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England 1523-1601: the beginnings of marine insurance

Guido Rossi

Extant information about early English marine insurance follows a discontinuous trend. It is remarkably scarce until the mid-sixteenth century, when it greatly rises in the space of a few years, only to fade again after a few decades, and return to growth towards the end of the seventeenth century. After that, plenty of records remain. However, this misbehaving trend does not affect our knowledge as much as it would appear at first sight. The reason lies in the unparalleled continuity in English insurance policies, which remained identical from the 1570s to the policy model prescribed in the Marine Insurance Act of 1906 (First Schedule). This makes up, at least in part, for the gap in the available evidence during the seventeenth century.

At the same time, and crucially, the continuity of the English policy form encourages focus on the short but extremely dense formative period of English insurance, the late sixteenth century. During the span of a few decades English insurance customs detached themselves from their Italian origins and moved towards Dutch and Flemish practices, mainly from Antwerp. The customs were written down after the example of Dutch compilations, and the policy model crystallised with the establishment of the Assurance Register, held within London's Royal Exchange. Accordingly, this chapter seeks to reconstruct the shift from the Italian legacy to the creation of English marine insurance. It explores the origins of the Italian heritage before considering the rupture with Italy, the growth of Dutch influence, and the formation of the London insurance market. Finally, it seeks to explain the reasons behind the London market's limited early success.

The Italian inheritance

Until the establishment of the Royal Exchange in 1567, merchants active in London gathered, twice daily, in Lombard Street. The term 'Lombard' originally denoted simply 'Italian' (or, at least, northern Italian). Whilst elsewhere, such as in northern France, the name progressively came to denote moneylenders irrespective of their origins, in London it maintained its original connection with Italy.¹ Initially the commercial usages applied in Lombard Street, aptly called 'Lombard Street customs', were a by-product of Italian influence, and insurance was no exception. Most historical introductions to English insurance therefore open with the statement that the beginnings of London insurance are to be found in Italian insurance custom. This is of course true, but it does not add much to our knowledge. The Lombards arrived from several Italian regions whose customs differed significantly from each other. Especially for maritime commerce, the main Italian *nationes* were three: the Genoese, the Florentines, and the Venetians. The origins of English insurance are probably to be traced to one of them, or to their combination. But which Lombard group contributed the most to their development?

The earliest evidence of Italian maritime trade with England dates back to the late thirteenth century.² However, the growth of maritime commerce between Italy and England was slow. For a long time the bulk of the trade was not direct but mediated, mainly via Sluys. Italian merchants typically availed themselves of northern shipmasters, usually Dutch or Flemish, who operated small vessels on short routes.³

Progressively, though, the volume of trade grew to the point that larger shipments and direct routes became more efficient. During the early fifteenth century Italian merchants began to settle at selected points on England's southern coast. The Cinque Ports (especially Sandwich) were strategically placed at the narrowest point of the English Channel, and so closest to the Continent, but they were more distant from the Mediterranean, and in particular they required crossing the entire, notoriously treacherous English Channel. Plymouth, in contrast, allowed the Channel to be avoided entirely, but was more distant from the main internal markets. The best compromise was found in Southampton, which was close enough to both the Atlantic route and the main English markets. While Plymouth and Sandwich remained important ports, Southampton soon became by far the most trafficked port for international commerce, especially with Italy.

The growth of Southampton played a crucial role in the establishment of insurance in England. Unlike other commercial activities, early marine insurance was not a lucrative business. As such, insurance remained for the entire late middle ages a side-activity to maritime trade. Merchants insured only if they were deeply involved in such commerce. It is very probable that insurance began to be practised in England (at least on a significant and continuative basis) during the early fifteenth century, precisely because of the growth of Southampton. With the increase in the number and quantity of shipments from England it became more convenient to insure them locally, if only because the cargo shipped could be known only at the place of departure. It is probably not a coincidence that one of the earliest pieces of evidence of Italian insurance policies made in England, that found in the ledgers of the London branch of the Borraine Bank, dates to the 1430s.⁴

The growth of direct shipment between England and the Mediterranean during the early fifteenth century saw a clear Genoese predominance among the Italian nations engaged in maritime commerce with England. This is reflected in both the number of vessels involved, and the amount of merchandise shipped from the country. Genoese vessels supporting its commerce with England were at least twice as many as Venetian ones,⁵ while Florentine sea-trade with England was hardly relevant.⁶ The most accurate evidence of the value of Italian exports from England is found in the petty customs paid by foreign merchants to export English wool and other merchandise. Genoese exports from Southampton for the year 1439-40 were nearly fourteen times higher than those of the Florentines and the Venetians combined. The Genoese paid £14,035, against £516 paid by the Venetians and £506 by the Florentines.⁷ The situation in Sandwich, the second main international gateway to England at the time, was even more favourable to the Genoese. All the three accounts for the later subsidy levied in 1452-53, dating from 1455 to 1469, reveal the presence only of Genoese merchants, both resident and non-resident.⁸

