Implicit in this condition is first and foremost that protection against recourse shall only be reserved for those groups of persons who normally obtain such protection under the contractual system used in the petroleum industry. The question as to what is "customary" must be evaluated, both in relation to the type of activities in question, and in relation to the geographical area where the structure is located. In many areas petroleum activities will normally be based on a "knock-for-knock" principle with extensive and relatively clear and unambiguous rules as to who shall be covered by the regulation. However, it is also conceivable that there are areas where such regulation is not customary, in which event this must be decisive. Reference is furthermore made to the explanatory notes to § 4-15 concerning unusual or prohibited contractual conditions.

The provision does not state who must have entered into the contract with the person causing the damage. This is done deliberately. The protection against subrogated claims may appear from different contracts in the contractual pyramid which are frequently encountered in the petroleum industry, at the same time as these contracts may have been entered into by different groups of persons. The crucial point is that the person causing the damage is, through such a contract, ensured protection against any subrogated claims from the insurer, and not who is his contracting partner under this contract. The protection for the insurer lies in the fact that the protection against subrogation of the person causing the damage shall be in accordance with customary contractual regulation in the industry, see above. If the insurer wants a more narrow protection against subrogation, he will have to stipulate this in the policy.

The provision is worded as a traditional waiver-of-resubrogation clause and entails, according to its wording, an absolute waiver of the insurer's right of subrogation. However, such far-reaching exclusion of liability will not be valid. A person causing damage may not exclude liability for his own intentional or grossly negligent acts, cf. section 36 of the Norwegian Contracts Act. In reality, it is therefore § 3-33 of the Plan which will determine the limit of the insurer's right of subrogation.

Subparagraph 2 regulates the co-insurance question and is taken from subparagraph 1, first sentence, of the Special Conditions. However, also here it was decided to tie the insurer's obligation directly to the persons who on a contractual basis have been given the right to co-insurance under the insurance of the structure, and not to defined groups of persons. In this way, there is a guarantee that the co-insurance satisfies contractual obligations, at the same time as this prevents the status of a co-assured being given to groups of persons who in reality have no need for, nor any expectation of, such cover.

Where a co-insurance is tied to contractual obligations, it is no condition for co-insurance that the co-assured has an economic interest in the structure or the equipment. It is conceivable that a contract presupposes co-insurance protection also of groups of person without such economic interests, e.g. a drilling contractor who has no ownership interest in the structure or any part of the equipment. In that event, the full co-insurance protection under § 18-9, subparagraph 2, would not give the co-assured very much more than the limited protection against subrogation according to subparagraph 1. However, often the co-assureds will have such ownership interests, e.g. by owning the equipment they are going to use themselves. As mentioned in §18-2, subparagraph 1 (b), such equipment will be covered by the insurance, regardless of ownership. In that event, the co-assured has a direct insurance against damage to his own property.

The co-insurance may also acquire significance in connection with the cover of collision liability. If a structure is chartered on bare-boat conditions, a collision liability will lie with the charterer in his capacity as owner, i.e. employer of the crew of the vessel. Provided that the owner of the structure is required to co-insure the charterer, such liability will according to § 18-9 be covered under a hull insurance effected by the owner.

The normal situation will be that the owner of the structure will act as the person effecting the insurance when a structure is insured. In that event, he also has status as assured. The provision in subparagraph 2 will in such cases first and foremost be significant for the charterer, including bare-boat charterers, contractors and sub-contractors engaged by the owner, as well as the licensees, including the operator, provided that they have in contracts with the owner or others reserved the right to co-insurance under the insurance of the structure. If, in exceptional cases, the insurance is effected by a charterer, contractor/sub-contractor or licensee/operator, the owner of the structure will in the same way be co-insured, provided he has a contractual right to a status as co-assured under the insurance.

As in subparagraph 1, subparagraph 2 stipulates a prerequisite that the contractual regulation of a co-insurance must be "customary in the activities in which the structure is involved". In relation to the co-insurance protection it is, however, not sufficient to have a liability regulation based on a "knock-for-knock" principle. The contracts must in addition normally contain a requirement for co-insurance protection of the relevant group of persons. This question will first and foremost become significant where the relevant co-assured has an economic interest in objects covered by the insurance. If not, he will normally be sufficiently protected through the waiver of subrogation in subparagraph 1.

Subparagraph 2, second sentence, contains a subsidiarity clause and establishes that the co-assured's cover under the insurance of the structure is secondary to any insurance effected by the co-assured himself. Part of the purpose of the co-insurance clauses in contracts is to avoid double-insurance. If the

co-assured has nevertheless taken out a separate insurance, there is no reason why the damage shall also be covered under the insurance of the structure.
Co-insurance under § 18-9 follows the rules in chapter 8.
Subparagraph 1, second sentence, of the Special Conditions contained a requirement that the insurer should be informed of the names of the co-assureds. This requirement caused problems in practice and has therefore been deleted. Subparagraph 2 of the Special Conditions contained a provision to the effect that the policy was required to state the amount of compensation which the insurer was allowed to pay without the consent of the mortgagee, cf. § 7-4, subparagraph 2, first sentence. This provision is superfluous and has been deleted.

§ 18-10. Compensation for unrepaired damage / Re. § 12-2
This paragraph is new.
According to § 12-2, the assured is entitled to claim compensation when the ownership of the ship passes from the assured by sale, enforced auction, etc. However, in connection with the insurance of offshore structures there is a need to extend the authority for claiming cash settlement. In addition to the right which follows from § 12-2 in the event of a sale, etc., subparagraph 1 therefore gives the assured the right to claim compensation for all damage that has not been repaired on expiry of the insurance period. In reality, the rule gives the assured a general right to claim settlement for the damage. If he wants such settlement, he has the option not to repair the damage during the insurance period. The provision has general application, but is most relevant in relation to equipment, etc.
Subparagraph 2 regulates the calculation of compensation. The criterion "on the basis of discretionary estimates of repair costs" is the same as in § 12-2, subparagraph 2. However, according to that provision, the discretionary estimate shall be made at the time the ship passes from the ownership of the assured. In connection with compensation under § 18-10, there is no sale, and the time is fixed as the time when the assured's claim for compensation arises, i.e. on expiry of the insurance period.
Where compensation is tied to the estimated repair costs, this is based on the assumption that repairs represent a relevant alternative to a compensation. If it is an established fact that the object will under no circumstances be repaired, the assured has not suffered any loss, nor does he have any right to compensation. This will, e.g. be the case where the assured, prior to the damage, has ordered a new object to replace the one that was damaged because, irrespective of the damage, it had to be replaced because of new technology, etc.

§ 18-11. Damage to the drill string / Re. § 12-3 to § 12-5
This paragraph corresponds to Cefor Rig Form II, 12.
The provision establishes certain limitations to the cover, which come in addition to the limitations in § 12-3 to § 12-5.
Letter (a) corresponds to the first sentence of the Special Conditions, but the insurer's liability is extended in accordance with the Separate Clauses. The provision has furthermore been given a less casuistic form without any amendments on points of substance being intended.
The provision concerns "loss of or damage to the drill string ... whilst in the subsoil or in the water". According to the Special Conditions, the insurer was in connection with such damage only liable for "fire, blow-out or cratering". In the Special Conditions this had been extended to also cover lightening, explosion above the seabed, floods, tidal waves, ice, tornado, storm, cyclone, hurricane, earthquake or collision. The reason for the extension was the underlying drilling contracts, where the risk of such causes of damage was placed with the owner of the structure / the drilling contractor, while the licenses / the operator covered other damage. During the Plan revision it was agreed that such casuistic enumeration was unnecessary. This enumeration has therefore been superseded by a reference to "external circumstances, for which the drilling contractor is liable under contractual conditions, which are regarded as customary within the area concerned".
By "external circumstances" is first and foremost meant the type of factors mentioned in the Special Conditions and the Separate Clauses, cf. above, in contrast to damage which is attributable to wear and tear, inadequate maintenance, etc., or to the fact that the drill string for other reasons cannot take the strain to which it is subjected during the performance of the work. However, the term "external

circumstances" also covers more ordinary heavy-weather damage than hurricane, storm, etc., e.g. where high seas or difficult current conditions result in damage to or loss of the drill string. The term does not, however, cover the situation where the drill string is left in the drilling well due to technical problem in retrieving it, or where the string in connection with ordinary drilling gets jammed. Nor do "external circumstances" comprise damage to the string as a result of negligence on the part of the drilling contractor, or someone for whom he is liable. However, if the direct cause of damage is a fire, etc., the insurer will not be free from liability because the fire was caused by negligence. Here the question of liability must be evaluated under the general rules in chapter 3 relating to the duties of the assured.
The cover only extends tos external circumstances for which the drilling contractor is liable according to customary contractual practice within the relevant area. If, for example, it is customary for the operator to assume the risk in respect of damage caused by fire or explosion, this damage does not concern the insurer. In that event, it is irrelevant whether the drilling contractor under the relevant contract has accepted this risk if this is contrary to customary contractual practice.
The limitation applies to the drillstring, as installed, including any of its component parts such as weights, stabilisors, thread connections etc.
Letter (b) is a direct translation of item (2) of the Special Conditions. That the drill string is "left in the drilling hole / well" means that a decision is made to that effect by the persons who are responsible for the drilling operations. The provision does not apply to cases where attempts to retrieve the string from the hole are abandoned due to technical difficulties which this entails. In such cases the string shall be considered lost, and the loss is, as mentioned, excluded from cover according to letter (a). The purpose of leaving the string must be that it is intended to serve as a pipeline for gas or oil produced from the hole. This means that it is no longer part of the drilling equipment, and it should for that reason no longer be covered. Effectively, this also follows from § 18-2 (b): the drill string left behind no longer constitutes part of the "equipment" of the drilling structure.
Subparagraph 3 of the Special Conditions contained a provision to the effect that the insurer did not cover "the scraping and painting of the insured unit's bottom". This exclusion has not been retained. Subparagraph 3 furthermore contained a provision to the effect that § 176 (j) of the 1964 Plan was not to apply. Letter (j) has, however, been deleted during the revision.
The limitations in § 12-3 to § 12-5 apply in addition to the limitations in § 18-11.

§ 18-12. Damage / Re. § 12-5
This paragraph is new.
According to § 12-5 (a) the insurer does not cover costs of wages and maintenance of the crew during the period of repairs. However, in connection with insurance of offshore structures the insurer has in practice covered costs of wages and maintenance of the crew during repairs carried out at sea. The reason is that it is, after all, less costly to carry out the repairs on the Shelf than bringing the structure to shore. Due to the explicit exclusion in § 12-5 (a), there is, however, a need for a special authority for this liability.
In connection with damage to a structure, it is conceivable that the assured engages a supply vessel which is under contract with him and is therefore in the area, to be used during repairs. If the assured incurs additional expenses in this connection, his expenses must be covered by the insurer as part of the costs of repairs.
In practice there have been discussions whether the costs involved in getting a structure back to the place of operation are covered in a case where the structure has been brought to shore for repairs. It follows from the commentary on § 12-13 that the insurer's liability for "removal" covers the entire deviation to and from the repair yard, which must imply that basically the insurer is liable for such removal back to the place of operation. However, this presupposes that the damage occurs after the structure has arrived at the place of operation. If the damage occurs prior to that point in time, e.g. during towage from land to the first place of operation, the insurer's liability is limited to the removal back to the place of damage, and not to the place of operation.
Liability during removal also covers wages and maintenance of the crew, provided that the crew is "necessary", cf. for further details § 12-13 and the commentary on that provision.

§ 18-13. Deductible / Re. § 12-18, subparagraph 2

This paragraph corresponds to Cefor Rig Form II, 16.

Cefor Rig Form II, 16, subparagraph 1, first sentence, established that instead of machinery damage deductions, deductible for partial damage and deductible for collision liability under the Plan, an individual deductible amount should be stipulated in the policy. This provision has been deleted. Basically, the Plan system of different deductibles to be agreed on an individual basis shall apply, see § 12-16, §12-18 and § 13-4. If the parties wish to combine these deductibles into one amount, this will have to be agreed specifically. As in chapter 12, the deductible must be calculated for each structure. In the event of damage to several structures, the same number of deductibles shall be calculated in the settlement.

