

# The Art of Compromise

## Legislative Deliberations on Marine Insurance Institutions in Antwerp (c. 1550-c. 1570)<sup>1</sup>

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Dave De Ruyscher and Jeroen Puttevils look into the complex interaction – typical of the Low Countries – between various stakeholders (economic agents, city government and central government) that shaped the legislation of economic practices. Eschewing top-down (the central government imposes its rules) and bottom-up (merchants sought to have their customs legalised) models, and taking into account the powers enjoyed by city governments in the Low Countries, which were both ample but also constrained by the central government, the authors trace the development of one particular type of contract and transaction – sixteenth-century marine insurance, a growing sector for which Antwerp became the key centre. By laying bare the negotiation process which preceded the compromise, they find that decisions on the legislation regarding marine insurance were both politically and economically induced. The three major agents (merchants, city government and central government) were not monolithic blocs: within the Antwerp mercantile community different opinions on marine insurance and its legislation could be heard. There were ‘national’ differences and small-time insurance purchasers thought differently about state legislation than their larger colleagues and insurers. Parties with political clout also had a stronger voice in negotiations.

*De kunst van het compromis. Onderhandelingen over wetgeving voor het zeeverzekeringswezen in Antwerpen (c. 1550-c. 1570)*

De wetgeving rond economische praktijken in de zestiende-eeuwse Nederlanden werd in belangrijke mate bepaald door de complexe interactie tussen verschillende belangengroepen (economische agenten, stedelijke overheid en centraal gezag).

Dave De ruyscher en Jeroen Puttevils zijn van mening dat top-down (de vorst legt zijn regels op) en bottom-up modellen (kooplieden willen hun gewoonten omgezet zien in wetten) weinig afdoend zijn en stellen zich vragen bij de reikwijdte van de macht van stedelijke overheden. Door op zeeverzekering te focussen, een praktijk die sterk groeide in de zestiende eeuw en waarvoor Antwerpen een belangrijk centrum werd, wordt het onderhandelingsproces en het zoeken naar een compromis tussen de verschillende belangengroepen duidelijk. De beslissingen over wetgeving waren daardoor het resultaat van zowel politieke als economische dynamieken. De verschillende belangengroepen werden door interne spanningen gekenmerkt: zo verschilden Antwerpse handelaars qua participatie in de zeeverzekeringssector, 'nationaliteit' en contacten met de politieke machthebbers.

## Introduction

The recent synthesis by Oscar Gelderblom on commerce in Bruges, Antwerp and Amsterdam from the fourteenth to the seventeenth centuries proposes a new perspective on the political economy of trade. Intercity competition and adaptive efficiency of town magistrates in policy-making are put forward as the main reasons for institutional change in the realm of commerce. Cities were incentivised by profits made through trade and therefore tried to cater to the many needs of merchants (as concerning for example, property rights, infrastructure, debt recovery) in order to attract and retain this otherwise highly mobile community. According to Gelderblom, monarchs did little more than acknowledge the autonomy of the governments of commercial towns, leaving them the agency to structure the institutions in their markets. City magistrates continuously adjusted their municipal legal system to respond to changing commercial strategies of merchants.<sup>2</sup> The results of these developments were open-access institutions at the local level, which can be defined as sets of 'rules which apply uniformly to everyone in society, regardless of their identity or their membership in particular groups'.<sup>3</sup>

This contribution, which focuses on sixteenth-century Antwerp, challenges Gelderblom's ideas in two respects. First, it zooms in on policy-making by the central government in matters of mercantile contracts. The historical evidence demonstrates that princely officials did not merely back the legislative powers of the Antwerp aldermen in this respect: their actions went beyond occasionally urging local measures or imposing minimal, yet

1 The authors wish to thank John Eyck, the editors of *BMGN - Low Countries Historical Review* and the anonymous reviewers for the corrections on earlier versions of this text.

2 O. Gelderblom, *Cities of Commerce: The Institutional Foundations of International Trade*

*in the Low Countries, 1250-1650* (Princeton 2013) 2.