The growth of direct trade between England and Italy greatly encouraged insurance. This is particularly evident in Genoese records. Until the mid-fourteenth century policies for voyages to or from England are attested very sporadically. Towards the end of the century their number began to grow,⁹ until the trade boomed during the first half of the fifteenth century.¹⁰ This seems important, for soon thereafter the first evidence of English merchants' involvement in insurance begins to appear. What exists, however, is mainly indirect evidence, which suggests more of an acquaintance with insurance custom than an active role.¹¹ Nonetheless, it is very probable that, by

the mid-fifteenth century, English merchants (or at least London merchants) were becoming familiar with insurance. In all probability their familiarity with the new instrument grew during the late fifteenth century, as the first known policies written in English date to the early sixteenth century. The earliest known is of 1523.¹²

While Italian influence on the beginning of English insurance is extremely probable, it is considerably less clear where, specifically, it came from. Italian nations followed very different mercantile customs. The preponderance of Genoese maritime commerce with England, especially compared with Venetian and Florentine trade, would suggest that the earliest influence on English insurance came from Genoa. Some indirect confirmations, beyond the sheer volume of trade, point directly to this possibility.

Venetian merchants were not as prone to insure as their Genoese counterparts, for they were already protected by the *muda* system, under which the State fleet was 'lent' to the merchants. This convoy system provided sufficient protection of cargoes to reduce merchants' risk aversion, and so decreased their incentives to insure.¹³ Further, the fifteenth-century Venetian insurance market suffered from an endemic paucity of underwriters, which kept the cost of insurance high. Under many Venetian policies of the same period, much of the specified cargo's value remained uninsured. Lastly, but equally significant, Venetian underwriters had a markedly restrictive attitude towards the insurance of foreigners.¹⁴

Aside from its lower volume of exports from England, Florence had a remarkably unfavourable attitude towards the insurance of foreign merchandise, and upheld a stringent state monopoly over maritime commerce. Such restrictions were lifted only around the mid-fifteenth century. It was only in 1464 that Florence allowed the insurance of foreign merchants' goods laden on foreign vessels, and then only when they arrived at or departed from the port of Pisa, the Florentine commercial port of the time. Under such conditions Florentine merchants often preferred to insure their cargoes in Genoa, even when the merchandise came from Florence itself.¹⁵

Genoa, by contrast, had neither Venice's relatively low volume of insurance, nor the Florentine restrictions. On the contrary, it encouraged foreigners to insure, so long as they employed Genoese vessels. This of course does not *per se* prove the Genoese influence on the origins of English insurance, but it might suggest it, especially when combined with the great volume of Genoese maritime trade with England. What we do know is that the evidence attesting to the English merchants' exposure to insurance starts around the mid-fifteenth century, at which time both Genoa's English trade and her insurance there were at their apex.

Genoese primacy of influence was short-lived. The city continued to play a preeminent role in European commerce for a long time, and insurance was no exception, but the very structure of Genoese insurance policies became increasingly less suited to foreigners. The main challenge facing medieval marine risk transfer instruments was their usurious nature, since the risk carriers typically advanced trade capital, and the risk premium in part comprised interest charges. From at least the decretal *Naviganti* of Pope Gregory IX in 1236, such policies were void.¹⁶ The pervasive jurisdiction of ecclesiastical tribunals made the prohibition rather effective, and numerous attempts to circumvent it by camouflaging the premium met with

dubious success. Eventually, in 1369, Genoa opted for drastic measures, and passed a statute prohibiting ecclesiastical jurisdiction in matters of insurance.¹⁷ The prohibition worked well, but its success meant that Genoese merchants had no incentive to develop their policies any further. Elsewhere the mid-fourteenth-century insurance policy style, which had evolved with the goal of disguising the premium from the ecclesiastical prohibition of usury, progressively gave way to overt insurance. In Genoa, however, the statute's ultimate effect was to halt development of the city's insurance practice, and freeze its peculiar style.¹⁸