Cefor Rig Form II, 16, subparagraph 1, second sentence, contained a special rule relating to heavy-weather damage. This has been retained in a simplified form. Damage caused by bad weather arising as a result of the same atmospheric disturbance shall be regarded as one casualty. According to the Special Conditions, the rule was that every 72-hour period within the same atmospheric disturbance constituted one casualty. Now the entire atmospheric disturbance shall be regarded collectively. This provision supersedes the rule in § 12-18, subparagraph 2.

It follows from the reference to § 12-18 that no deductible shall be calculated in the event of a total loss of the insured structure.

§ 18-14. Collision liability / Re. § 13-1

This paragraph corresponds to Cefor Rig Form II, 17.

The provision is taken from Cefor Rig Form II, 17, 1, but has been simplified. The Special Conditions stated explicitly that the insurer covered collision liability according to the Plan. This is superfluous given that the conditions are incorporated in the Plan. The second sentence of the Special Conditions relating to a limitation of the collision liability in the event of liability for damage to or loss of a fixed installation has, however, been retained.

Compared to the rule in § 13-1, the provision means that the insurer covers collision with another floating structure, regardless of the nature of that structure, in other words, regardless of whether it is a traditional ship or a structure which is covered under chapter 18. The cover includes cases where it is a tug used by the insured structure which causes the damage. The insurer does not, however, cover collisions between the structure or its tug and a permanent installation on the Shelf. Such permanent installation may, e.g. be a production platform or a loading installation.

Under § 13-1, the insurer's liability is independent of the basis for the liability for damages, which means that liability for damages based on a contract will in principle be covered. However, the provision in § 4-15 entails a certain limitation in this respect.

The Special Conditions II, 17, 2 contained a limitation of liability caused by cargo on board the colliding structures and liability for pollution, fire or explosion caused by oil or gas. This provision is more or less parallel to § 13-1, subparagraph 2 (f), and is therefore superfluous.

Chap 18 - Section 2 Separate insurances against total loss

§ 18-15. Applicable rules

This paragraph corresponds to Cefor Rig Form No. 2.

Cefor Rig Form No. 2 contained rules relating to "anticipated gross earnings insurance of mobile off-shore units". During the revision of the Plan it was agreed that any separate insurances against total loss could be effected in accordance with chapter 14 of the Plan, cf. the first sentence. Whereas the Special Conditions only concerned freight interest, the door is now opened to the effecting of both freight-interest and hull-interest insurance. The policy shall state the type of insurance against total loss that has been effected.

Chap 18 - Section 3 War-risks insurance

§ 18-16. Applicable rules

This paragraph corresponds to Cefor Rig Forms Nos. 3 to 5.
Cefor Rig Forms no. 3 to 5 contained detailed provisions concerning war-risks insurance of mobile offshore structures. However, also as regards the war-risks insurance, there was general agreement that cover could be effected on ordinary Plan conditions. If it has been agreed that the insurance also covers war perils, the rules in chapter 15, cf. the first sentence, shall apply. In addition, the rules in chapter 18, section 1, shall apply correspondingly, cf. the second sentence.

Chapter 19. Builders' risks insurance

General

The rules in this chapter are based on Cefor Form 250, which is in turn based on Institute Clauses for Builder's Risks. The conditions have so far only been applied to the building of ships in Norway. The Commentary is partly based on the Commentary on the builders' risks conditions in the 1964 Plan.
Chapter 19 applies directly only to the building of ships and is intended to cover the yard and the buyer's needs in a building situation. In the event of repairs of a ship, the ordinary hull and loss of hire conditions shall apply. The ordinary owners' insurances also apply in connection with the reconstruction of ships. There is nevertheless nothing to prevent the taking out of an insurance according to chapter 19 also for a reconstruction of the ship if this is deemed expedient. However, the conditions are not written with this situation in mind, and they must therefore be adapted to meet the special needs in a reconstruction situation, for example in respect of the loss of hire risk for the owner.
§ 9 of Cefor Form 250 contained a rule that the sum insured was the amount stated in the policy; such a rule applies to all types of insurance and is unnecessary. § 10 relating to interest has in the new Plan been incorporated in § 5-4. Furthermore, § 5 of Cefor Form 250 contained a separate provision about causal connection. Here it was decided to take the general provision in § 2-11 for a basis.
§ 11, subparagraph 1 (a) of Cefor Form 250 stated that the insurer was liable up to the sum insured for loss of or damage to the newbuilding caused by any one casualty. In principle the provision concorded with § 4-18, subparagraph one, first sentence, of the Plan and has therefore been deleted.
§ 11, subparagraph 1 ©, of Cefor Form 250 contained a provision concerning cover of costs of measures to avert or minimise loss. The provision differed from § 4-18 in that the insurer's liability for such costs was limited to the sum insured. It was not possible, as under § 4-18, to "transfer" a sum insured that had not been used up in the claims settlement for the property damage to costs of measures to avert or minimise loss relating to the same casualty where these costs exceeded the sum insured. During the revision it was agreed that the general rule in § 4-18 of the Plan should be adhered to. The provision has therefore been deleted.
§ 11, subparagraph 2, of Cefor Form 250 stated that the said limitation amounts comprised litigation costs and possible general average contributions, but that interest was to be added. Also here it was decided to follow the solution in the general rules of the Plan, cf. § 4-19.
Builders' risks insurance is, in addition to the provisions in chapter 19, also subject to the provisions in the general part of the Plan (chapters 1-9), and the rules in chapters 10 to 12, insofar as this transpires from chapter 19, section 2.

Section 1 Common provisions

§ 19-1. Perils covered / Re. § 2-8, cf. § 2-10
This paragraph corresponds to § 1, subparagraph 1, and § 2 of Cefor Form 250.
Cefor Form 250 was structured so that § 1 contained the main rule that the insurance covered all perils that were not specifically excluded, while the exclusions were stated in § 2. The provision in § 1 corresponded to the main rule about an all-risk insurance in § 2-8, and is therefore superfluous. The exclusions in § 2 corresponded to a large extent to the exclusions in § 15 and § 16 (a) and (b) of the 1964 Plan and the exclusion for nuclear risk in the Hull Conditions for Ocean-Going Vessels. However, § 2 did not contain any exclusion that corresponded to § 16 (c) of the 1964 Plan relating to riots, strikes, etc., or letter (d) on piracy and mutiny. All in all, this description of the perils included under the insurance

entailed that the builders' risks insurance was an insurance against marine perils, but included certain perils which normally belong under the war-risk cover.
During the revision, there was agreement to limit the range of perils in the builders' risks insurance so that the insurance does not cover riots, sabotage, piracy and mutiny. Such risks occur today primarily during trial runs and deliveries in "exotic waters", and must in future be insured against under a separate war-risks insurance under section 6. However, the cover against strikes and lockouts has been retained in addition to the ordinary cover against marine perils, cf. § 2-8. The reason is that the separate war-risks insurance for the construction of newbuildings presupposes that the newbuilding has been launched, cf. § 19-27, subparagraph 1. The assured's need for cover against strikes and lockouts while the newbuilding is in dock must therefore be resolved through the ordinary marine peril cover.
The cover against strikes and lockouts must be seen in conjunction with the fact that the builders' risks insurance is a hull insurance, possibly a liability insurance, for the yard. The insurer will therefore only become liable if a strike or lockout results in damage to the newbuilding or components, materials etc., possibly liable for damages for the yard for damage inflicted on a third party. It is not sufficient to trigger the right to payment under the builders' risks insurance that a strike or lockout results in a delay.
§ 1, subparagraph 1 (a) to (e) of Cefor Form 250 contained an overview of the main elements of the cover. Such an overview is misleading because it is incomplete, and it is furthermore not in accordance with the system of the Plan. It has therefore been deleted.

§ 19-2. Insurance period / Re. § 1-5
This paragraph corresponds to § 4 and § 8, subparagraph 2 of Cefor Form 250.
§ 4, subparagraph 1, of Cefor Form 250 contained a provision to the effect that the insurance attached from the time stated in the policy. This follows from § 1-5, subparagraph 1, first sentence, and there is accordingly no need to repeat it.
On the other hand, there is a need for special rules determining when the builders' risks insurance terminates because such insurance does not run on an annual basis.
Subparagraph 1, first sentence, states that the insurance is termianted as from the takeover date stated in the building contract. This point of departure is new in relation to Cefor Form 250, § 4, second sentence, which stated that the insurance terminated at the time of actual takeover, or when the newbuilding was ready for delivery. However, the first sentence seen in conjunction with the second sentence entails that the insurance remains in effect until the actual takeover, provided this takes place before expiry of the time-limit of nine months under subparagraph 3. The significance of the point of departure in the first sentence is therefore first and foremost that, in the event of an extension beyond the time of delivery stipulated in the building contract, the insurer is entitled to an additional premium as established in the policy. This is new in relation to Cefor Form 250. If delivery takes place before the stipulated date, the assured will, on the other hand, be entitled to a return of premium, cf. § 6-5.
The rule that the insurance terminated when the newbuilding was ready for delivery has not been retained. Regardless of whether it is the yard or the buyer who in such cases bears the risk for the newbuilding, there is a need for continuous insurance cover until the newbuilding is comprised by an ordinary hull insurance. To ensure ongoing insurance coverage it has therefore been taken for a basis that the insurance remains in effect until takeover, regardless of whether or not the newbuilding is ready and regardless of whether or not the delivery date under the building contract has been met. If the original date of delivery in the agreement is postponed because of additional work, or because the yard is delayed, the builders' risks cover therefore remains in effect until the delivery in actual fact takes place, provided this happens within nine months, cf. subparagraph 3. However, as mentioned, the insurer is entitled to an additional premium.
Normally, the shipbuilding contract will contain a specification of the date of delivery, cf. for example § 2 of "Standard Form of 7 October 1981 for Contract for the Building of Ships at Norwegian shipyards" (the 1981 Contract), which is an "agreed document" between the Norwegian Shipowners' Association and the Federation of Shipyards and Offshore Yards. If no such agreement has been entered into, the

delivery date will depend on the parties' actions, assessed against the background of general principles of contract law and the provisions of the building contract in general.
It is conceivable that the hull insurance under the agreed conditions comes into force before the builders' risks insurance terminates, for example in the event of late delivery. In that event, the rules relating to double insurance shall be applied, cf. § 2-6 and § 2-7.
Subparagraph 2 is taken from Cefor Form 250, § 8, subparagraph 2, and states that the insurance is extended automatically against an additional premium as agreed in the policy if the newbuilding is not taken over by the original buyer. In the Special Conditions the rule was that a specific agreement had to be concluded for extensions. However, it is more expedient for the extension to be automatic against an additional premium agreed on in advance, cf. the comment on subparagraph 1 above. The extension lasts until the newbuilding is in actual fact taken over by another buyer. However, also here a time-limit of nine months under subparagraph 3 shall apply.
An extension under subparagraph 2 is only triggered where the newbuilding is not "taken over" by the original buyer. According to Draft Standard Form Shipbuilding Contract 1997, clause 5, Removal of Vessel the buyer is given three days from "Delivery" to remove the ship from the builder's yard. In such cases, the ship has been taken over on "Delivery". If the newbuilding remains at the yard after takeover in accordance with this provision, this consequently does not entail an extension of the builders' risks insurance under subparagraph 2. In such cases, the buyer must arrange for ordinary hull insurance.
If it is the original buyer who takes over the newbuilding after first having refused to take delivery, it is subparagraph 1 that regulates the termination of the insurance.
The Special Conditions contained a corresponding rule in the event that there was no original buyer. This rule has been deleted. If the yard builds the newbuilding for its own account, the insurance must, regardless, be adjusted to this fact. The parties must in that event also conclude a special agreement about the insurance period.
The provision in the Special Conditions to the effect that the place and manner of lay-up must be approved by the insurer is superfluous in addition to § 3-26 relating to a lay-up plan.
Subparagraph 3 is new and stipulates a maximum period for how long the supplementary cover remains in effect without separate agreement, viz. up to nine months after the takeover date in the building contract.