3 S. Ogilvie and A.W. Carus, 'Institutions and Economic Growth in Historical Perspective', in: P. Aghion and S.N. Durlauf (eds.), *Handbook of Economic Growth* (Amsterdam etc. 2014) 403-513, 429.

irksome, control following complaints.<sup>4</sup> Instead, officers and representatives of the central government actively engaged in creating institutional structures. This framework was forged by both the municipal and the princely authorities, which resulted from the institutional intertwinement between both levels of government and from their mutual consultations.

Secondly, this contribution emphasises that decisions of commercial policy, the mechanisms producing them as well as the constraints that lay at their basis were not exclusively economic, but rather both political and economic.<sup>5</sup> The processes that produced legislation were fundamentally political, in fact. Even though the growth of commerce might have strengthened the positions of successful trading cities in the Low Countries *vis-à-vis* the princely authorities there, and in particular in Antwerp, they still remained ‘bargaining metropolises’ that had to negotiate with their sovereign.<sup>6</sup> The Antwerp *pensionaris* and one of the mayors-aldermen of the city (the *buitenburgemeester* or ‘external burgomaster’) represented the municipal government with central institutions such as the Privy Council, the Council of Finance and the Council of Brabant, and they were involved in regular conferences.<sup>7</sup> Princely councils in turn involved local governments in their legislative process because of their expertise, and because they were responsible for the implementation of central ordinances. Late medieval and early modern policy-making then, was a combination of deals and diplomacy.

Gelderblom argues moreover, that municipal governments pursued a policy of open access – the Antwerp market and its institutions were open to all merchants – because of mounting market integration and corresponding changes in commercial strategies among merchants.<sup>8</sup> Local magistrates sensed what the optimal institutions were in a changing economic environment. Following on that, they devised new rules or selected conventions from foreign merchants that guaranteed the lowest transaction costs and debt enforcement for their local merchant community, adapting their municipal laws accordingly.<sup>9</sup> By doing so, according to Gelderblom, local officials overcame the legal heterogeneity that went together with the presence of the many merchant groups inclined to stick to their own rules and customs.<sup>10</sup>

4 Gelderblom, *Cities of Commerce*, 119 (Charles V insisting on procedural reform following complaints) and 120-121 (the Duke of Alba imposing the appointment of a commissioned registrar of insurance policies, without infringing on the competences of the Antwerp judges in insurance matters).

5 *Ibid.*, 199-200.

6 W. Blockmans, ‘Voracious States and Obstructing Cities: An Aspect of State Formation in Preindustrial Europe’, *Theory and Society* 18 (1989) 233. Also:

Ch. Tilly and W. Blockmans, *Cities and the Rise of States in Europe, A.D. 1000 to 1800* (Boulder 1994); D. Stasavage, *States of Credit: Size, Power, and the Development of European Polities* (Princeton 2011).

7 G. Marnef, *Antwerp in the Age of Reformation: Underground Protestantism in a Commercial Metropolis, 1550-1577* (Baltimore 1996) 18-19.

8 Gelderblom, *Cities of Commerce*, 201-203.

9 *Ibid.*

10 *Ibid.*, 13-14, 133.

However, as will be demonstrated in what follows, despite the fact that growth and expanding networks invited institutional adaptations, the concrete open-access solutions crafted by the magistracy of the cities and the officers of the central government were not fully determined by the phenomena named by Gelderblom. Rather, rules prescribing and regulating the contents of contracts were the product of a frequently long search for a compromise between authorities of the municipal and central governments, members of their political elite and groups of traders, all with different levels of enterprise and political clout. In point of fact, all of them had varying views on whether an open-access policy was appropriate and on what open-access rules of contract should look like, views that did not *per se* depend on the laws of the home regions of foreign merchants, yet which were not devoid of power play and particularism.