If Florentine maritime trade with England was slow to build, it gained momentum during the late fifteenth century. The first known insurance made by Florentine merchants residing in London dates to 1426.¹⁹ From the 1430s Florentine merchants started to use the same route as the Genoese, concentrating their trade in Southampton.²⁰ Initially they may have used Genoese intermediaries, but over the turn of a few years their presence in Southampton became more institutionalised,²¹ and by the mid-fifteenth century Florence was beginning to catch up with Genoa. This development finds some confirmation in the comparison of premium rates for voyages on the routes Genoa to England and Pisa to England. The premium in Florence was 12 per cent to 15 per cent in c. 1442.²² Ten years later, in 1453-4, Genoese insurance policies for the route Genoa to England were made for a premium of 8 per cent to 13 per cent.²³ The rates were, of course, still considerably higher in Florence, but the difference was not so great, especially considering the length of the route. Anglo-Florentine maritime relations were growing at fast pace, but in all probability Genoese pre-eminence began seriously to be challenged only at the turn of the century.

Genoa's predominance in English trade was closely connected to Southampton. So long as Southampton retained its pivotal role in international commerce, the Genoese kept their position. However, at the end of the fifteenth century Southampton began to give way to London. By the first decades of the sixteenth century improvements in shipbuilding and rigging allowed most vessels to navigate the Thames.²⁴ London was already the main financial centre in England, and its force of attraction proved irresistible to international trade. Ships increasingly called directly at London, thereby bypassing Southampton.²⁵ In the space of a few decades English and foreign merchants alike left Southampton, and most of them relocated to the capital. The decline of Southampton was swift: by the late 1520s only two foreign merchants, both Genoese, are still attested there.²⁶ The reorganisation of English international commerce played significantly to the disadvantage of Genoa. In the space of a few decades Genoese maritime trade with England came almost to a halt. Genoese ships no longer sailed from England, and English ships now called at Leghorn instead of Genoa.²⁷

The shift from Genoa to Florence had significant repercussions on insurances. During the same years the volume of insurance underwritten in Florence for voyages to or from England grew considerably. Over one hundred such policies from the years 1520-1527 are preserved.²⁸ Revealingly, the first English Consul in the Mediterranean was a Florentine.²⁹ By the 1520s London merchants were insuring directly in Florence for voyages to or from the Mediterranean. Some of them were stably based in Florence itself, and they are often attested as underwriters of Florentine policies to or from England.³⁰

The increasing volume of Florentine insurance in England probably played an important role in the early development of English insurance policies. Unlike the Genoese, who continued to camouflage the premium, Florentine policies were drafted openly as early as the end of the fourteenth century. They laid out the main elements of the contract in plain words and a simple style, thus providing a straightforward model to imitate. The known English policies written in the first few decades of the sixteenth century are too few in number and too succinct in style to argue for a clear derivation from the Florentine model, but if we look at the late sixteenth century, by which time they become as numerous as stylistically consistent, the similarity with Florence is remarkable, and has been noted by many scholars.³¹ Thus, while it is likely that English merchants made their first acquaintance with insurance via the Genoese, it would seem probable that the main influence on the development of English insurance customs came from Florence.

The emergence of distinctive London insurance

The increasing concentration of maritime commerce in London provided the missing element to the development of a local insurance market. London was already England's main financial centre; now it became also one of its major gateways for international maritime trade. By 1561 some 327 English merchants were trading in London.³² Not all the Italians active in Southampton relocated there, and many left England for good. The increasing number of local merchants, coupled with a significant reduction in the number of Italians, entailed the progressive substitution of Italian with English capital to finance insurance underwriting. A rising number of English merchants began to invest part of their capital in the insurance business.

By the mid-sixteenth century English merchants involved in insurance vastly outnumbered foreigners. It was then that the first two elements of a properly English insurance 'type' began to appear: native language and local brokerage. Extant policies issued before the 1540s are written in Italian, but most of the underwritings are in English.³³ In all probability the nationality of the underwriters was a decisive element in the shift of language, which took place soon thereafter. Four out of five known surviving policies issued in the 1550s were written in English,³⁴ and by the 1560s it was the default language of both policies and signings. Foreign insurers on the known policies of the time were so few that no broker could have relied on them for his clients. This was probably a decisive factor in the shift from foreign to local brokerage. Until the mid-sixteenth century broking remained in the hands of a few foreigners, probably Italians,³⁵ while English or 'common' brokers were prohibited from dealing in insurance.³⁶ Over a few years this changed altogether, and by the early 1570s the common brokers were routinely arranging insurance cover.³⁷

The decline of Italian influence on the English insurance market coincided with the rise of the Dutch. Over a few decades Dutch and Flemish merchants operating in London grew in number as much as in business volume. In 1567 the Dutchmen in London already numbered more than 2,000, and their volume of trade with England far exceeded that of the Italians.³⁸ Their ascendancy was also visible in brokerage: the Dutch *natio* was the only one having two official 'foreign brokers' in London, whereas all Italian main groups, previously represented with three to five brokers per *natio*, now had just one 'foreign broker' each.³⁹