§ 19-3. Co-insurance / Re. § 8-1
This paragraph corresponds to § 3 of Cefor Form 250.
A ship will normally be built according to a building contract entered into between a building owner and a shipyard, e.g. "Standard Form of 7 October 1981 for Contracts for the building of ships at Norwegian Shipyards" (the 1981 Contract), which is an "agreed document" between the Norwegian Shipowners' Association and the National Federation of Ship and Offshore Yards. In order to safeguard the interests of both parties in the newbuilding and objects or parts to be incorporated in the newbuilding, it is therefore necessary for the insurance to be for the benefit of both the yard and the buyer. Normally, it will also follow from the shipbuilding contract that one of the parties, usually the yard, cf. e.g. § 7, item 2, first sentence, is required to take out insurance. This obligation to take out insurance comprises the buyer's deliveries and also entails that the buyer shall have a direct claim against the insurer in the event of a total loss as regards amounts paid which the yard is obliged to refund the buyer, cf. § 7 item 3 ©. Also in relation to such contractual regulation it is therefore necessary for the builders' risks conditions to cover the interests of both parties.
§ 3 of Cefor Form 250 solved this problem by letting the insurance be partly for the benefit of the yard, partly for the benefit of the buyer. The yard's interest was covered to the extent that it bore the risk for the newbuilding and parts, etc. when a loss occurred. The buyer's interest covered objects for the newbuilding which he supplied and which were included in his risk, plus instalments on the price paid if it was a case of total loss.
During the revision there was agreement that it would be more expedient to take for a basis the normal situation where the yard was the person effecting the insurance and the buyer was given the status of co-insured according to § 8-1, cf. first sentence. This means that both the yard and the buyer will have the

status of assured and be entitled to compensation for their economic interest in the newbuilding to the extent that this follows from the Special Conditions.
It is only the yard that takes out the insurance that is secured under chapter 19. In principle, the insurance does not comprise the subcontractors, cf. the fact that the co-insurance provision in § 19-3 applies only to the buyer. If it is desirable for the insurance also to comprise the subcontractors' interests, it is therefore necessary to take out a separate co-insurance according to chapter 8. In that event it is also necessary to ensure that the place of insurance according to agreement under § 19-5, subparagraph 2, includes the subcontractor's premises.
The insurance is effected for the benefit of the yard as the person effecting the insurance to the extent that the yard bears the risk for the newbuilding and parts, etc., when a casualty occurs. According to § 7, item 1, of the 1981 Contract, the risk is transferred on delivery. Until delivery has taken place, the yard bears the risk for the newbuilding. If the newbuilding is totally destroyed with the effect that the yard's duty to deliver is terminated, the yard must therefore refund the buyer the instalments on the price which the latter has paid during the period of construction. The "total-loss risk" for the yard therefore consists in the investments in the newbuilding being lost without the price, or a proportion thereof, being recoverable from the buyer. To this must be added the risk for partial damage, which consists in the yard having to, at its own expense, repair any damage which the newbuilding sustains in connection with less extensive accidents before the risk has passed to the buyer. This concords with the solution given earlier in § 3 (a) of the Special Conditions.
The co-insurance of the buyer comprises the buyer's economic interest as defined through the building contract. If the buyer is required, for his own account, to procure certain components or materials to be incorporated in the newbuilding, the buyer's status as co-insured entails that these are included in the builders' risks insurance, provided that it is set out in the policy or transpires from conditions in general that the objects are comprised. However, the components are only comprised by the insurance from the time they are in the builder's yard in the port where the yard is situated, cf. § 19-5 concerning place of insurance. If the components are delivered directly to the newbuilding and the newbuilding is outside the place of insurance by agreement with the insurer, the position must be that the components are covered from the time they are on board the newbuilding. This concords with § 3 (b) of Cefor Form 250. The condition is, however, that the buyer's deliveries are covered by the insurance, cf. § 19-9 (b), which concords with § 3 (b) of Cefor Form 250, but here the rule was that the buyer's objects were only covered if the value was included in the sum insured.
In addition to the risk for own deliveries, the co-insurance comprises the buyer's interest in a refund of instalments on the price paid in the event of a total loss, cf. § 3 © of the previous Cefor Form 250. Prior to delivery, the risk for the newbuilding will normally be on the yard, cf. § 7, item 1, of the 1981 Contract, so that the yard must refund instalments paid in the event of a total loss. However, it is in exclusional cases conceivable that the buyer bears the risk for loss of the object of the contract prior to delivery and, in that event, this interest will be covered. This is also the case if the insurance period is extended beyond the time of delivery so that the risk for the newbuilding has passed to the buyer. However, the buyer's position as co-insured must also give him a direct claim against the insurer in the event of a total loss, even if this is the yard's risk, cf. in this respect § 7, item 3 © of the 1981 Contract. This is of significance if the yard is insolvent so that the insurance compensation would in its entirety have gone to the insolvent estate, while the buyer would have had to be content with a dividend claim. The co-insurance will therefore ensure that the yard, or its bankrupt estate, will not receive any total-loss compensation without the buyer at the same time being refunded his advance payments.
As regards the buyer's right to recover paid instalments in the event of a total loss, the Special Conditions contained in letter (b) a rule to the effect that the buyer was required to have become the owner of the newbuilding as the construction progressed. This provision is less expedient because the buyer will normally get a bank guarantee instead of a title to the newbuilding under construction. The provision has therefore been deleted.
Co-insurance of the buyer for the instalments on the price paid is, on the other hand, only valid if he has made the payments himself, or they were paid by others on his behalf. Other intervention payers will not receive a corresponding automatic status as co-insured.

That the buyer is co-insured "according to § 8-1" entails that he will not acquire any better ranking right against the insurer than what the yard has. This concords with § 3, subparagraph 2, of the Special Conditions. If the buyer wants a better cover in the form of an independent co-insurance, he must take out co-insurance according to § 8-4.
As mentioned above, § 19-3 is based on the normal situation where the yard is the person effecting the insurance, cf. § 7, item 2, of the 1981 Contract to the effect that the yard is required to take out the insurance. However, it is conceivable that the buyer wants to take out the insurance himself, e.g. because he has the title to the newbuilding. Such procedure is normal in offshore insurance. In that event, a separate agreement must be concluded if the yard is to be co-insured.
The cover of mortgagees is effected in accordance with the general rules of the Plan, see chapter 7.
The second sentence states that the co-insurance does not apply to the expense coverage according to section 3. This concords with § 25, second sentence, of Cefor Form 250, about the insurer's liability for the yard's own expenses in connection with the removal of wrecks. The buyer shall also arrange for separate insurance cover for any additional expenses incurred in connection with an unsuccessful launching or the removal of the newbuilding.
§ 3, of Form 250, cf. section 3, emphasized that the liability cover only concerned the yard's liability for damages so that the buyer was not co-insured under the liability part. However, it is more expedient for the buyer to be co-insured also as regards the liability cover. Liability which the buyer may incur by employees or management's wrongful acts in connection with the building project will not be covered under the owner's P & I insurance. The buyer must therefore have a separate liability insurance in order to cover such situations. However, in practice it is rare for such cover to be taken out, which means that the buyer will be without cover for this liability. In such cases it is therefore expedient for the buyer also to be co-insured under the liability cover.
On the other hand, liability cover under the builder's risks insurance should be subsidiary to other liability insurances, if any, taken out by the buyer, cf. subparagraph 2, which is new.

§ 19-4. Transfer of the building contract / Re. § 3-21
This paragraph corresponds to § 8, subparagraph 1 (a) of Cefor Form 250.
§ 8, subparagraph 1 (a) of Cefor Form 250 entailed that the insurance would remain in effect upon a transfer of the building contract if the insurer had been advised in advance of such transfer. This applied regardless of whether it was the buyer or the yard who transferred the contract. In the Plan, a distinction is made between a transfer to a new buyer and a transfer to a new yard. If the building contract is transferred to a new yard, the insurance will terminate. If the yard is the person effecting the insurance and the owner, the solution follows from § 3-21. But the rule must apply also if the buyer is the person effecting the insurance and the owner of the newbuilding, and the yard is co-insured. Such transfer must be regarded as a change of ownership according to § 3-21. Furthermore, the termination of the insurance will normally follow from § 19-5 concerning place of insurance, because on transfer of the building contract to a new yard, the newbuilding must be removed to that yard and will thereby move outside the place of insurance. It has nevertheless been deemed expedient to have an explicit rule to that effect.
On the other hand, the solution in the Special Conditions that continued insurance in the event of a transfer to a new buyer was subject to the insurer being notified of the transfer has not been retained. It would be unfortunate if the yard were to lose its cover if the buyer transfers the building contract without notifying the insurer. In such cases it is therefore more expedient for the insurance to continue. This is also the solution in the English conditions, cf. IBR, items 15 and 16.
The rule that the insurance shall remain in effect even if the buyer transfers the building contract is subject to the condition that it is the yard, and not the buyer, who is the owner of the newbuilding. If it is the buyer who is the owner, it follows from § 3-21 that the insurance will terminate if the buyer transfers the building contract. This applies both in relation to the new buyer and in relation to the yard. If the new buyer, and possibly the yard, in such cases want the insurance to continue, this will have to be agreed with the insurer before the transfer, possibly against a payment of additional premium.

§ 19-5. Place of insurance

This paragraph corresponds to § 6, subparagraphs 1 and 2, and § 8, subparagraph 1 (b), of Cefor Form 250.

The provision defines the geographical scope of the insurance. However, the heading has been changed from "The geographical scope of application of the insurance" to "Place of insurance".

Subparagraph 1 (a) is approximately identical to § 6, subparagraph 1, first sentence, of Cefor Form 250, but has been rewritten to make it more comprehensible. The provision delimits the insurance to the builder's yard or other premises in the port where the yard is situated and transport between these areas. A shipyard will often have its activities spread over a number of different places, partly in the form of warehouses and factories close to the building berths, partly in the sense that it has its building berths located at different places within the same port. It is therefore practical for those parts and materials that are intended for the insured newbuilding to be covered by the insurance, regardless of where they are located within the yard's premises or areas, provided that it is in the same port. If parts of the newbuilding are to be built in a different port, however, this will fall outside the scope of the insurance, cf. the wording the builder's yard "in the port where the yard is situated". In that event, the yard will either have to extend the cover by a separate agreement under subparagraph 2, or take out a separate insurance.

Also "local" transport within the areas of the builder's yard situated in the same port is in principle covered by the insurance. If the parts or the materials are made or stored relatively close to the building berth, it would be unpractical if a separate insurance had to be taken out for each individual transport to the building site. If the parts have to be sent to a department of the yard situated in another port, the transport risk should, however, be evaluated separately, cf. subparagraph 2, or be covered by a separate insurance.

However, the insurance does not cover transport of components from subcontractors to the yard. This applies regardless of whether it is the yard that has ordered the components, or they are delivered by the buyer. Components delivered to the yard are included in the insurance once they are in the builder's yard, cf. letter (a). Where the yard has ordered the main engine or other components for the ship from a subcontractor, the risk will pass to the yard when the part is "delivered" according to the law pertaining to the sale of goods. Normally, the agreement will be to the effect that the yard bears the risk during transport from the supplier's factory. Such transport must, like longer transports between the builder's yard's own departments in different ports, be assessed as a separate risk and be covered by a separate insurance.

Letter (b) is taken from § 6, subparagraph 2, of Cefor Form 250. The rule in the Special Conditions to the effect that trial runs within an area of 250 nautical miles are covered has, however, been superseded by a rule to the effect that the insurance comprises trial runs within the area allowed by the newbuilding's provisional certificates. If the newbuilding proceeds beyond this area, the insurance cover is suspended. However, the insurance must again take effect when the newbuilding comes within the relevant area.

For newbuildings that are registered under Norwegian flag such provisional certificates are issued by the Maritime Directorate. In the past, the Maritime Directorate also issued provisional certificates for foreign newbuildings that were built in Norway, but that arrangement has now been terminated, cf. circular 12/97. Today it is therefore the flag state of the newbuilding that must draw up such certificates. In relation to this group of newbuildings it was therefore discussed whether the certificate requirement would lead to problems, and whether it would be better to retain the previous limit of 250 nautical miles. The reason why it was nevertheless decided to base the trading limits on the provisional certificates is partly that the certificate requirement is absolutely fundamental in relation to the operation of the ship, and partly that buyer and shipyard must therefore be expected to ensure that these papers are in order. To this should be added that a limit of 250 nautical miles may cause considerable problems in relation to a provisional certificate which operates with a narrower trading area, because it will then be unclear whether the insurance is suspended whenever the newbuilding proceeds beyond the limits stated in the certificate, but stays within 250 nautical miles.

