

Sens et portée des assurances dites Inland Marine ou Inland Transport insurance

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Sens et portée des assurances dites Inland Marine ou Inland Transport insurance

Ce type d'assurance évoque une idée de mouvement, de transport comme son nom l'indique. D'instinct, on pense pour le désigner en français à l'expression la plus simple, celle qui fait usage des mêmes mots. Mais le plus simple n'est pas toujours le plus à propos. Ainsi, entrent dans cette catégorie d'assurance, celles des objets d'art (*Fine Arts Floater*), des bagages ou des effets personnels (*Tourist or personal effects floaters*), des fourrures (*personal fur floaters*), du radium (*Radium floater*) des ponts et tunnels « *and other instrumentalities of transportation and communication* », où l'idée de mouvement, de transport est assez indirecte.

On a voulu faire de cette assurance une sorte de refuge commode pour toutes les garanties dont on ne peut restreindre les bornes à un endroit particulier, à l'encontre des assurances contre l'incendie ou le vol ordinaire, par exemple, qui se limitent généralement à un endroit particulier.

À cause de la concurrence que se livraient les assureurs à la faveur d'une imprécision commode, le *Joint Standard Committee on Definition and Interpretation of Underwriters Powers of Fire, Marine and Casualty Underwriters* est intervenu il y a quelques semaines. Il a déterminé non un cadre

définitif, mais une nomenclature dans laquelle on trouve une longue énumération où la seule idée de relation semble être soit le mouvement, (ainsi, l'Insurance of domestic shipments, c'est-à-dire l'assurance des transports intérieurs), soit l'imprécision du lieu; ce qui permet d'englober toutes les assurances flottantes (floaters) étendues à une région ou à plusieurs pays, au lieu d'être limitées à un lieu particulier. En somme, c'est l'assurance débarrassée de la condition de fixité, que dans les vieux contrats on exprimait par les mots « at such location and not elsewhere ».

Voici à titre documentaire la classification adoptée pour l'assurance maritime et pour les risques dits de transports intérieurs.

I. Marine and/or Inland Transportation Policies May Cover Under the Following Conditions : (A) *Imports* : (1) Imports on consignment may be covered wherever the property may be and without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation. ¶ A shipment "on consignment" shall mean property consigned and entrusted to a factor or agent to be held in his care, or under his control for sale or account of another or for exhibit or trial or approval or auction, and if not disposed of, to be returned. ¶ (2) Imports not on consignment in such places of storage as are usually employed by importers, provided the coverage of the issuing companies includes hazards of transportation. ¶ Such policies may also include the same coverage in respect to property purchased on C.I.F. terms or "spot" purchases for inclusion with or in substitution for *bona fide imports*. ¶ An import, as a proper subject of marine or transportation insurance, shall be deemed to maintain its character as such so long as the property remains segregated in the original form or package in such a way that it can be identified and has not become incorporated and mixed with the general mass of property in Canada, and shall be deemed to have been completed when such property has been: (a) Sold and delivered by the importer, factor or consignee; or (b) Removed from place of storage as described in paragraph (2) above and placed on sale as part of importer's stock in trade at a point of sale-distribution; or (c) Delivered for manufacture, processing or change in form to premises of the importer or of another used for any such purposes.

(B) *Exports*: (1) Exports may be covered wherever the property may be without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation. ¶ An export, as a proper subject of marine or transportation insurance, shall be deemed to acquire its character as such when designated or while being prepared for export and retain that character unless diverted for domestic trade, and when so diverted, the provisions of this Ruling respecting domestic ship-

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ments shall apply, provided, however, that this provision shall not apply to long established methods of insuring certain commodities, e.g., cotton.

(C) *Domestic Shipments*: (1) Domestic shipments on consignment, provided the coverage of the issuing companies includes hazards of transportation. (a) Property shipped on consignment for sale or distribution, while in transit and not exceeding thirty (30) days after arrival at consignee's premises or other place of storage or deposit; and (b) Property shipped on consignment for exhibit, or trial, or approval, or auction, while in transit, while in the custody of others and while being returned. ¶ (2) Domestic shipments not on consignment, provided the coverage of the issuing companies includes hazards of transportation, beginning and ending within Canada, provided that such shipments shall not be covered at points of sale-distribution or manufacturing premises nor after arrival at such points or at premises owned, leased or controlled by insured or purchaser, nor for more than thirty (30) days at other place of storage or deposit, except in premises of transportation companies or freight forwarders, when such storage is incident to transportation.

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(D) *Bridges, tunnels and other instrumentalities of transportation and communication* (excluding buildings, their furniture and furnishings fixed contents and supplies held in storage, motor vehicles and other street and suburban railway properties) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion are the only hazards to be covered. Piers, wharves, docks and slips, excluding the risk of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion. Other aids to navigation and transportation, including dry docks and marine railways, against all risks.