Italian brokers operating in London decreased in number both because of the dwindling population of their countrymen in England, and in consequence of the decline of maritime trade between England and the Mediterranean. While Italian maritime commerce with England was decreasing, English trade with Italy ceased almost altogether between the 1550s and the 1570s, and English vessels virtually abandoned the Mediterranean.⁴⁰ The increase in Anglo-Dutch maritime trade thus occurred at a most propitious time to supplant the old Italian influence. Expanding volumes of trade with Dutch and Flemish centres had a crucial impact on insurance. In the mid-sixteenth century maritime commerce was still the main vehicle through which insurance customs were spread. Antwerp, the main commercial centre of northern Europe, was also its main insurance market. Its insurance customs were thus able to exert their influence on the young London market, just as the city's historical link with the Italians was becoming increasingly loose.

The customs of Antwerp spread rapidly in England because of both the increase in trade, and their inherent qualities. By the mid-sixteenth century Italian insurance custom had already been developing for centuries, thus reaching a relatively mature stage. This was an obstacle to further change. Antwerp's insurance market was comparatively young, and its swift expansion was attracting merchants from different regions. In the space of a few decades a number of divergent customs and policy styles was being used in the same place. Antwerp was thus a thriving if somewhat chaotic insurance centre where merchants could choose between different and competing usages.⁴¹ In this scenario, the most efficient customs progressively imposed themselves over others. In turn, strong connections with England ensured the rapid spreading of such customs to London, at the very moment when the 'old guard' was being replaced by new, local brokers, and the language of the policy was moving from Italian to English. It is hard to imagine a more favourable time for change. London's insurance market was only beginning to develop a properly 'local' set of customary insurance rules, and was therefore particularly receptive to innovations. One of most important, for example, was the clause 'to whomsoever it may pertain', which allowed the insurance of merchandise without specifying its ownership.⁴²

While commerce was the main cause of the Low Countries' influence on English insurance, it was not the only one. Religious differences also played an important role. Dutch merchants shared the same feelings about popish Italians as their English counterparts. Mistrust, disfavour, and sometimes open ostracism of Catholic merchants in the late sixteenth century London mercantile community is often overlooked, and largely under-researched. Yet it played a role more significant than is often assumed in severing the last few links between English and Italian insurance custom. During the 1570s, for instance, each of the most important Italian merchants still active in London – Genoese Benedict Spinola, Florentine Philip Corsini, and Lucchese Acerbo Velutelli – faced temporary imprisonment (albeit on different occasions) for minor charges, probably fabricated.⁴³

Institutional instability

With Italian dominance fading away, the increasingly strong influence of Dutch custom, and the rising number of English underwriters, the London market underwent a period of swift development. Smooth transitional phases in customary law,

however, require institutional stability. This was utterly lacking in mid-sixteenth century London. The moment that English merchants began to take an interest in the insurance business, so too did English law courts. Over the turn of a few decades the courts of Admiralty, Chancery, and King's Bench all laid claim to jurisdiction over insurance matters. Turning to a law court was not the usual mercantile practice; arbitration was largely considered the proper course for a merchant, in London as elsewhere. Because arbitration panels comprised merchants, the subject matter remained within a well-defined circle of peers who shared the same usages.

Reputation incentives work better in closed systems, where one has little alternative but to abide by the social rules, so to preserve one's status and remain within the system. When the number of investors grows, new players enter the system. While a relatively low number of new players may be easily absorbed, the swift entry of a large number creates serious difficulties to the preservation of the system. The best way to maintain it is to adopt dispute resolution mechanisms which preserve the cohesion of the weakened system.⁴⁴ So, for instance, when Amsterdam took the place of Antwerp as the Low Countries' leading centre of trade, it soon proceeded with the establishment of an Insurance Chamber.⁴⁵

By contrast, if the growth of players is accompanied by a similar increase in the number of different institutions all equally able to pronounce upon a dispute, the system is further weakened. This was happening in London. A vast number of English merchants quickly took an interest in underwriting, entering a circle of investors which had been relatively narrow so far. Their inflated number soon attracted the attention of several law courts, all equally interested in carving out a share of the new and lucrative business.

Of forty surviving policies underwritten by 246 individuals in the years 1573 to 1593,⁴⁶ nine carry the names of foreigners, an insignificant proportion. A large majority of the insurers (165) underwrote only one policy; a relevant number, 31 underwrote two. Only another 31 underwrote more than five of the known policies, and among them many insured in their name and in the name of their business partners, or on the behalf of someone else, typically another English merchant.