The key points for the alternative proposition presented here can be demonstrated in the well-documented and intense debate on the rules and organisation of the market for marine insurance in Antwerp in the third quarter of the sixteenth century.<sup>11</sup> Shifts in the Antwerp market around 1550 prompted a reassessment of the legal regime applying to marine insurance. Under this heated discussion came compulsory registration of contracts, limitation of the number of brokers and their appointment by the authorities, and legal rules underpinning the contracts. These conditions were debated in negotiations between groups of merchants, the authorities of the prince and of the city of Antwerp, and the views of members of each group naturally differed. At the start representatives of the princely government had ideas that were in some respects stricter than those of the other political players. These central officials in Brussels, as well as some large insurers, preferred compulsory registration of contracts and centralised brokering. Such policies, however, were fiercely opposed by the groups of occasional and smaller insurance underwriters and insurance purchasers. The local Antwerp

11 A case comparable to the one regarding marine insurance is the formation of monopolies, as in the Antwerp wine and grain trade yet also in other branches of commerce. Such arrangements also concerned rules of contract and involved the interests of the governess-general, as well as subsequent princely legislation and combined action of the municipal and central governments. See: J. Craeybeckx, 'Prijsstijging, monopolisme en pre-mercantilisme. De regering der Nederlanden en de groothandelaarsimporteurs van Franse wijn (1541-1549)', *Handelingen van de Koninklijke Commissie voor Geschiedenis* 151 (1985) 380-407;

J. Craeybeckx, *Un Grand Commerce d'Importation: Les Vins de France aux Anciens Pays-Bas (13e-16e Siècle)* (Parijs 1958) 211-228; A. van Dixhoorn, 'The Grain Issue of 1565-1566: Policymaking, Public Opinion, and Common Good in the Habsburg Netherlands', in: E. Lecuppre-Desjardin and A.-L. Van Bruaene (eds.), *De Bono Communi: The Discourse and Practice of the Common Good in the European City (13th-16th C.)* (Turnhout 2009) 171-204; H. Soly, 'Economische vernieuwing en sociale weerstand. De betekenis en aspiraties der Antwerpse middenklasse in de 16de eeuw', *Tijdschrift voor Geschiedenis* 83 (1970) 522 and 530.

government was also reluctant to devise terms of contract intended to serve as a standard in marine insurance negotiations and hesitated with regard as to which measures were necessary. However, once the Antwerp leaders were convinced to draw up rules of thumb on the contents of contracts, they – and also the princely commissioners – acknowledged contractual provisos that had been crafted by merchants, among them a couple that were even rejected by merchants of some *nations* (as these groups of foreign residents were commonly called). As a result of all this negotiating, it took some fifteen years before positions changed and a legislative framework could be set up that provided for standard rules of contract shared by all players in the Antwerp insurance market. Even so, although it had already been additionally decided in compromises, centralised registration of contracts remained vulnerable to contestation.

### **Antwerp marine insurance in the middle of the sixteenth century: a market in transition meets with swift princely actions**