§ 8, subparagraph 1 (b) of Cefor Form 250 contained a rule to the effect that the insurance could also comprise the newbuilding when it was outside the area stipulated for the trial run in § 6, subparagraph 2, i.e. beyond a distance of 250 n.m. from the place where the construction work was completed. Cover

was subject to the condition that the insurer was notified of the infringement. This provision is unpractical given that the area for trial runs is now tied to the area stipulated in the newbuilding's provisional certificates.
The provision in letter (b) must be seen in conjunction with § 3-15 relating to trading limits. If the trading area indicated in the newbuilding's provisional certificates comprises areas which entail an additional premium according to § 3-15, subparagraph 2, this provision must apply to the builders' risks insurance. The insurer must in that event be notified if the ship has proceeded beyond the ordinary trading limits and is entitled to demand an additional premium or other conditions. If the assured fails to notify the insurer, subparagraph 2, second and third sentences of § 3-15 concerning an additional deductible shall apply in the event of a casualty.
Subparagraph 2 is taken from § 6, subparagraph 1, second sentence, of Cefor Form 250, but has been rewritten. Normally the insurer will consent to such extension of the cover for the building of sections at the assured's own yards other than the main yard, but not for components manufactured and purchased by subcontractors. As long as the component is the subcontractor's risk, the yard will not have any need for such additional insurance. However, it is conceivable that the yard would be interested in postponing the collection of the relevant component from the subcontractor until the work on the newbuilding has progressed so far as to allow the fitting of the component. Under section 13, item 2, of the Sale of Goods Act, the yard will in that event bear the risk for the component while it is stored with the supplier. The yard will then need supplementary cover in the same way as for transport of the object from the supplier's factory, cf. above.
If it is necessary to move the newbuilding outside the areas indicated in § 19-5, § 19-6 regarding removal shall apply.
§ 6, subparagraph 2, of Cefor Form 250 contained a provision regulating when deliveries from a buyer were covered. This is superfluous. The buyer is co-insured according § 19-3, and the buyer's deliveries will be covered by the insurance to the extent that they are stated in the policy, or it transpires in some other way that the deliveries are included, cf. § 19-9. However, the question as to where the deliveries must be in order to be included must, like the other objects covered by the insurance, be resolved through the provision in § 19-5 and the policy's statement of the geographical scope of application of the insurance.

§ 19-6. Removal plan / Re. § 3-24 and § 3-25
This paragraph corresponds to § 7 of Cefor Form 250.
§ 7 of Cefor Form 250 stated that the insurance did not comprise the removal of the newbuilding or parts thereof under its own steam or whilst towed outside the builder's yard in the port where the yard is situated, unless the insurer had given his consent. This rule has been retained as regards removal outside the place of insurance without it being necessary to state this explicitly. In such cases a specific agreement must therefore be made whether the insurance shall apply.
However, as regards removal between the area stated in § 19-6, subparagraph 1, and the areas included in a special agreement under § 19-6, subparagraph 2, the rule concerning a specific agreement has been superseded by a safety regulation concerning the drafting of a removal plan patterned on § 18-6 (b), cf. first sentence, of the Plan. The removal plan shall be submitted to the insurer for his approval. However, the intention is not that the insurer shall review the classification society's recommendations as regards procedures for the removal.
It will typically become applicable if the newbuilding is to be moved or towed from the builder's yard in the port where the yard is situated to other building berths in other ports for the building yard or a subcontractor. Such removal will normally not be included in the ordinary premium. In that event, the insurer may of course, demand an additional premium.
The fact that consent has been replaced by a safety regulation entails that the insurer can only react to a breach of the removal plan if the assured has been negligent and there is a causal connection between the breach and the casualty, cf. § 3-24. In contrast to § 18-6 (b), the safety regulation in § 19-6 is not a separate safety regulation under § 3-25, subparagraph 2, cf. second sentence, which only refers to § 3-25, subparagraph 1. This means that the extended identification rule in § 3-25, subparagraph 2, does not

become applicable. The question of identification must then be decided as usual under the rules contained in § 3-36 to § 3-38.

§ 19-7. The sum insured as the limit of the liability of the insurer / Re. § 4-18 and § 4-19 This paragraph corresponds to § 11 of Cefor Form 250.
The provision is taken from § 11, subparagraph 1 (b), of Cefor Form 250 and essentially concords with § 4-18, subparagraphs 1 and 2. The provision entails that the insurer may become liable for up to three sums insured: One sum insured for loss of or damage to the newbuilding according to section 2, one sum insured for loss in connection with measures to prevent or minimize a casualty covered under section 2, and one sum insured for additional costs in connection with an unsuccessful launching and costs of wreck removal (section 3), and for liability covered under section 4. According to § 4-18, subparagraph 1, third sentence, any unused sum insured to cover loss of or damage to the newbuilding may furthermore be "transferred" to cover measures to avert or minimize such loss.

§ 19-8. Deductible
This paragraph corresponds to § 12 of Cefor Form 250.
According to § 12 of Cefor Form 250, the deductible was to constitute 1 per thousand of the sum insured, however, not less than NOK 75,000. However, the Plan system is that the deductible shall be decided individually and be stated in the policy, cf. e.g. § 12-18. The provision has therefore been amended in accordance therewith, cf. subparagraph 1, first sentence.
The second sentence states that only one deductible shall apply if the same casualty entitles the assured to compensation for both damage to the newbuilding, damage to the yard area, wreck-removal costs and liability to third parties. This concords with the solution in practice, but differs from the solution in the Plan in general.
According to subparagraph 2, it is emphasized that no deductible shall apply to total loss, costs in connection with the claims settlement or costs to avert or minimise a loss. This is in accordance with the General Plan system.

Chap 19 - Section 2 Loss of or damage to the newbuilding

§ 19-9. Objects insured
The paragraph corresponds to § 13 of Cefor Form 250.
The provision comprises the economic effort made by the yard and the buyer at any given time in order to complete the ship.
Letter (a) is taken from § 13 (a) of Cefor Form 250. By "the newbuilding" is meant whatever has at any time been built. This was stated earlier in the Special Conditions, and there is no intention of making any changes here.
If the newbuilding consists of several sections that are built at several different yards, the insurance basically only covers the part of the newbuilding that is built in the yard of the person effecting the insurance, cf. § 19-5, subparagraph 1 (a). If the parties want insurance cover which also comprises sections built elsewhere, a separate agreement must be made for an extension of the place of insurance according to § 19-5, subparagraph 2. In that event, it may also be relevant to give the subcontractor status as co-insured, cf. the comments on § 19-3.
Letter (b), first sentence, is taken from § 13 (b) and (d) of Cefor Form 250, and concerns the economic effort that is implicit in components, equipment and materials. The term "equipment" is new without this entailing any changes on points of fact. The insurance comprises components, equipment and materials which the yard has for its own account procured or manufactured to be used for the newbuilding, as well as components, equipment and materials manufactured or procured by the buyer, cf. in this respect letters (b) and (d) of the Special Conditions.
Letter (b), second sentence, emphasizes that the buyer's components, equipment and materials are only covered to the extent that this is set out in the policy or transpires from circumstances in general. This is in accordance with § 13, subparagraph 1 (d) of Cefor Form 250, cf. also § 3, subparagraph 1 (b), but here this was subject to the condition that the relevant objects were included in the sum insured. If the sum

insured is insufficient to cover the interests of both the yard and the buyer, it will, however, be difficult to decide whether this is due to the fact that the sum insured has been calculated too low in relation to the overall values, or to the fact that the buyer's interest in materials and components delivered shall not be comprised. A clearer procedure is therefore for the policy to state to what extent the buyer's components and materials shall be covered. On the other hand, such a rule may become too rigid and lead to unreasonable results if the yard were to forget to state the buyer's deliveries in the policy despite the intention for them to be included. If the yard is in such cases obliged under the building contract to insure the buyer's deliveries, and the insurer invokes that the policy does not contain any information to this effect, the yard will incur liability for the neglect vis-à-vis the buyer. In order to avoid such an outcome, letter (b) states that the deliveries are included, also if this "transpires from conditions in general". This may for example be the case if the buyer's deliveries are included in the contract price and the contract price is identical to the sum insured. On the other hand, it may have been understood between the parties that the buyer shall take out his own insurance, for example where it is a question of comprehensive seismic equipment of great value. In such cases the buyer's deliveries will not be included.

Where the buyer's deliveries are in this way included in the insurance, it is important that the yard ensures that the sum insured is sufficient to cover both the yard's and the buyer's deliveries. If the sum insured is too low, the result will be that the yard is underinsured for its own deliveries and furthermore incurs a liability to the buyer for the latter's deliveries to the extent that the yard is obliged keep these insured.

§ 13, subparagraph 2, of Cefor Form 250 contained a provision to the effect that "damage to or loss of objects which are not incorporated in the newbuilding" were only covered if the assured could "prove that they were labeled with the newbuilding's hull number". During the revision there was agreement that it was sufficient to have a rule to the effect that the objects were manufactured or procured for the newbuilding, cf. (b), first sentence, which is taken from § 13 (b) and (d) of Cefor Form 250. It then follows from § 2-12 that the assured has the burden of proving that this requirement is met. The requirement for labelling has therefore been deleted.

Letter © is identical to § 13 © of Cefor Form 250 and includes the yard's costs in connection with the drawing and other Planning of the newbuilding in the cover. The object insured is here not the specific drawings, models, etc. - these can normally be reconstructed at low cost if they are destroyed - but the general costs incurred by the yard in its own Planning department and to hire consultants in connection with the Planning of the ship. If the building contract is terminated, these costs will normally be wasted.

If the ship forms part of a series which the yard is going to build, the costs can be distributed over all the ships in the series. If it is an established fact that the existing Plans will be used in connection with the building of subsequent ships, it will be possible to say that "the yard's costs in connection with the drawing and other Planning of the newbuilding" only comprise the proportion of the costs which come under the insured contract. However, if this is not perfectly clear, no deduction shall be made from the compensation on account of the potential value which the Plans may have for the execution of subsequent contracts.

Letter (d) corresponds to § 13 (e) of Cefor Form 250, but has been amended in accordance with § 10-1. The Special Conditions furthermore comprised, in addition to bunkers and lubricating oil, deck and engine accessories. This cover now follows from the term "equipment" in letter (b). This entails that it is sufficient that the equipment has been "procured for the newbuilding"; it need not be on board. The Special Conditions also stipulated a prerequisite that the said objects, etc., must belong to the yard. Also bunkers and lubricating oil belonging to the buyer should, however, be covered.

The rules in subparagraph 1 must be compared with § 1-5, first sentence, as to when the insurance period starts. The yard's investments in materials etc. will only be covered as from that point in time. However, there is obviously nothing to prevent an agreement that the investments shall be insured from an earlier point in time.

§ 19-10. Insurable value

This paragraph is new.

The provision defines the insurable value in builders' risks insurance and is taken from § 199 of the 1964 Plan and § 14, subparagraph 2, second sentence, of Cefor Form 250.

Subparagraph 1 defines the insurable value when the newbuilding is ready for delivery. Cefor Form 250 did not contain any actual definition of the insurable value, but apparently assumed that the insurable value at the time of delivery was "the contract sum plus additions as mentioned". This concords with the wording "the original contractual price with later agreed deductions" and "later agreed additions stated in the policy", cf. letters (a) and (b), which are taken from § 299 (a) and (b) of the 1964 Plan. The wording "later agreed deductions" concerns changes which result in a reduction in the price. Normally the insurer will be notified of such deductions for the purpose of obtaining a reduction in premium. In that event, they will also be stated in the policy. To avoid that the insurable value exceeds the assured's real loss, it is, however, necessary to take such deductions into account in the calculation of the insurable value, regardless of whether or not the insurer has been notified.

The term "later agreed additional amounts" in letter (b) refers to variation work in relation to the original contract which results in an increase in the price. The consequence of such variation work/additions not having been reported is that the relevant part of the building contracts is not insured, cf. in this respect p. 170 of the Commentary to the 1964 Plan.

It follows from subparagraph 1 letter © that also the value of the buyer's deliveries is included in the insurable value. It transpires from § 19-9 (b) that such deliveries are included in the insurance if this is set out in the policy or transpires from conditions in general. In that event, it is natural that also the value of these deliveries is stated in the policy and included in the insurable value.

According to letter (d) also the value of subsidies and contributions stated in the policy are included in the insurable value provided that the subsidies are mentioned in the policy or are in some other way understood to be covered. The subsidies concerned are state subsidy schemes which are basically common to all European shipyards. As at 1997 such subsidies constitute 9.89% of the contract price. The amount is paid to the yard after delivery of the newbuilding at fixed dates of payment twice a year. The subsidies are therefore an addition to the price and must be regarded as a part of the total value of the building project.