These data suggest a very open insurance market, consisting mainly of occasional investors placing one-off bets, and often not trying their luck again, or not for a long time. When a ship arrives safely at its destination, the insurers 'never offer money again', complained a merchant in the 1570s.⁴⁷ Under such conditions social cohesion becomes progressively loose, and reputational incentives increasingly weaker. The temptation to plea before a law court, where lengthy procedure and formalism could easily be played to one's advantage, was often hard to resist, especially when the investor was not planning to underwrite again, and so did not need to build or maintain his reputation.

Pleadings before law courts became increasingly frequent from the mid-sixteenth century, and the High Court of Admiralty in particular attracted a growing number of cases. Roman law (applied in Admiralty) had some connections to insurance, but was not entirely suited to it. The main advantage of pleading before the Admiralty was the lengthy process. Suits in the Admiralty could take years, and in the meantime the insured was often forced to accept a transaction for just a part of his credit. From a

merchant's point of view this was tantamount to cheating, but again, reputational incentives were of little interest to occasional investors. The London mercantile community was faced with a twofold issue: furthering certainty in the rules applicable to insurance, and resisting centrifugal tendencies on matters of jurisdiction.

The answer came in the late 1570s and early 1580s through the codification of insurance customs and the establishment of an insurance registry on the one side, and the establishment of a specialised insurance court on the other.⁴⁸ The insurance court was meant chiefly to stop the interference of law courts in marine insurance matters, and to bestow some cohesion upon an increasingly chaotic market. The registry would curb fraud and assist in the implementation of the body of rules, which in turn would ensure uniformity in the interpretation of insurance policies.⁴⁹ A further (and perhaps unforeseen) consequence of the insurance registry was that it contributed greatly to the uniformity of the wording of English policies. The language of policies was soon frozen, and did not undergo any significant change until the twentieth century. If the reference in policies to the customs of Lombard Street made little sense in nineteenth century London, it was even less helpful in eighteenth century American policies. In both cases, however, it was testament to the strength of tradition.

Early London insurance market: a limited success

The measures taken on both institutional and normative levels restored some degree of order and homogeneity to the London insurance market and its practice, at least for a period. Surviving evidence shows considerably fewer insurance disputes before the courts of law in the 1580s than previously, a probable sign that the newly established insurance court was functioning well. Premium rates remained low. On the London to Leghorn route, for example, the rate was 7% in 1582,⁵⁰ peaking at 8% towards the end of the year.⁵¹ By 1584-85 it was stable at 6%.⁵² The registry office was also operating (all the figures above come from registered policies), and probably functioned well enough. The Registrar, Richard Candler, was a teller of the Exchequer who had been dismissed from office in 1571 for converting the enormous sum of £4,618 to his own personal use.⁵³ In 1597, having run the insurance register for over twenty years, Candler was able to return the entire amount to the Exchequer.⁵⁴ It is not known whether the registry was a complete success, but at least it cannot have been an utter failure.

It is more difficult to evaluate the new insurance code. In the sixteenth century the term 'codification' was a loose one. Although it seems probable that the code received formal sanction from the Crown,⁵⁵ merchants did not necessarily feel bound by it. They might have considered it as providing written evidence of their customs at a given moment, and therefore subject to change over time. So, for instance, in *Adderley v. Symonds*, a life insurance case heard at the end of the sixteenth century (1599-1601), most of the witnesses deposed against the need to state the furthest point of the voyage,⁵⁶ whereas the insurance code stated the opposite.⁵⁷ Despite this, the code provides precious information about both the specific rules of the London market and the overall attitude of the mercantile community towards insurance.

Early modern compilations on commercial rules typically sought to codify the applicable customs, while at the same time introducing changes and improvements. They did not merely photograph market practice, but sought to enhance it. Looking at

the improvements introduced, it is possible to evaluate the aims of the compilation. The London insurance code was the product of a very young market which needed additional care to develop further. For the compilers of the code, care chiefly meant protection of the insurers from fraud by their insureds.