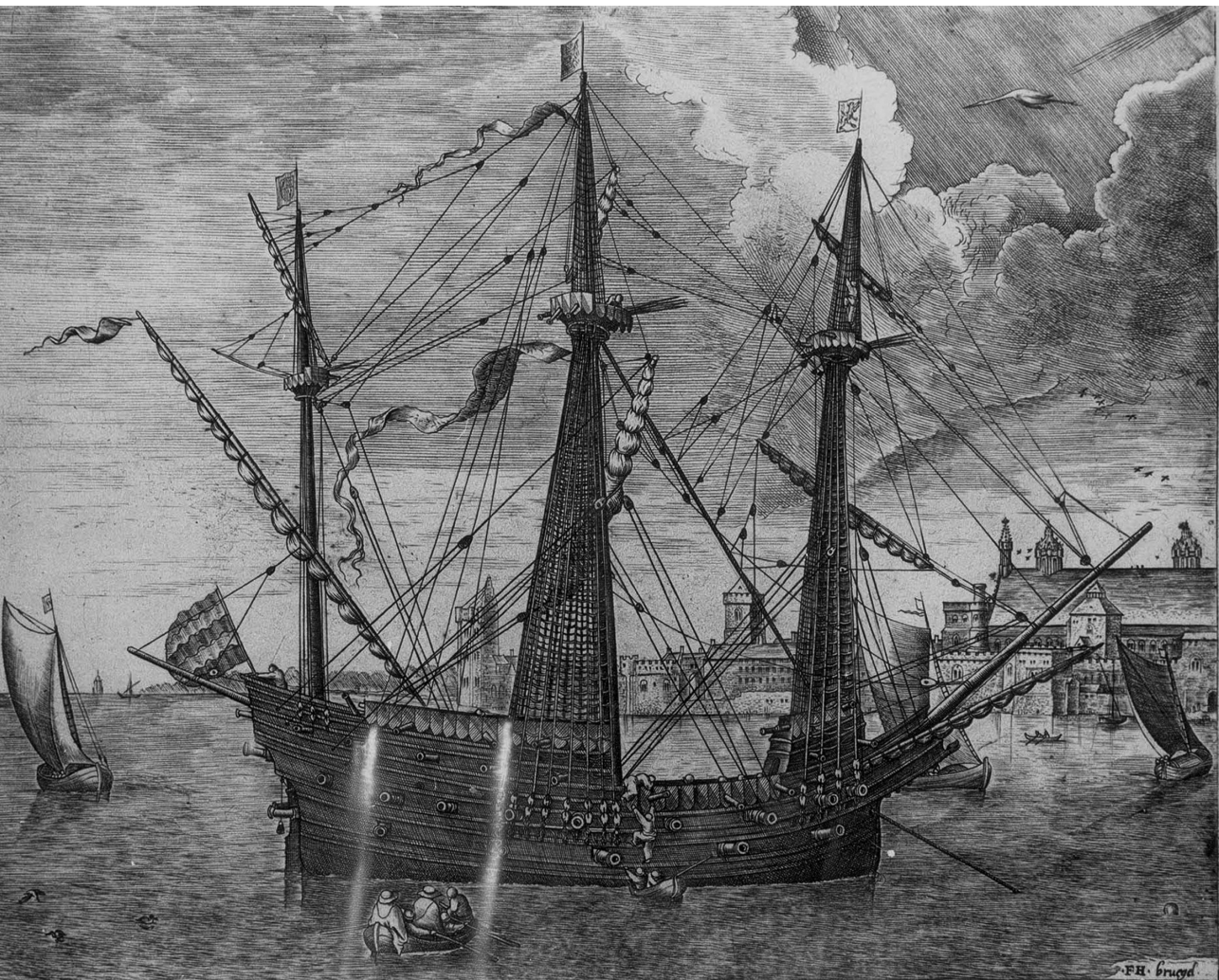
In the late fourteenth and early fifteenth centuries marine underwriting was exported from Spanish and Italian cities to Bruges.<sup>12</sup> When at the end of the fifteenth century Antwerp took over from Bruges as a result of the Flemish Revolt against Maximilian of Austria, many foreign merchants who had been trading in Bruges also moved on to Antwerp, taking with them their know-how in insurance. Around 1520 premium insurance thus became occasionally practised in Antwerp, and it rose steadily in popularity among larger groups of merchants there when, around the turn of the 1520s, brokers offered services of premium underwriting at the Antwerp Exchange.<sup>13</sup>

Notionally, a premium contract of marine insurance (a policy) was signed by one or more underwriters (insurers), who stipulated the payment of a sum of money for losses resulting from the various perils of naval trade (usually encompassing shipwreck, seizure or capture by pirates or privateers and the like). Premium insurance could be for parts of value of a ship or of merchandise. Typical was that premium underwriters themselves were neither vendors nor charterers of the insured merchandise. When a merchant wanted to cover the risk of shipping his merchandise, he contacted a broker. The broker thereupon solicited merchants for insurance, thus negotiating the price (the premium) and the portion of value to be insured. The premium

12 J.P. van Niekerk, *The Development of the Principles of Insurance Law in the Netherlands from 1500 to 1800 I* (Kenwyn 1998) 7, 201.

13 For the importance of the Antwerp Exchange in the dispersal of premium insurance at Antwerp

in the first half of the sixteenth century, consult: D. De ruysscher, 'Antwerp 1490-1590: Insurance and Speculation', in: A. Leonard (ed.), *Marine Insurance: Origins and Institutions: 1300-1850* (London 2015).