If the insurable value is based on the contract price with agreed additions, the yard's profit will be included. However, such a definition of the insurable value does not comprise the buyer's profit on the building contract given by the difference between the contract price with additions, etc., and the ship's market value. This concords with the solution in Cefor Form 250.

Subparagraph 2 defines the insurable value before the newbuilding is ready for delivery. The provision corresponds to § 200 of the 1964 Plan and § 14, subparagraph 2, first sentence, of Cefor Form 250, but has been rewritten. The provision is based on the fact that the insurable value in the builders' risks insurance increases concurrently with the investments made in the ship. Consequently, deductions shall be made in the insurable value calculated according to subparagraph 1 for work that has not been carried out and components and materials which have not been procured or made for the newbuilding, cf. letters a and b. Components and materials which have been procured shall, however, be included, provided that they are within the place of insurance, cf. § 19-5. In reality, this should concord with the solution in § 14, subparagraph 2, first sentence, of Cefor Form 250, which provided that the assured in the event of a total loss before the time of delivery was entitled to "the value of the part of the newbuilding that was completed at the time of loss plus the value of components, etc., procured or manufactured for the newbuilding". The rule entails that the yard will receive compensation for the profit element of the work that has been done.

Furthermore, a deduction shall be made for the proportional part of the subsidies which relate to the work that has not been done and the components, etc., which have not been procured, cf. letter c. This provision refers to the fact that the subsidy shall only be paid on delivery so that the assured has only earned parts of this amount in case of a total loss before the time of delivery.

However, the definition of the insurable value under subparagraph 2 does not afford cover for the yard's profit on the investments which have not yet been made. In order to obtain the full profit the contract must therefore be executed by a rebuilding of the ship. This concords with § 14, subparagraph 2,

of Cefor 250 and the point of departure of the 1964 Plan. However, under the 1964 Plan it was possible to include the full profit element in the insurance, see § 200, subparagraph 2.

§ 19-11. Total loss in the event of condemnation

This paragraph is new.

In the Special Conditions the definition of total loss and the determination of compensation in the event of total loss were gathered together in a joint provision, § 14. In chapter 19 the rules are split into three paragraphs. § 19-11 and § 19-12 give the definition of total loss and thus correspond to § 11-1, § 11-3 and § 11-7 of the hull conditions. Compensation in case of total loss is regulated in § 19-13, which corresponds to § 4-1, but is more complicated.

The provision gives a condemnation rule and comes in addition to the total-loss rule relating to the situation where the yard's obligation to deliver is terminated. The purpose is to obtain a simpler total-loss rule by not having to decide whether extensive damage to the ship results in the termination of the obligation to deliver because of failed contractual assumptions. In case of extensive damage to the ship, the condemnation rule is now directly applicable.

The assured is entitled to compensation for total loss if the newbuilding has such extensive damage that the costs of repairs will constitute more than 100% of the sum insured. This condemnation limit differs from the corresponding rule in the hull conditions, where the condemnation limit is set at 80% of the insurable value or the value of the newbuilding in repaired condition. The reason is that § 19-11 does not contain any corrective in the event of the market value being higher than the sum insured making a higher limit necessary.

The rule that a total loss does not occur until the costs of repairs would constitute 100% of the sum insured entails that a total loss will normally not arise until at or immediately prior to the time of delivery. At earlier stages of the building project, a total loss of what has been completed will normally not constitute the entire sum insured. In the event of damage to the newbuilding in such cases, the question of a total loss must be resolved according to § 19-12. The decisive point is then whether the damage has resulted in the termination of the yard's obligation to deliver. In the event of minor damage, this will normally not be the case, unless there is also damage to the yard which makes it impossible to repair the damage.

If the newbuilding is damaged without this constituting a total loss, settlement shall be effected according to the rules relating to damage contained in §§ 19-14 et seq.

§ 19-12. Total loss where the yard's obligation to deliver is terminated

This paragraph corresponds to § 14 and § 26 of Cefor Form 250. The provision ties total loss under the builders' risks insurance to the termination of the yard's obligation to deliver under the building contract due to damage to the newbuilding or the yard, and retains the solution in § 14 of Cefor Form 250. However, due to the fact that a condemnation rule has now also been introduced, cf. § 19-11, the total-loss rule in §19-12 has become less relevant.

The provision specifies that it is only the termination of "the yard's" obligation to deliver which triggers the right to the total-loss compensation. It is not sufficient that the parties in connection with an incident of damage agree that the contract shall not be executed, or that the buyer has stipulated in the building contract a unilateral cancellation right in case of delay due to damage.

The question as to when the building contract is terminated must be decided on the basis of the building contract, cf. e.g. § 2, subparagraphs 2 and 3, of the 1981 Contract relating to cases of force majeure, supplemented with general non-statutory rules on force majeure and failed contractual assumptions. A total loss will only exist if the damage to the newbuilding or the yard is so extensive that the yard may demand to be released from the obligation to fulfil the contract on the basis of these rules. The force-majeure concept in the 1981 Contract is based on the corresponding concept in section 24 of the Sale of Goods Act of 1907, and presupposes that the damage to the newbuilding or the yard has made it impossible, or practically impossible, to fulfil the contract. This question is discussed in further detail in Knudtzon: "Den nye kontrakt for bygging av skip ved norske verksteder, Nordisk Skipsrederforenings medlemsblad 1984 A", pp. 19 et seq. ("The new contract for the building of ships at Norwegian shipyards, the Northern Shipowners' Defence Club's bulletin 1984 A").

A total loss is based on the assumption that "the obligation to deliver" is terminated "as a result of" the said circumstances. The insurer is not liable if the obligation to deliver is terminated for other reasons, e.g. where the yard has the right to cancel without any loss or damage as mentioned having occurred. Nor will the termination of the obligation to deliver due to the yard's failure to meet its obligations trigger the right to total-loss compensation. This is a strictly commercial risk which cannot be covered by insurance, cf. also the exclusion for insolvency in § 2-8 ©.
Letters (a) to (c) corresponds to § 14, subparagraph 1, of Cefor Form 250, but have been rewritten. Three reasons are stipulated on the basis of which the yard may be released from its obligation to deliver under the building contract, viz. damage to the newbuilding itself, damage to parts of the newbuilding, or damage to the yard, cf. letters (a) and (b). The alternative, damage to or loss of "parts of", is new; furthermore, letter (a) specifies that the damage must be "to" the newbuilding. None of the amendments entail any differences on points of fact. Decisive is the fact that the actual newbuilding is so extensively damaged that the yard cannot be expected to rebuild it, or that the yard itself suffers such extensive damage that it must be released from its obligations, cf. above.
According to letter ©, which corresponds to § 14, subparagraph 1, last sentence, of Cefor Form 250, a total loss furthermore occurs when the obligation to deliver is terminated due to similar circumstances for a subcontractor, provided that manufacturing at the premises of the relevant subcontractor is covered according to §19-5, subparagraph 2.

§ 19-13. Compensation in the event of a total loss/Re. § 4-1
This paragraph corresponds to § 14, subparagraphs 2 and 3, and § 26, of Cefor Form 250, and § 199, cf. § 201 of the 1964 Plan.
Subparagraph 1 corresponds to § 14, subparagraph 3, of Cefor Form 250 and regulates the insurer's liability for damages in the event of total loss when the newbuilding is ready for delivery. The basis for the total-loss settlement may in such cases be either the condemnation rule in § 19-11, or the rule in § 19-12 concerning the termination of the obligation to deliver. In that event, the insurer covers the sum insured, however, not in excess of the insurable value. The reference to the insurable value as the maximum limit for compensation is new and follows from the introduction of a definition of insurable value in § 19-10, cf. § 4-1.
Under Cefor Form 250 the system was such that a total loss at the time of delivery triggered partly the payment of the ordinary sum insured, partly a refund of duty and other contributions stated when the insurance was effected. Refund of duty is not relevant today, in contrast to subsidies and other state contributions. However, under the new Plan, such subsidies and contributions have not been made a separate insurance "only against total loss", but are incorporated as an element in the ordinary definition of the insurable value, cf. § 19-10 (d). If such subsidies etc. are mentioned in the policy, the assured must therefore ensure that the agreed sum insured also includes this amount. If not, it will be a case of under-insurance, cf. § 2-4 and below.
In addition to the sum insured, the insurer shall in the event of total loss cover costs and other losses as set out in § 4-19.
According to § 19-10 the insurable value is defined as the original contractual price with any deductions or additions, the value of the buyer's deliveries and any subsidies. All of these elements must therefore be included in the agreed sum insured, cf. above concerning subsidies. If a fixed sum insured has been agreed at the inception of the insurance and notice of additional work is later given to the insurer, the assured must therefore ensure that the sum insured is increased correspondingly. If not, the sum insured will be lower than the insurable value at the time of loss and this will result in under-insurance, cf. § 2-4.
In the same way the assured must ensure that the sum insured is reduced in the event of deductions resulting from parts of the work not being carried out. If this is not done, the sum insured will be higher than the insurable value, and the compensation will be limited to the insurable value. In that event, the assured will have paid premium on a larger amount than what he can recover under the insurance.
Subparagraph 2 defines the insurer's liability for damages in the event of a total loss before the newbuilding is ready for delivery and concords with § 14, subparagraph 2, first sentence, of Cefor Form 250. The insurer's liability for damages in this case constitutes the proportion of the sum insured which corresponds to the insurable value calculated according to § 19-10, subparagraph 2. The calculation of

the insurable value in this case is commented on in more detail in § 19-10, subparagraph 2. If the total loss here only affects part of the building project, the insurer's liability must be adjusted accordingly. If the sum insured is equivalent to the insurable value, the entire insurable value under § 19-10, subparagraph 2, will be payable. However, if the sum insured is less, the assured shall only receive the proportionate share which corresponds to the proportion between the sum insured and the insurable value.

The rule that a total loss has occurred when the yard's obligation to deliver is terminated because of damage to the yard or the premises of a subcontractor may result in the insurer having to cover the value of the newbuilding and components or materials procured for the same, even if both the newbuilding and the components are relatively, or even totally, undamaged. This may be the situation if the yard or a subcontractor sustains damage, e.g. by fire or natural hazards, which does not affect the newbuilding, components or materials, and the damage is so extensive that it would be unreasonable to expect the yard to complete the building project. Subparagraph 2 in conjunction with the definition of the insurable value in § 19-10, subparagraph 2, will in that event result in the assured recovering compensation also for the part of the newbuilding and materials or components which are undamaged, cf. the fact that from the insurable value deductions shall only be made for investments which have not been made. The reason is that where the obligation to deliver is terminated due to damage to the newbuilding or damage to the yard / the subcontractor's yard, it is clear that all the investments made are in principle lost for the assured. He should therefore receive compensation for these investments, even if the newbuilding and any components / materials are wholly or partly undamaged.

On the other hand, the insurer will in connection with the total loss settlement take over the title to the newbuilding and any undamaged components or materials, cf. § 5-19, subparagraph 1. The insurer can therefore utilize the market value which the newbuilding or the components may represent after the damage. If the buyer and the yard find it expedient to rebuild the newbuilding after payment of the total-loss claim, this therefore presupposes that the insurer agrees with such a decision. If such rebuilding results in the payment of subsidies to the yard which the insurer has paid through a total-loss settlement, the insurer must have a claim for reimbursement against the yard, corresponding to the amount of subsidies he has paid.

§ 14, subparagraph 2, last sentence, of Cefor Form 250 stated that if the sum insured was less than the insurable value, liability must be limited according to the under-insurance rule. The rule applied only to total loss before the time of delivery; total loss at the time of delivery triggered payment of the sum insured in its entirety, cf. § 14, last subparagraph , of Cefor Form 250. The rule relating to under-insurance in the event of total loss before delivery now follows from § 19-13, subparagraph 2, in that the insurer's liability is limited to the proportion of the sum insured which corresponds to the insurable value calculated according to § 19-10, subparagraph 2. As regards total loss on delivery, however, the under-insurance principle, follows from § 2-4 on under-insurance. This represents an extension of the under-insurance principle in relation to Cefor Form 250, which was thus limited to total loss before delivery.

In practice, the buyer will normally have paid one or several instalments on the price, and these must be reimbursed when the yard's obligation to deliver is terminated due to a total loss. According to § 19-3, the buyer shall be regarded as co-insured as far as the instalments paid are concerned and will in the event of a total loss acquire a direct claim against the insurer.