Looking at underwriting trends, the compilers might have had a point. Insurers did not seem to follow any long-term strategy. The average underwriter, of limited financial means, was in no position to diversify his risk significantly. Without sufficient capital to invest in a number of policies, underwriting was necessarily a gamble – as risky as it was potentially lucrative. It is not a coincidence that insurance was often associated with wagering. Underwriters did not look at statistical probability, but simply reacted emotionally to success and misfortune alike. Thus, risk aversion decreased with a series of successful voyages (or lucky bets). Sometimes an investor needed a series of successful voyages before starting to raise the stakes. For others, one or two safe voyages were enough. But most of them shared the same behaviour: the more they gained, the more they risked. Conversely, risk aversion greatly increased after a loss, and the same insurer typically lowered considerably the amount of further underwritings. Again, it was only after another fortunate series of voyages that the typical insurer would increase his underwriting once more.⁵⁸ Confidence is slow to build, whereas panic is fast to spread. Since losses were statistically unavoidable, a single serious misfortune after a series of successful voyages could well lead to significant and sudden contractions in the market.

Early modern insurance markets, however, did not depend entirely on individual risk aversion, and of course risk aversion itself did not depend solely on the individual risk propensity. Otherwise, it would be difficult to explain why some markets prospered while others declined, given the overall homogeneity of investment strategies (or the lack of them). The reasons are more complex, and are to be found first and foremost in the institutional framework of the market, together with its liquidity.

Credit access was crucial when underwriters suffered a loss. The difficulties of the Spanish insurance market of Burgos during the 1570s, for instance, turned a serious situation into financial ruin for many underwriters, for the impoverished local business community could not support their financial needs.⁵⁹ Until political and military events turned against it, the same did not happen in Antwerp: the market was sufficiently liquid, and credit access relatively cheap. This made it safer to invest in a policy, for it was easier to limit the consequences of a few losses (though perhaps not of a series of catastrophes).⁶⁰

It is not easy to provide a clear picture of sixteenth-century London credit access, but in all probability the market was too young to be sufficiently liquid. This might justify the attitude of the insurance code: in the trade-off between supporting potential insureds and encouraging potential underwriters, priority had to be given to the latter. The markedly pro-insurer attitude of the London insurance code is clearly visible in a number of cases. For example, precious cargo could not be insured against barratry, nor against detention or arrest in the country of departure.⁶¹ A forfeiture of the premium, instead of the customary half of one percent, was applied both in cases of the insured's cancellation of the insured adventure, and when the cargo had temporarily to be unladen while he procured a licence to ship it.⁶² The broker was made jointly and severally liable with the insured for the payment of the premium.⁶³

Insurers were no longer liable for the insured's legal expenses incurred to release a seized vessel or cargo.⁶⁴ Trans-shipment of the cargo was encouraged, instead of its abandonment to the insurers,⁶⁵ and the right of abandonment itself was subjected to stringent limitations.⁶⁶

Even more than credit access and market liquidity, the prevailing institutional framework seems to have played a crucial role in early insurance markets. Scholarly analysis of institutional structures often focuses on the larger picture, and perhaps it works well on a macro level, but the historical development of early markets was typically a product of local circumstances, dictated more by power relations between different groups than by abstract economic and political considerations. With the *Pragmática Real* of 30 April 1562, for instance, the Spanish crown prohibited insurance against pirates. The rationale behind the prohibition was to encourage shipmasters to fight on, instead of surrendering without much resistance. If insurance encourages moral hazard, narrowing the scope of insurance necessarily reduces it, but it is highly doubtful whether merchants would have agreed upon the opportunity of such a draconian rule.⁶⁷ The emphasis on the relationship between government accountability and economic progress, argued by scholars such as Douglass North, is not entirely applicable in an early modern context, for it presupposes powerful and highly centralised governments. The prohibition of insuring against piracy was enacted in Spain, but not in England, primarily because the King of Spain was in a position to impose it, while the Queen of England was not.

Decisions by governments, even by those which relied on mercantile support, could have disastrous impacts on the insurance market. Such is the case of the Republic of Venice, which avoided significant interventions in maritime commerce until its decline became all too apparent. Only then did it begin to enact a series of measures as protectionist as they were anachronistic. One such measure, in 1586, was the prohibition of insurance on foreign vessels.⁶⁸ The prohibition clearly did not encourage insurance, and was probably aimed more at protecting domestic sea carriage than at defending the insurance market.

The English government did not take any such direct approach. Rather, it sought to encourage the establishment of local institutions to foster its main insurance market, located in London. The coordinated effort leading to the establishment of the insurance court, register, and code was as much the product of the Aldermen's Court of London as the Queen's Privy Council. The Aldermen's Court was the driving force behind the innovations, but the Privy Council's support was crucial in overcoming the resistance of some interest groups. The indirect approach of the English government might have been more productive than a more interventionist attitude, but this does not necessarily mean that the choice was a deliberate one. It is also possible (indeed, even probable) that the government could not go beyond that.