▲  
A ship sails in peaceful waters towards a harbour. However, many ships stranded or sunk in the treacherous coastal waters. Notice the cannons providing protection to the ship and its cargo. Engraving by Hieronymus Cock after an original by Pieter Brueghel the Elder (1565).  
Museum Plantin-Moretus/Prentenkabinet (Antwerp).

was expressed as a percentage of the insured value.<sup>14</sup> If the risk was high, the premium was a higher percentage. Data as to the route of the vessel, the state of the ship and the season of travel was communicated by the brokers. That information in turn allowed insurers to assess the risks that they were taking and to adapt the premium rate accordingly.<sup>15</sup> When the risk materialised the underwriters were obliged to pay out compensation, which corresponded to the value that they had insured. In Antwerp insurers were supposed to pay within two months following the substantiated claim of the insured. When a ship had gone missing and no tidings had been received though, the insured could not provide proof of loss. Under those circumstances, after one year he was entitled to forfeit his ownership of the insured cargo or ship to his insurers in exchange for the compensation that was agreed upon.<sup>16</sup>

In the 1530s and even in the 1540s, insurers in Antwerp were nearly always Italians or Spaniards. In the first decades of the sixteenth century, many shipments to the Low Countries had been insured with premium underwriters outside Antwerp, at Bruges for example<sup>17</sup>, and also abroad. Thus in the 1490s and early 1500s premium insurance policies were signed at Burgos, for example, for alum transports from Mazarrón and Cartagena, as well as for shipments of wool and pastel from Bilbao and Bordeaux to the Southern Netherlands.<sup>18</sup> From around 1520, when premium insurance was eventually offered at Antwerp, it were initially the Antwerp-based merchants from southern Europe who practised it there, as purchasers and as underwriters. Even in the 1530s and early 1540s Netherlanders at Antwerp and elsewhere took out premium insurance in Antwerp only infrequently<sup>19</sup>,

14 In general, on the distinctive features of premium insurance, see: Van Niekerk, *The Development*, vol. 1, 1-87.

15 For the Antwerp practice of calculating premium rates, see: H.L.V. De Groote, *De zeeassurantie te Antwerpen en te Brugge in de zestiende eeuw* (Antwerp 1975) 138-140. Also: G. Ceccarelli, 'The Price for Risk Taking: Marine Insurance and Probability Calculus in the Late Middle Ages', *Electronic Journal for History of Probability and Statistics* 3:1 (2007) 1-26.

16 See footnote 42.

17 De Groote, *De zeeassurantie*, 17.

18 H. Casado Alonso, 'Comercio internacional y seguros marítimos en Burgos en la época de los Reyes Católicos', in: *Bartolomeo Dias e a sua época* (Porto 1989) 606-608.

19 For the period between 1530 and 1550, data can be found in four contracts (of 1531, 1535 and

1541); two other documents referring to marine insurance (of 1540 and 1543); sources reflecting ten lawsuits before the Antwerp municipal court (hereafter AMC), concerning marine insurance (of 1540 and of between 1542 and 1549); and six references to insured parties in a broker's ledger (1549-1550). In four of the 22 insurance contracts referred to in these sources, the insured was Dutch. See Antwerp City Archives (hereafter ACA), Notaries (hereafter N), 2070, f. 95v-96r (22 October 1535), 3133, f. 375 r-v (12 October 1540); ACA, Vierschaar (hereafter V), 1241, f. 48v-49v (deed of judgment AMC, 7 May 1547); De Groote, *De zeeassurantie*, 119 (contract, 7 June 1535). For mentions of insured parties from Southern Europe (in sixteen of the 22 contracts referred to), see: ACA, N, 3133, f. 36r (contract 12 February 1541 n.s., listing insured parties from Spain and underwriters); ACA, V, deeds of judgment of

and only occasionally signed insurance policies as underwriters.<sup>20</sup> At the same time, the strategy of extending the liability of the shipmaster or charterer to naval risks in a contract (charter or carriage contract) continued to be applied as an earlier strategy of handling such naval ventures, one already practised by Dutch, German and French traders in the first two decades of the sixteenth century.<sup>21</sup> Moreover, in the 1530s and 1540s the mostly southern European underwriters of premium insurance, and also policy holders, were typically prominent businessmen trading on a large scale, often involved in international finance as well.<sup>22</sup>