§ 19-14. Damage / Re chapter 12

This paragraph corresponds to §§ 15, 17, 19, 21 and 22 of Cefor Form 250.

The builders' risks conditions were structured with a number of separate rules and subsequently a number of rules that were almost identical to the corresponding rules in chapter 12 of the Plan on hull damage. However, it is more in concordance with the Plan system to take chapter 12 on damage for a basis and exclude the provisions that are not appropriate. § 19-14 aims at obtaining the same result as §§ 15, 17, 19, 21 and 22 of Cefor Form 250.

§ 15, subparagraph 1, first sentence, of Cefor Form 250 was almost identical to §12-1, subparagraph 1. This provision now follows directly from the reference to chapter 12, and entails that if the newbuilding (or components and materials for the newbuilding) is damaged without this constituting a total loss, the

insurer shall indemnify the costs by repairing the damage or re-acquiring lost objects. The costs of repairing the damage also comprise ordinary profit for the yard from such work. The repair work must in other words be calculated in the same way as if the yard had undertaken work paid by the hour for someone else, and the insurer shall indemnify the full amount. However, § 12-1, subparagraph 2, to the effect that liability arises as and when the repair costs are incurred protects the buyer against a major compensation for damage being paid to the yard without the corresponding repair work being carried out.

It is conceivable that the damage can be repaired, but that the owner nevertheless demands new equipment rather than repairs, e.g. out of fear of delayed damage in connection with water damage to a generator. Here the insurer's liability must be tied to the yard's obligation vis-à-vis the buyer according to the building contract. If under the contract it is sufficient for the yard to carry out repairs, possibly combined with a warranty against delayed damage, the insurer's liability must be limited in the same way. If the yard out of consideration for its customers or for other reasons chooses to buy a new object rather than repairing it, this must accordingly be of no concern to the insurer.

§ 15, subparagraphs 2 - 4, of Cefor Form 250 contained a number of provisions that were practically identical to § 12-1, subparagraphs 2 - 4. The application of these rules now follows from the reference to chapter 12.

§ 15, subparagraph 5, of Cefor Form 250 reflected the same principle as § 12-9 relating to repairs of a condemnable newbuilding in the event that the newbuilding was repaired in spite of the fact that it was a total loss. Also this provision is superfluous in view of the point of departure chosen in § 19-14.

§ 17 of Cefor Form 250 contained rules that were practically identical to § 12-5 (a) to (c). The other exclusions in § 12-5 are not relevant in a builders' risks insurance and have therefore been deleted. § 19 of Cefor Form 250 concerning survey of damage was identical to § 12-10, while § 21 of Cefor Form 250 concerning removal was practically identical to § 12-13, and § 22 of Cefor Form 250 concerning allocation of costs was identical to § 12-14 of the Plan. These rules are now made applicable by the reference to chapter 12. However, provisions which were not originally in the builders' risks conditions have been deleted.

§ 19-15. Limitation of the insurer's liability / Re. § 12-1

This paragraph corresponds to § 15 of Cefor Form 250.

§ 19-15 is taken from § 15, subparagraph 1, second sentence, of Cefor Form 250, but has been rewritten patterned on § 12-4. As regards the concepts "faulty design" and "faulty material", reference is made to the Commentary on that provision. Furthermore, § 19-15 provides an exclusion for "faulty workmanship". This limitation is due to a basic reluctance to cover the yard's costs of rectifying a fault due simply to poor workmanship. Faulty "workmanship" is where the choice of materials, the dimensioning or the actual workmanship, e.g. the welding, is contrary to the designer's directions or generally recognized building standards. Damage due simply to accidents during work, e.g. fire damage resulting from negligence during welding, or hull damage arising by the newbuilding keeling over as a result of inadequate support in the building dock shall, however, not be regarded as "faulty workmanship". The dividing line between "faulty workmanship", etc., and mere accidents during work must furthermore be decided on a case-to-case basis in practice.

§ 15, subparagraph 1, second sentence, of Cefor Form 250 also excluded damage resulting from "incorrect choice of material". However, incorrect choice of material is comprised by the term "faulty workmanship" and is therefore superfluous.

The limitations in the second sentence apply only to "costs of renewing or repairing the part or parts" which were not in a proper condition due to the stated perils. This means that the exclusion applies only to costs of repairing the defective part, i.e. the primary damage. If a case of faulty construction or faulty workmanship as regards the steering gear results in the newbuilding running aground during the trial run, the grounding damage will thus be recoverable, but not the costs of repairing or replacing the steering gear.

§ 19-16. Compensation for unrepaired damage/Re. § 12-2
This paragraph corresponds to § 16 of Cefor Form 250.
Subparagraph 1 corresponds to § 16, subparagraph 1, first sentence, of Cefor Form 250 , but has been rewritten and patterned on § 18-12. According to § 16, subparagraph 1, first sentence, of Cefor Form 250, it was only the insurer who was entitled to claim cash settlement for unrepaired damage. The reason was that the insurer felt the need to terminate the insurance on expiry of the insurance period. However, this solution is contrary to the other rules of the Plan where it is the assured who is granted the right to claim cash settlement. The right to claim cash settlement has therefore been extended so that also the assured has been given this right. Whether the yard and/or the buyer has this right will depend on who owns the damaged interests.
Subparagraph 2 corresponds to § 16, subparagraph 1, second sentence, of Cefor Form 250 and states that the compensation shall be calculated on the basis of the estimated costs of repairs. The alternative, "the price reduction attributable to the damage", is new and is relevant if the damage results in the buyer being granted a price reduction. The provision concords with § 12-2, subparagraph 2.
§ 16, subparagraph 2, of Cefor Form 250 contained a special rule tied to the provision concerning apportionment of loss contained in § 5 of the Special Conditions. This has been deleted, and the specific rule in the Special Conditions has therefore become superfluous.

§ 19-17. Costs incurred in order to save time/Re. § 12-7, § 12-11, § 12-12 This paragraph corresponds to § 18 and § 20 of Cefor Form 250. § 18 and § 20 of Cefor Form 250 contained provisions concerning temporary repairs and invitations to tender which were identical to § 12-7 and § 12-11 to § 12-12, but without any limited cover for the loss of time which the assured suffered by choosing the least expensive repair alternative. The solution has been retained, but rewritten and patterned on the corresponding rules in § 17-13.
However, Cefor Form 250 did not contain any rule relating to the cover of the yard's costs applied in order to expedite repairs. Such a rule may, however, be expedient because damage may have negative consequences both for the yard's possibility of timely performance of the building contract and for its overall capacity. The cover of such costs now follows from the reference in § 19-14 to the rules in chapter 12. This entails that if the yard in order to limit a loss of time expedites repairs of the newbuilding by extraordinary measures, the insurer will be liable for the costs incurred, limited to 20% p.a. of the insurable value of the newbuilding according to § 19-10, subparagraph 1, i.e. the insurable value at the time of delivery, for the time which the yard saves. 20% p.a. constitutes approximately 0.55 per thousand per day.
An example may illustrate the rule: If the insurable value under § 19-10 is NOK 182,500,000 and the yard is able to save 10 days by expediting repairs, the insurer will be liable for
20% of 182,500,000 = 36,500,000 for one year, which must be divided by the number of days, 365, and gives a liability of NOK 100,000 per day for 10 days, i.e. NOK 1 million.
If the yard has, in addition to the ordinary hull insurance under section 2, also taken out insurance against the yard's loss of interest and daily penalties in the event of late delivery, this additional cover will only apply where the yard's loss exceeds the insurer's liability under § 12-8. The yard's liability for loss of interest and daily penalties must thus be set off against the cover for extraordinary costs before the additional cover is triggered.

Chap 19 - Section 3 Indemnification of additional costs incurred in unsuccessful launching and costs of wreck removal

General
Section 3 contains partly a new rule about extra costs in the event of an unsuccessful launching, partly a retaining of § 25, second sentence, of Cefor Form 250. This provision was contained in the liability section of the Special Conditions. It is, however, more expedient to separate this element into a separate section.

§ 19-18. Additional costs incurred in unsuccessful launching.

This paragraph is new.

The provision is taken from the English conditions (IBR 5.2) and states that the insurer in the event of an unsuccessful launching covers the assured's additional expenses in connection with a relaunching. The insurer's liability comprises both such additional expenses relating to the unsuccessful launching and expenses in connection with a relaunching, if this is necessary because of the initial failure. It will often be necessary to classify such expenses as cost of measures to avert or minimise loss because they are costs for the purpose of averting damage to or loss of the newbuilding or other losses covered by the insurance. However, this need not be the case, e.g. where it is a question of expenses relating to a new launching after the first failure. It is therefore necessary to have a separate provision in this respect.

§ 19-19. Costs of wreck removal

This paragraph corresponds to § 25, second sentence, of Cefor Form 250.

The insurer's liability concerns the assured's costs of "necessary removal of wrecks". The removal is "necessary" when it is impossible for the yard to conduct its activities without removing the object. In concordance with the limitation in § 25 of Cefor Form 250 it is furthermore only reasonable expenses in connection with the removal that are covered. If the removed wreck has any value, this shall be deducted in the claims settlement, cf. § 25, second sentence, of Cefor Form 250, which admittedly only applied if the removal expenses were less than the value of the object removed. It is only costs of removal of the wreck from places which are owned or at the disposal of the yard which are recoverable. If the newbuilding/wreck results in obstructions to traffic in areas belonging to/at the disposal of others, e.g. in a port area owned by the public authorities, this would have to be covered as wreck removal liability under § 19-20.

Chap 19 - Section 4 Liability insurance

§ 19-20. Scope of the liability insurance

This paragraph corresponds to § 23, §24 and §25 of Cefor Form 250.

In Cefor Form 250 the provisions relating to cover of the yard's liability to third parties were all included in one provision, § 23. In order to make the rule more comprehensible it is divided into two parts, so that the scope of the liability insurance is stated in § 19-20 and the limitations are defined in § 19-21.

The liability cover in § 23 of Cefor Form 250 was limited to the yard's liability for damages. As mentioned in the Commentary to § 19-3 about co-insurance, it is however expedient for the buyer to be co-insured also under the liability cover in order to ensure cover for the buyer in the event of his not having taken out his own liability insurance which comprises liability in connection with the building project. If the yard has taken out the insurance, it therefore follows from § 19-3 that the term "assured" in § 19-20 comprises both the yard as the person effecting the insurance and assured and the buyer as co-insured. If, however, the insurance is taken out by the buyer, the yard will not be co-insured according to § 19-3 and thus not be comprised by the liability part of the builders' risks insurance either. In such cases the yard must take out its own insurance or arrange to be co-insured under the buyer's cover.

The first sentence establishes that liability comprises personal injury and loss of life and corresponds to § 23, subparagraph 1 (a), first sentence, of Cefor Form 250. The basis for liability is irrelevant; it may be liability based on fault for the yard's management, employer's liability or non-statutory strict liability. On the other hand, there is an important limitation to the requirement that the injury must have arisen in direct connection with the performance of the building contract, cf. below.

§ 23, subparagraph 1 (a), first sentence, of Cefor Form 250 stated that liability for personal injury included "the assured's legal liability for loss or injury suffered by guests during trial or delivery runs as well as during transport to or from the newbuilding with another vessel which is leased or owned by the assured". This provision is superfluous. Whether trial runs/delivery runs are comprised by the insurance depends on whether the area where these runs take place are included in the newbuilding's provisional certificates, cf. § 19-5, subparagraph 1 (b). If this is the case, damage caused by the yard during such runs must be regarded as damage arisen "in direct connection with the execution of the building contract." Whether there are invited guests or others who are injured is irrelevant in this

connection, see, however, the exclusion in § 19-21 subparagraph 1 (a) in respect of the yard's own employees, cf. below. The same must be the case with injuries during transport to or from the newbuilding with another vessel to the extent that the yard becomes liable for such damage. Here the yard may incur transport liability if he owns or leases the vessel. If, however, the transport is handled by another carrier it will normally be that carrier, and not the assured, who will be liable.

The terms "personal injury" and "loss of life" are referred to in further detail in § 17-35. Reference is therefore made to the comments on that provision.

The second sentence corresponds to § 23 (b), first sentence, of Cefor Form 250 and establishes the insurer's liability for property damage caused to a third party. That the object must belong to a "third party" means that damage to or loss of the yard's own objects is not covered. The term "third party" must here be read as a "third party" in relation to the yard or buyer as tortfeasor. If the yard causes damage to the buyer's property, this will in principle be comprised by the liability insurance. The same applies if the buyer causes damage to the yard's property. To the extent that such damage is covered by the hull conditions in chapter 19, sections 1, 2 or 5, the damage will, however, fall outside the scope of the liability insurance, cf. § 19-21 (c). Reference is furthermore made to the comments on § 17-36, subparagraph 1.