Doubtless the institutional reforms were beneficial to the London insurance market, but in the long run they did not yield the desired effects. The main shortcoming remained the lack of coordination with other institutions. The insurance court might have furthered cohesion among merchants, but it lacked exclusive jurisdiction over marine insurance disputes. Effectively, it relied on spontaneous cooperation. The system operated for a few years only before a statute was needed, in 1601, to impose its jurisdiction forcibly (43 Eliz. c. 12). The scope of the statute, however, was

progressively eroded by common law Courts.⁶⁹ More than anything else, it was the absence of an exclusive jurisdictional forum for insurance disputes that hindered the formation of a homogeneous, close-knit group. This in turn had serious consequences on the substantive rules, as well as on the overall success of the insurance market itself.

Customary rules are the product of social groups, and thus require a homogeneous group to underpin them. The absence of a single court weakened insurance rules both directly and indirectly. Directly, they were not applicable before common law courts. The King's Bench, for example, analysed the insurance contract in terms of *assumpsit* (an action for recovery of damages following a breach of contract); it is difficult to think of anything less compatible with insurance customs than that. Indirectly, jurisdictional plurality acted as a powerful centrifugal force on merchants. Weaker social cohesion, in turn, had a negative impact on the applicability of mercantile usages. Even if such practices were now written down, they were still considered customs: their effective application depended on the community that used them.

The poor reliability of London insurers during the formative period of English insurance century is thus probably to be ascribed to the institutional environment. The single underwriter might be trusted, but not the underwriters as a group: they had no clear incentives to act as such. Ultimately the success of English insurance depended considerably upon the certainty of the applicable rules, but such certainty was achieved only after the common law managed fully to absorb insurance litigation during the eighteenth century. Thus, the growing autonomy of the judiciary ultimately slowed down the growth of the insurance market, instead of furthering it – but this could hardly be imputed to the government.

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³ Bradley, Helen L.: *Italian merchants in London*, pp. 66-71.

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²² Uzzano, Giovanni di Antonio: *Della mercatura: della decima e delle Altre Gravezze*, vol. I., Florence: Bouchard, 1866 [1442], p. 119.

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²⁷ Gioffrè, Domenico: 'Il commercio d'importazione Genovese alla Luce dei Registri del Dazio (1495-1537)', in *Studi in Onore di Amintore Fanfani*, Milan: Giuffrè, 1962, pp. 120-121, 228.

²⁸ ASP, series I, nos. 70, 735, 742, 749. I am grateful to Giovanni Ceccarelli, who generously shared with me his research.

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³¹ Drew, Bernard: *The London Assurance: a second chronicle*, London: The London Assurance, 1949, p. 1; Gow, William: *Marine insurance* (fourth edn.), London: Macmillan, 1909, pp. 93, 100; Kimura, Eiichi: 'Der Ursprung der Lloyd's Seeversicherungspolice', *Hitosubashi Journal of Commerce and Management*, no. 3 (1965), pp. 27-28; Persico, Clemente: *L'assicurazione marittima delle merci: commento alla polizza Italiana con cenni comparativi sulla polizza del Lloyd's e su altre polizze estere*, Genoa: Bozzi, 1932, pp. vii-viii, 5; Röpling, Gerhard: *Die Geschichte der Englischen Seeversicherung*, Weissenburg-Bayern: Fischer, 1956, p. 23; Wright, Charles & Fayle, Charles E.: *A history of Lloyd's*, London: Macmillan, 1928, pp. 135-136. These authors typically compared the policy model prescribed by the Florentine insurance statute of 1524 with the Lloyd's policies of the eighteenth century, but the Lloyd's policies followed verbatim the policies of the late sixteenth century London, so their conclusions can be easily applied to our period.

³² Strype, John: *A survey of the cities of London and Westminster*, London: Churchill, 1720, p. 291.

³³ BL, Add. MS 48082, f.160v-161r, policy of 3 Oct. 1532; policies of 20 Sep. 1547 and 26 Nov. 1548, reprinted in Marsden, Reginald G. (ed.): *Select pleas in the Court of Admiralty*, two vols., London: Quaritch, 1897, II, pp. 45-49.

³⁴ Policies of 7 Dec. 1553, 5 Aug. 1555, 6 Dec. 1557, and 1 Feb. 1559, reprinted in Marsden, *Select pleas*, II, pp. 49-51. The policy written in Italian was of 20 Jul. 1555, BL, Add. MS 48082, f.161r-161v.

³⁵ BL, Add. MS 48020, f.346r, BL MS Lansdowne 22, f.64r.

³⁶ CLRO Rep., book 14, f.462v.

³⁷ BL MS Lansdowne 113, f.30r.