the AMC: 1237, f. 23v-24v (31 October 1542) and f. 50v-51r (22 November 1542), 1238, f. 62r (17 September 1543), 1241, f. 4r (1 March 1548 n.s.), 1242, f. 50v-52r (10 April 1548 n.s.), f. 111v (14 July 1548), and f. 270v (12 January 1549 n.s.); J. Denucé, *L'Afrique au XVIe siècle et le commerce anversois* (Antwerp 1937) 93-96 (broker's ledger, six entries of 1549); J.A. Goris, *Étude sur les colonies marchandes méridionales (portugais, espagnols, italiens) à Anvers de 1488 à 1567* (Louvain 1925) 641 (summons for compensation, August 1543); A. Wijffels, 'Business Relations between Merchants in Sixteenth-Century Belgian Practise-Orientated Civil Law Literature', in: V. Pierviovanni (ed.), *From Lex Mercatoria to Commercial Law* (Berlin 2004) 256-259 (court case AMC, 1540).

- 20 Of the 22 mentioned references to insurance contracts, only three concern contracts in which Dutchmen were insurers, among others. See: Goris, *Étude*, 641-642 (summons, August 1543, containing the names of 54 underwriters, among them 31 Italians, 11 Spaniards, and three Dutchmen: Jacques de Cordes, Balthazar de Cordes and Aert Nieulant); ACA, v, 1242, f. 111v (14 July 1548, defendant-underwriter Aert Nieulant) and f. 270v (12 January 1549 n.s., defendant-underwriter Jacques Le Moins). Eighteen of the mentioned 22 references relate to Southern-European underwriters. Sources not cited in the previous footnote, and referring nearly exclusively to Southern-European underwriters, are: ACA, v, 1241, f. 48v-49v (deed of judgment AMC, 7 May 1547); A. Hofmeister, 'Eine Hansische Seeversicherung aus dem Jahre 1531', *Hansische Geschichtsblätter* 5 (1886) 169-177 (insurance contract, July 1531,

containing the names of 44 underwriters, of whom 41 were Spaniards, Portuguese and Italians).

- 21 Archives of the Realm in Antwerp, Notaries, 522, f. 57r-58r (carriage contract, 22 July 1525) and f. 63r-64v (carriage contract, 31 July 1525). These two contracts were signed by Dutch shipmasters for a German merchant, Joachim Pruner. An example of liability by the charterer is: M.A. Drost (ed.), *Documents pour servir à l'histoire du commerce des Pays-Bas avec la France jusqu'à 1585: Actes notariés de La Rochelle, 1423-1585* (The Hague 1984) 32-34 (23 and 24 March 1537 n.s.). Extended liability of shipmasters is not found in those carriage contracts signed for Spanish or Italian merchants, who in the 1540s still mostly relied on Southern-European shipmasters. See: ACA, n, 3133, f. 73r-74r (carriage contract, 20 March 1540); ACA, Certificatieboeken (hereafter CB), 5, f. 18r (certificate of chartering, 28 August 1542) and f. 43r (certificate of chartering, 28 August 1542), and ACA, CB, 6, f. 41r-v (certificate of chartering, 21 April 1544); Goris, *Étude*, 630-632 (carriage contract, 21 June 1540). For the preponderance of Southern-European shipmasters shipping merchandise of Antwerp-based Spaniards and Italians in the 1540s, see Goris, *Étude*, 162-167.
- 22 E. Coornaert, *Les Français et le commerce international à Anvers, fin du XVIe-XVIIe siècle* (Paris 1961) vol. 2, 238-239. Among those signing the mentioned 1531 insurance policy were prominent merchant bankers and financiers such as Giovanni Carlo d'Affaitadi, Gaspar Ducci and Ruiz Fernandez. See Hofmeister, 'Eine Hansische Seeversicherung', 173-177. On policy holders before 1550, see: De Groot, *De zeeassurantie*, 19-20 and 119-120.