(E) *Personal Property Floater Risks*: (1) *Covering Individuals*: (a) Tourist and/or Personal Effects Floater Policies, which policies shall exclude hazards while in a permanent residence of the insured. (b) Personal Fur Floater. (c) Personal Jewelry Floaters. ¶ (2) *Covering Individuals and/or Generally*: (a) Fine Arts Floaters. To cover objects of art such as pictures, statuary, bronzes and antiques, rare manuscripts and books, articles of virtu, etc., but excluding stained glass windows and carved glass used for commercial purposes. (b) Musical Instrument Floaters, excluding household instruments not customarily moved from the insured's premises. (c) Radium Floaters. (d) Physicians' and Surgeons' Instrument Floaters. Such policies shall not cover instruments and professional equipment not commonly carried with the insured nor furniture and/or fixtures. (e) Pattern Floaters, excluding coverage on the insured's premises. (f) Theatrical Floaters, excluding buildings and their improvements and betterments and furniture and fixtures that do not travel about with theatrical troupes. (g) Film Floaters, including builders' risk during the production and coverage on completed negatives and positives and sound records. (h) Salesmen's Samples Floaters, excluding coverage on the insured's premises. (i) Wedding Present Floaters for not exceeding ninety (90) days after the date of the wedding. (j) Jewellers' Block Policies, excluding improvements and betterments of buildings, furniture, fixtures, tools and machinery of the insured. (k) Exhibition Policies on property while on exhibition and in transit to and/or from such exhibitions. (l) Horses and Wagon Policies covering wherever horses or other animals, wagons and equipment may be. (m) Installation Risks covering loss to seller on account of physical damage to the property. Such policies shall cover articles of machinery or equipment only during the period of installation

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and testing. (n) Moveable Equipment Floaters, *e.g.*, contractors' equipment, mechanical sales devices, storage batteries, stevedores' divers, and undertakers' equipment and other property of a mobile or floating nature, not on sale or consignment, or in the course of manufacture, which has come into the custody and/or control of parties who intend to use such property for the purpose for which it was manufactured or created. Such policies shall not include coverage of storage risks at premises controlled or leased by the insured, except where purely incidental to the regular or frequent use of the equipment or property, nor motor vehicles (except tractors insured as part of contractors' equipment). (o) Miscellaneous Movable Articles Floaters, *e.g.*, outboard motors, parachutes and balloons, scientific and surveyors' instruments, harvesters, articles for sport and recreation, musical scores and orchestrations and other similar property of a mobile or floating nature, not on sale or consignment, or in the course of manufacture, which has come into the custody and/or control of parties who intend to use such property for the purpose for which it was manufactured or created, such policies to contain an itemised list of articles insured, with description and amount or value of each. (p) Property in transit to and/or from and while waiting for or undergoing processing in bleacheries or fumigatories or on premises of dvesters, throwsters and other similar processors until delivered to storage warehouses or final place of delivery contemplated at the time the shipment was made. Provided, however, that such polices shall not cover bailee's property at his premises. (q) Instalment Sales and Leased Property (except Motor Vehicles). Policies covering property sold under conditional contract of sale, partial payment contract, instalment sales contract, or leased. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's and/or finance company's interest. Provided, however, that property which is not mobile in character and which is under lease or leased on a royalty basis, may not be so insured although title remains in the lessor. (r) Bailee's Customers' Policies covering personal property of customers. Such policies shall cover in transit and during process at, *e.g.*, laundrymen's, dyers' and cleaners' premises, provided, however, that such policies shall not cover bailee's property at his premises. (s) Furriers and/or Fur Storer's Customers' Policies (*i.e.*, policies under which certificates and/or receipts are issued by furriers and/or fur storers) covering specified garments the property of customers. (t) Silverware Floaters, excluding the permanent residence of the insured. (u) Signs, street clocks, etc., while in use as such, unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion are the only hazards to be covered.

II. Marine and/or Inland Transportation Policies Shall Not Cover Property Under the Following Conditions : (A) Storage of insured's merchandise and other risks in permanent locations, except as hereinbefore provided. (B) Merchandise in course of manufacture, the property of and on the premises of the manufacturer. (C) Furniture and fixtures in use, or improvements to buildings except as provided above. (D) Fire risk on all building materials while in course of erection after seller's interest ceases. (E) Fire or other risks on merchandise in permanent location sold under partial payment, contract of sale, or instalment sales contract, which involves protection of the purchaser's interest after seller's interest ceases. (F) Risks on monies and/or securities in safes, vaults, safety deposit vaults, bank or insured's premises, except while in course of transportation. (G) Any policy substantially the equivalent of "The Personal Property Floater", sometimes referred to as "The Householder's Comprehensive".

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(H) Risks of fire, tornado, sprinkler leakage, earthquake, hail, explosion, riot, and/or civil commotion on buildings, structures, wharves, piers, docks, bulkheads and sheds and other fixed real property on land and/or over water, except as provided in Section I. D. (I) Motor Vehicles, except as hereinbefore provided. (J) Grain in Elevators, except when specifically designated for shipment for export as provided in Section I. B, nor in any event in the name of the elevator owner or operator as such.

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Pour rendre en français *Inland Transport Insurance*, on pourra bien dire *Assurance des transports intérieurs*; ce qui est l'équivalent exact de l'expression anglaise. Mais ne vaudrait-il pas mieux préciser et dire Assurance des transports intérieurs et assurances flottantes; ce qui aurait l'avantage de mieux fixer le sens de ce groupe grand comme le monde, puisqu'il englobe des assurances qui ont le monde comme bornes.

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H. CHURCHILL-SMITH