³⁸ Wheeler, John: *A treatise of commerce*, Middelburgh: Schilders, 1601, p. 50; Strype, *A survey of the cities*, pp. 297, 300.

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- ⁴⁰ Pagano De Divitiis, Gigliola: *English merchants in seventeenth-century Italy*, Cambridge: Cambridge University Press, 1997, p. 4.
- ⁴¹ For more on Antwerp, se De ruysscher, this volume.
- ⁴² BL MSS Harleian 5103, f.160r; BL Add. MSS 48023, f.250r.
- ⁴³ Ramsay, George D.: 'The undoing of the Italian mercantile colony in sixteenth century London', in Harte, N.B. & Ponting, K.G. (eds.): *Textile history and economic history; essays in honour of Miss Julia de Lacy*, Manchester: Manchester University Press, 1973, p. 33.
- ⁴⁴ On the subject, the literature is vast and fast growing. For a starting point see Hadfield, Gillian K. & Weingast, Barry R., 'What Is Law? A Coordination Model of the Characteristics of Legal Order', *Journal of Legal Analysis*, no. 4 (2012), pp. 1-44, esp. 10-20, 28-30 and 32-37 and cited literature (especially at 32-37).
- ⁴⁵ Go, Sabine 2009: *Marine insurance in the Netherlands, 1600-1870*, Amsterdam: Aksant, 2009, pp. 95-117.
- ⁴⁶ ACF, Room II; LMA MS 22282, pp. 104-128.
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- ⁴⁸ Leonard, Adrian B.: 'Contingent commitment: the development of English marine insurance in the context of new institutional economics, 1577-1720', in Coffman, D., Leonard, A.B., & Neal, L. (eds.): *Questioning credible commitment: perspectives on the rise of financial capitalism*, Cambridge: Cambridge University Press, 2012, pp. 60-64; Ibbetson, David J.: 'Law and custom: insurance in sixteenth-century England', *Journal of Legal History*, vol. 29, no.3 (2008), pp. 295-301.
- ⁴⁹ The subject is too complex to be succinctly related here. For further analysis of the codification of London insurance custom, the establishment of the insurance registry, and the creation of the insurance court see Rossi, Guido: *Insurance in Elizabethan England: the London Code*, Cambridge: Cambridge University Press, 2015.
- ⁵⁰ ACF, Room II, policies of 3 Sep. 1582, 10 Nov. 1582, and 12 Dec. 1582; LMA, MS 22282, f. 118-119, policy of 22 Sep. 1582.
- ⁵¹ ACF, Room II, policy of 27 Oct. 1582.
- ⁵² *Ibid.*, policies of 26 Jan. 1584, 23 Oct. 1584, 3 Nov. 1584, 1 Mar. 1585.
- ⁵³ Lewin, Christopher G.: *Pensions and insurance before 1800: a social history*, London: Tuckwell, 2003, pp. 100-105.
- ⁵⁴ CSPD, Elizabeth 57[4], p. 475.
- ⁵⁵ APC 1600-1601, pp. 252-253.
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- ⁵⁹ Phillips, William D. & Rahn Phillips, Carla: 'Spanish wool and Dutch rebels: the Middleburg incident of 1574', *American History Review*, no. 82 (1977), pp. 328-9.
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- ⁶² *Ibid.*, ff.163r-v, 159r; Add. MS 48023, ff.254v-255r and 247r respectively.
- ⁶³ *Ibid.*, f.181r; Add. MS 48023, f.270r.
- ⁶⁴ *Ibid.*, f.162v; Add. MS 48023, f.254r.
- ⁶⁵ *Ibid.*, f.167v-168r; Add. MS 48023, f.260r.
- ⁶⁶ *Ibid.*, ff. 158v, 162r, 163v, 167r-168v, 175v-176r; Add. MSS 48023, ff.247r, 253v, 255r, 259r-260v, 266r.
- ⁶⁷ A precedent is found in the Bilbao Ordinances of 1560, ord. 44. However, the provision did not prohibit insurance against pirates, but rather required looking at the actual behaviour of the shipmaster and crew in cases of attack.
- ⁶⁸ *Novissimum statutourum ac venetarum legum volumen, Duabus in Partibus Divisus, Aloysio Mocenigo Venetarum Principi Dicatum*, Venetiis: Pinelliana, 1729, vol. I, f.310v.
- ⁶⁹ Park, James A.: *System of the law of marine insurances* (second edn.), London: printed by His Majesty's law printers for T. Whieldon in Fleet-Street, 1790, pp. xli-xlii; Oldham, James: *English common law in the age of Mansfield*, Chapel Hill: University of North Carolina Press, 2004, p. 127.