The third sentence corresponds to § 25, first sentence, of Cefor Form 250, but has been amended and patterned on § 17-40 without any changes on points of fact being intended. The wreck-removal liability concords with the international liability according to IMO rules and comprises the assured's liability in connection with the raising, removal, destruction, marking or illumination of the newbuilding or parts thereof. In contrast to § 25, subparagraph 1, of Cefor Form 250, it is emphasized that only liability imposed by the authorities, and thus not contractual liability, is covered. This also follows from § 19-21, subparagraph 1 (e). Reference is furthermore made to § 17-40 of the Commentary on coastal and fishing vessels.

Only the assured's legal liability for damages is covered. The yard must therefore be liable according to general rules of liability law determining the basis for liability, causation and loss in order to trigger payment of the insurance. If the yard out of consideration for its customers or for other reasons chooses to cover damage for which it does not have liability, this is irrelevant to the insurance.

A further condition is that the liability has arisen "in direct connection with the performance of the building contract". The provision is taken from § 23, subparagraph 1, of Cefor Form 250, but the term "construction" has been replaced by "the performance of the building contract" in order to make the point that the damage need not arise during the actual construction work, cf. below. Like shipowner's liability insurance, liability insurance under a builders' risks cover is therefore tied directly to an individual newbuilding - i.e. in this connection a building contract. Liability for damages in connection with other building projects must be allocated to the builders' risks cover of these projects.

That liability arises "in direct connection with the performance of the building contract" means that liability is connected with the actual construction work or the handling of parts or materials intended for the relevant newbuilding. Liability in connection with the handling of materials or parts before it has been decided that these parts, etc., shall be used for the said newbuilding, accordingly falls outside the scope of cover and will have to be covered under a more general liability insurance for the yard or the buyer. The same must be the case for liability connected with the assured's general operation.

On the other hand, it is not a condition that liability arises in connection with the actual construction work. Also liability arising during storage or transport of parts for the relevant newbuilding must be covered, provided that this takes place within the place of insurance according to the policy. Similarly, liability arising during a trial run or a delivery run within the place insured must be covered.

The heading of § 23 of Cefor Form 250 read"third party liability", and subparagraph 3 read that "third party" referred to anyone other than "the yard". This provision is superfluous. The yard cannot become liable for damages to itself. Liability for damages for the yard must therefore apply to "anyone other than the yard".

The provision in § 19-20 must be seen in connection with the general rule regarding perils in § 19-1. The insurance therefore applies to any marine peril and to war perils, strikes and lockouts. However, it does not cover the yard's liability for damages resulting from other war perils, unless a war-risk insurance has been effected under section 6.

Subparagraph 2 corresponds to § 24 of Cefor Form 250, which stated that the insurer covered damage to objects belonging to the yard resulting from collision following an unsuccessful launching. This provision must be seen in conjunction with the general sister-ships rule in § 4-16 about the insurer's liability in the event of damage to objects belonging to the assured. If the newbuilding causes damage to objects belonging to the assured during or after launching, and this is attributable to circumstances for which the assured would have been liable if the damaged objects belonged to a third party, the insurer is liable to the assured according to § 4-16 to the same extent as he would have had to cover the assured' liability to third parties. This now follows from the reference to § 4-16 as as regards damage from collision or striking following launching. The provision is worded such that the sister-ships rule shall not apply to any damage to the assured's own property other than what is specifically mentioned.
The fact that the liability cover in section 4 has been extended to include buyer's liability if it is the yard that is effecting the insurance, cf. § 19-3, entails that § 4-16 shall also apply if the newbuilding causes damage to the buyer's property. However, this is hardly a very practical situation.
On the other hand, § 4-16, in contrast to § 24 of the Special Conditions, does not cover the situation where the newbuilding causes damage to the buyer's property without the assured's conduct having given rise to liability. However, such damage should be covered by an ordinary property insurance taken out by the assured, and not under the builders' risks insurance, which concerns either damage to or loss of the newbuilding and parts, etc., or the assured's liability for damages. This part of § 24 of the Special Conditions has therefore been deleted.

§ 19-21. Exclusions
This paragraph corresponds to § 23, subparagraph 1 (a), second sentence, and (b), second sentence, and subparagraphs 2 and 4, of Cefor Form 250.
Letter (a) is taken from § 23, subparagraph 1 (a), second sentence, of Cefor Form 250 and excludes liability for the yard's own employees or their surviving relatives from the cover. For Norwegian yards this liability will normally be covered by the occupational injury insurance. In that event, it follows from the delimitation in relation to other insurances in subparagraph 2 that this liability falls outside the scope of liability insurance under the builders' risks insurance. It is nevertheless necessary to have a separate rule to cover foreign shipyards that do not have the type of insurance or social benefit schemes for their employees as mentioned in subparagraph 2. A person is "employed" with the assured if the yard, in addition to wages or salary, covers the employer's social security contributions for the person in question. A consultant with a consultant's fee and without any contract of employment is, by contrast, not employed.
Letter (b) corresponds to § 23, subparagraph 1 (b), second sentence, of Cefor Form 250, and excludes objects that belong to the yard's employees from the cover. The exclusion is in accordance with the exclusion in letter (a), and also with the provision in § 17-36, subparagraph 2.
§ 23, subparagraph 2, of Cefor Form 250 stated that the insurer did not cover loss "which is recoverable under another insurance". The wording of the provision was general and suggested that the liability cover was subsidiary in relation to any other insurance taken out by the tortfeasor or the injured party. However, if the cover is subsidiary in relation to the injured party's insurances, the result may be that the yard will have to cover the liability for damages if the injured party chooses to recover the loss from the yard, or the injured party's insurance company claims indemnification from the tortfeasor. According to section 4-2 number 1 (b), cf. section 4-3, of the Compensatory Damages Act, such a right of recourse is allowed in any non-life insurance for commercial purposes. This would represent a significant undermining of liability insurance and would furthermore seem quite random because the yard's liability would be dependent on whether or not the injured third party had taken out non-life insurance.
On the other hand, the provision did not extend far enough in relation to damage to the buyer's property or personal injury/loss of life. In these cases there is partly a need to make the insurance complementary to certain insurance schemes, and partly there is a need to extend the subsidiarity principle to include pension and social benefits.
The relationship to other insurances is accordingly divided into three parts: subparagraph 1 © concerns insurance relating to the buyer's objects, subparagraph 1 (d) concern the relationship to other liability

insurance effected by the yard, while subparagraph 2 concerns insurance relating to personal injury / loss of life.
Letter © is patterned on § 17-46, subparagraph 1 (a), but applies only to damage which according to its nature is recoverable under chapter 19, sections 1, 2 and 5. This has to do with the fact that the liability insurance under the builders' risks insurance terminates concurrently with the termination of the hull insurance under section 2 or section 5 which means that there is no question of tying this liability cover to the ordinary hull insurance or other insurances on Plan conditions.
In contrast to § 23, subparagraph 2, of Cefor Form 250, which provided that the insurance was subsidiary to other covers, the idea is here, in accordance with chapter 17, that the insurance is made complementary. It is therefore irrelevant whether the said insurance has in actual fact been effected; decisive is whether the loss could, according to its nature, have been covered under the relevant insurance.
Only losses which, according to their nature, could have been covered under the said insurances fall outside the liability cover under the builders' risks insurance. If the buyer suffers a loss which falls outside the scope of the said insurances, e.g. consequential loss, this must be covered under the liability conditions, provided that the requirements as regards adequate causation are satisfied.
Letter (d) contains a delimitation in relation to other liability insurances which the yard has taken out. If the liability is e.g. covered by an ordinary liability insurance taken out by the yard, this will prevail over the liability cover under the builders' risks insurance. However, this applies only if such liability insurance has been effected; on this point the cover is thus subsidiary, not complementary.
According to letter (e), which is practically identical to § 23, subparagraph 5, of Cefor Form 250, the insurer furthermore does not cover liability which is exclusively based on a contract. This exclusion concords with normal non-marine liability insurances which do not cover contract liability. However, the rule differs from ordinary shipowners' liability insurance, which does not have such an exclusion.
Subparagraph 2 corresponds to § 23, subparagraph 2, of Cefor Form 250 as regards personal insurance, but extends further. § 23, subparagraph 2, of Cefor Form 250 made the cover subsidiary to other insurance. In the new Plan partly other systems than insurance have been introduced, cf. letter (a), partly the cover has been made complementary to insurance benefits which are imposed by collective agreement and financed by the liable employer (cf. letter (c). If the type of insurance is such that it would entail a deduction in the compensation pursuant to section 3-1, subsection 3, second sentence, of the Compensatory Damages Act, is irrelevant. The solution is almost identital to § 17-46, subparagraph 2, but the relationship to the occupational injury insurance is adjusted to the fact that the insurance shall also be applicable to building projects at foreign shipyards. Reference is therefore made to § 17-46, subparagraph 2.

Chap 19 - Section 5 Supplementary covers

§ 19-22. Applicable rules

This paragraph corresponds to Special Clause No. 2, paragraph 1, Special Clause No. 3, paragraph 1, and Special Clause no. 4, paragraph 1, of Cefor Form 250.
The formulation of Cefor Form 250 allowed the effecting of various supplementary covers stated in Special Clauses Nos. 1 to 4 in addition to the principal cover. Special Clause No. 1 concerned war risk insurance and has been separated from the rest for special regulation in section 6. The other special clauses are contained in § 19-23 to § 19-25 in this section.
Common to all the supplementary covers was that they came in addition to the other provisions in the builder's risk insurance. This solution is now common to the supplemntary covers in § 19-22.

§ 19-23. Insurance of additional costs in connection with rebuilding

This paragraph corresponds to Cefor Form 250, Special Clause No. 2. The provision applies to insurance of additional costs in connection with "rebuilding". It is therefore only relevant in the event of a total loss that results in "rebuilding", and not in the event of repairs of damage which is recoverable under §19-14 et seq. In case of a total loss without rebuilding, such costs are not incurred. This cover is used

extensively in practice, but allegedly rarely results in payments of compensation. However, because it only applies to total loss, the premium is low.
The insurer's liability is defined as the difference between what is recoverable under the builders' risks insurance and the costs of rebuilding and concords with Special Clause No. 2, paragraph 3. The difference will normally constitute the ordinary price increase of components during the rebuilding period. The Special Conditions emphasized that "the costs of rebuilding" also comprised replacement costs of components and materials for the newbuilding within the sum insured under the supplementary cover. This still applies without it being necessary to state it explicitly.
Compensation for additional costs will not be payable until the sum insured under the ordinary hull insurance has been used up. According to Special Clause No. 2, paragraph 4, first sentence, the insurer's duty to pay compensation arose as and when expenses were incurred. This now follows from § 19-22 and the reference in § 19-14 to chapter 12, cf. § 12-1, subparagraph 2.
Normally, the additional costs according to the building contract will be the yard's risk which means that it is the yard that is entitled to the compensation.
Special Clause No. 2, paragraph 2, contained a rule to the effect that the sum insured was the amount stated in the policy (open policy). This meant that the insurable value was open so that the assured would not recover more than the actually incurred additional costs up to the sum insured. This provision is superfluous. The sum insured shall always be stated in the policy. The same applies to the insurable value, cf. 2-2 and § 2-3. If only one amount is stated in the policy, it must be presumed that the insurance is effected with an open insurable value. The sum insured for additional costs is normally set at 10% of the contract price.
Special Clause No. 2, paragraph 3, subparagraph 2, stated that under-insurance under the principal cover, i.e. that the sum insured under the builders' risks insurance was less than the contract price with additions and the value of the buyer's deliveries, was similarly applicable to the supplementary cover. This provision has been deleted. Supplementary cover for extra costs incurred in connection with rebuilding is hereinafter effected on first-risk conditions.
Special Clause No. 2, paragraph 4, second sentence, contained a reference to § 20 of Cefor Form 250 concerning invitation to tender. Such reference follows from § 19-22 and is therefore superfluous.

§ 19-24. Insurance of the yard's liability for the buyer's interest claim for instalments paid This paragraph corresponds to Special Clause No. 4.
The heading of Special Clause No. 4 read, "Insurance of buyer's loss of interest on instalments paid". This has been amended to "Insurance of the yard's liability for buyer's interest claim on instalments paid" in order to make it clear that it is a liability insurance effected by the yard.
The provision regulates the yard's liability for buyer's interest claim relating to instalments paid. The insurance is effected by the yard and relates to the yard's contractual obligations in relation to the buyer. In contrast to the ordinary liability cover under the builder's risks insurance in section 4, § 19-24 therefore concerns contract liability associated with the building contract.
Special Clause No. 4, subparagraph 1, referred to the applicable rules. That provision has been moved to § 19-22.
The first sentence is taken from Special Clause No. 4, subparagraph 2, but has been rewritten in line with the other provisions in this section and has also been somewhat simplified. The yard's liability for buyer's interest claim in the event of a total loss refers to the instalments that have been paid by buyer to the yard during the building period. The liability is limited to the sum insured, cf. Special Clause No. 4, subparagraph 2.
The liability is tied to "buyer's interest claim according to the building contract". It appears in § 4, subparagraph 5, of the 1981 Contract that buyer, in the event of a termination of the contract, is entitled to a refund of instalments paid plus interest according to the Act relating to Interest on Overdue Payments, etc. of 17.12.1976 from date of payment until date of refund. As security for the buyer's refund claim plus interest, the yard shall, at the latest concurrently with the payment of the instalments, provide adequate bank guarantee. Such guarantee is normally given by the bank granting the building loan against a mortgage on the newbuilding, but it does not always include the buyer's interest claim. In such cases it is therefore relevant with supplementary cover under § 19-24.

However, the supplementary cover only comprises the interest claim if ”the duty to deliver is terminated due to loss or damage which is recoverable under § 19-12”. If buyer cancels the building contract due to a breach of contract and in this connection is entitled to a refund of the instalments, buyer’s interest claim is not covered under an insurance according to § 19-24. In the event of rebuilding. It is also based on the assumption that the loss or damage does not result in a rebuilding, cf. the references to § 19-12. In the event of rebuilding the instalments shall not be repaid. The reference to § 19-12 must be seen in conjunction with the requirement that the duty to deliver is terminated; if an incident of damage is settled under the condemnation rule in § 19-11 without the duty to deliver being terminated, there will be no interest cover.
According to the second sentence, which is taken from Special Clause No. 4, subparagraph 4, interest shall be calculated from the date of payment of the individual instalment until the time of the total loss. According to § 4, subparagraph 5, of the 1981 Contract, and Art. XI, paragraph 1, of the Contract, the yard’s liability for interest, however, remains in effect until the amount is refunded to buyer, and liability is unlimited. During the revision it was discussed whether the insurance could be adjusted to the liability under the contract, but it was found that this was not possible.
In Special Clause No. 4, subparagraph 4, it was emphasized that buyer had to prove the loss of interest. This provision is superfluous. It follows from general rules of liability law that buyer has the burden of proving his loss in relation to the yard, and from § 2-12 that the yard has a corresponding burden of proof vis-à-vis the insurer.
Special Clause No. 4, subparagraph 3, contained a provision that the sum insured was the amount stated in the policy (open policy). This is unnecessary to state explicitly, cf. the comments on § 19-23.

§ 19-25. Insurance of the yard’s loss of interest and daily penalties in the event of late delivery This paragraph corresponds to Special Clause No. 3.
The provision is comparable to a loss of hire insurance or an insurance against late delivery of a newbuilding which is accepted by the buyer. However, the provision in § 19-25 only covers the yard’s loss. The supplementary cover is expensive in relation to the ordinary builder’s risks insurance, but is in practice used to some extent,
The first sentence is taken from Special Clause No. 3, subparagraph 2 and states that the insurance covers the yard’s interest loss and daily penalties resulting from late delivery due to damage which is recoverable under the builders’ risks insurance according to sections 1 and 2. The reference to sections 1 and 2 is new, but does not entail any change on points of fact. The Special Conditions contained the term ”etc.” after daily penalties; this term has been deleted because of the prohibition in English law against so-called ”penalties”. The reality, however, is the same; what is covered is the amount which the yard and buyer have agreed in the contract that the yard shall pay for each day the delivery is delayed as a result of circumstances for which the yard has the risk. It is irrelevant whether this amount is designated as daily penalties or liquidated damages in the contract.
According to the Special Conditions it was the yard’s ”established” losses that were recoverable. However, it follows from § 2-12 that the yard has the burden of proving the loss suffered, and such a condition is therefore superfluous.
Special Clause No. 3, subparagraph 3, contained a provision to the effect that the sum insured is the amount stated in the policy (open policy). As mentioned above under § 19-23, such a provision is unnecessary. Normally, supplementary cover for loss of interest, etc. is effected with two sums insured, one for the loss of interest and one for the daily penalties, and the claims settlements are also made separately. Often two policies are used.
Subparagraph 2 corresponds to Special Clause No. 3, subparagraph 4, first sentence, but has been amended and patterned on § 16-7. Like an ordinary loss of hire insurance, deductible is agreed in the form of a deductible period. Today a deductible period of 14 days is customary. The deductible period shall apply to any one casualty that results in delays under the builders’ risks insurance.
Subparagraph 3 is taken from Special Clause No. 3, subparagraph 4, first sentence, but has been rewritten in accordance with § 16-4, subparagraph 2. The provision states the insurer’s maximum liability for any one casualty. Like under loss of hire insurance the insurer’s liability is defined in the

form of an agreed daily amount and a certain number of days. In concordance with § 16-1, the loss of time shall be stated in days, hours and minutes.
Subparagraph 4 corresponds to Special Clause No. 3, subparagraph 5, second sentence, but has been amended in accordance with the rule relating to insurance period in § 19-2. If the assured and the buyer agree to postpone the delivery date due to circumstances which do not provide grounds for compensation under this supplementary cover, the insurance will automatically be extended against an additional premium. As in the event of an extension of the principal cover, cf. § 19-2, the supplementary premium shall be determined in the policy. Extensions are limited to 9 months, cf. the reference to § 19-2, subparagraph 3.
Special Clause No. 3, subparagraph 5, first sentence, stated that the basis for the calculation was the delivery date agreed between the assured and the buyer. This provision follows from the term ”late delivery” in subparagraph 1 and has therefore been deleted.
Subparagraph 5 corresponds to Special Clause No. 3, subparagraph 6, but has been rewritten and patterned on § 16-10, subparagraph 2. The provision gives a special rule on cases where a loss is due to a combinations of causes and is in that respect in accordance with the principle in § 2-13. If the delay is the result partly of damage entitling the assured to compensation under the builders’ risks insurance, partly of uncovered circumstances, the insurer covers a proportional part of loss of interest and daily penalties calculated on the basis of the loss which the two groups of delay causes would have entailed beyond the deductible period if they had arisen separately.
Special Clause No. 3, subparagraph 7, contained a rule regarding the insurer’s liability for costs of measures to avert or minimise loss of interest, daily penalties, etc. That provision has been deleted. Subparagraph 7, first sentence, limited the insurer’s liability to the amount he should have covered if such costs had not been incurred. Such a rule is unfortunate. If it is a case of justifiable measures, the insurer should cover all costs. Subparagraph 7, second sentence, contained a provision to the effect that the assured must consult the insurer before the measures were implemented. This follows from § 3-30, second sentence, and therefore makes the rule superfluous.
Special Clause No. 3, subparagraph 8, contained a rule to the effect that the survey rule in § 12-10, cf. § 19-14, applied correspondingly when an incident of damage arose which might presumably lead to a delay with loss of interest and daily penalties. That provision has been deleted without this entailing any change on points of fact. It is the duty of the assured to report the damage to the insurer, cf. § 3-29, and the insurer will then have the possibility of undertaking a survey both in relation to the damage cover and in relation to other covers. That § 12-10 shall apply also to the supplementary cover furthermore follows from the reference to section 2 in § 19-22, cf. § 19-14, which refers to chapter 12, including § 12-10.

Chap 19 - Section 6 War risks insurance

Section 6 corresponds to Cefor Form 250, Special Clause No. 1.
Special Clause No. 1 provided detailed rules on Scope of the insurance, Exclusions, Insurance period, Termination and Automatic termination of the insurance. During the revision it was stated that the provision was hardly ever applied and that it was of little practical significance. For the assureds who wanted it, the war risks cover was normally given without additional premium
At the same time there was great similarity between Special Clause No. 1 and the war risks conditions in § 16 of the 1964 Plan and those of the war risks conditions (chapter 15) that concerned exclusions from the insurance, termination and automatic termination of the insurance. Given that the war risks insurance is now incorporated in the Plan, it was found expedient to tie the war risk cover for the builders’ risks insurance to this insurance, which gives a more orderly set of rules at the same time as entailing few changes on points of fact.
The war risks cover is stated in three paragraphs. § 19-26 states the perils insured, § 19-27 provides rules on the insurance period, and § 19-28 states which rules from chapters 15 and 19 apply correspondingly to the war risk insurance.

§ 19-26. Perils insured

This provision is taken from Special Clause No. 1, subparagraph 1 (a) to (c). Special Clause No. 1, subparagraph 1 (a), (b) and (c) was practically identical to § 16 (a) and (b) of the 1964 Plan, and Cefor I.1. The rules on perils insured in § 16 (c) and (d) in the 1964 Plan were, however, included in the ordinary builders' risks insurance against marine perils, cf. § 2 of Cefor Form 250, and above § 19-1 and the comments on that provision. In the new Plan the range of perils insured under the builders' risks cover is restricted on this point and now only comprises strikes and lockouts from the range of war perils insured. By referring to § 2-9 with exclusions for strikes and lockouts the same result is therefore achieved as under Cefor Form 250, viz. that an insurance against marine perils and an insurance against war perils combined cover the entire range of perils stated in § 2-8 and § 2-9. At the same time the reference to § 2-9 entails that the range of war perils under the builders' risks cover has been subjected to the same amendments as other war risk insurance.

Special Clause No. 1, subparagraph 2 (a) excluded nuclear risk from the insurance. This exclusion has today been incorporated in § 2-9, subparagraph 2 (b).

§ 19-27. Insurance period

This paragraph corresponds to Special Clause No. 1, subparagraph 3.

Subparagraph 1 corresponds to Special Clause No. 1, subparagraph 3, first sentence, and maintains the principle that the insurance does not attach until the newbuilding has been launched. While the newbuilding is in dock it thus has no war risk cover. The limitation has to do with the fact that it is not until after the newbuilding has been launched that it can be moved out of the war zone. However, the ordinary builders' risks insurance against marine perils also covers strikes and lockouts so that the newbuilding is protected against these perils whilst in dry-dock, cf. above under § 19-1.

The Committee considered extending the war risk insurance to cover the entire building period, thereby achieving a distinction between marine perils and war perils which concords with § 2-8 and § 2-9 of the Plan. However, it is difficult to carry out such a solution because the reinsurance market has so far not wanted to reinsure such cover. The condition that the newbuilding must be launched furthermore concords with the English builders' risks conditions.

Subparagraph 2 corrresponds to Special Clause No. 1, subparagraph 3, second sentence. Machinery, parts and materials are not covered by the war risks insurance until the parts, etc., are on board the newbuilding.

§ 19-28. Other applicable provisions

This paragraph corresponds to Special Clause No. 1, first sentence, subparagraphs 2 and 5.

Subparagraph 1 is taken from Special Clause No. 1, subparagraph 1, first sentence, and states that the provisions in sections 1 to 4 shall apply to the war risks insurance. The war risks insurance thus covers partly hull insurance, partly damage and costs recoverable under section 3, and partly liability insurance for the yard.

Subparagraph 2 is taken from Special Clause No. 1, subparagraphs 2 and 5. Special Clause No. 1, subparagraph 2 (b) and subparagraph 5 (b) contained partly an exclusion for damage, loss or liability caused by a war between the major powers, partly a rule to the effect that the insurance terminates automatically in the event of a war between the major powers. Reference is here instead made to § 15-5 concerning the outbreak of war between the major powers which entails the immediate termination of the insurance. When the insurance is terminated automatically, there is no need for a separate exclusion provision.

Special Clause No. 1, subparagraph 5 (a) stated that the insurance terminated automatically upon any hostile detonation of nuclear weapons. The same result is achieved by a reference to § 15-6.

The reference to § 15-8 corresponds to Special Clause No. 1, subparagraph 4. Also here the rules are in reality identical.