Around mid-century the Antwerp insurance market underwent new transformations that put pressure on the balance of interests in insurance contracts and on the mechanisms of contract formation at play. The ledgers of the Spanish insurance broker and Antwerp resident Juan Henriquez reveal an intriguing insight into this changing insurance market. In his time Henriquez was the most prominent marine insurance broker in Antwerp and in the period from 1 August 1562 to 24 September 1563 his business was so vibrant and voluminous that he dominated the brokerage market.<sup>23</sup> Henriquez registered the identities of merchant-charterers and insurers, the destinations and the insured values for 1,621 insurance policies.<sup>24</sup> The policies concerned marine insurance for cargos shipped to and from the Iberian Peninsula, the Mediterranean, (western) Africa, the American and Asian colonies, France, Britain and northern Europe. The accounts for each insurer and policy holder allow a breakdown of the insurance activities of both groups.

Merchant origin	Estimated number of merchants active in Antwerp	Number of insurers	% of total insured value	Number of policy holders	% of total insured value
Spain & Portugal	450	89	45.54%	87	36.74%
Italy	200	31	25.30%	34	21.20%
Low Countries	500	46	24.72%	113	35.37%
Germany	300	2	2.55%	6	0.42%
France	100	4	1.81%	13	6.19%
England	400	1	0.08%	2	0.08%

Table 1. Underwriters and policy holders brokered by Juan Henriquez by merchant group in 1562-1563.<sup>25</sup>

23 Henriquez was mentioned by name in the standard policy form imposed by the central government in October 1563, and was in his time considered essentially monopolous. See: De Groote, *De zeeassurantie*, 152, 154. It was not a coincidence that Henriquez was suggested by Cornelis De Schepper, a senior government administrator, as an advisor on insurance to Mary of Hungary, the governess-general of the Low Countries (September 1551), see: L. Sicking, *Neptune and the Netherlands: State, Economy and War at Sea in the Renaissance* (Leiden 2004) 258, footnote 186. In Antwerp some £ 583,856 gr. Fl. was brokered by Juan Henriquez in the period of August 1562 until September 1563. In February 1558, it was said that some other brokers (their number is unknown) earned between 200 and 300

guilders (£ 33 to £ 50 gr. Fl.) yearly in insurance brokering (ACA, Privilegiekamer (hereafter PK), 1019, 127 (petition, February 1558)), which would correspond to an insured value of between £ 13,200 and £ 20,000 gr. Fl. (the brokerage fee was 0.25% of the value insured). Henriquez' share in the brokerage market can be estimated as very high.

24 ACA, Insolvente Boedelskamer, 2314-2315. The data from these ledgers has been elaborated in: A. Wastiels, *Juan Henriquez, makelaar in zeeverzekeringen te Antwerpen (1562-1563)* (Master's thesis, Ghent University 1967).

25 Source: Wastiels, *Juan Henriquez*, 870-884. Merchant group size estimates are based on: W. Brulez, 'De handel', in: W. Couvreur (ed.), *Antwerpen in de XVIde eeuw* (Antwerpen 1975) 128-131; Gelderblom, *Cities of Commerce*, 33.

From this data (Table 1) it is evident that by the early 1560s the Antwerp sector for marine insurance had become more international. Iberian and Italian merchants were still figuring prominently as underwriters but they had been joined by many more merchants from the Low Countries. Moreover, the books of Juan Henriquez show that in the early 1560s occasional and small-scale underwriters and policy holders, who were more often Netherlanders than before, participated in the insurance sector as well.<sup>26</sup> Opening up the Antwerp insurance market proved a distinct challenge for the existing infrastructure: before about 1550 most parties that were involved in insurance had belonged to the same circles of elitist financiers and traders. As a result, constraints in insurance contracting had hinged on reciprocal sociability and reputation management, which occasionally – when insured and underwriter had the same nationality – could be enforced by the leaders of their nation.<sup>27</sup> As interests expanded however, with insurers and policy holders coming from a growing and diverse group of traders, the market was becoming more anonymous.

On top of these challenges caused by market growth and increased interaction, the Antwerp insurance market was hit by an exogenous shock in the later 1540s and early 1550s: raids of Scottish and French privateers caused an increase in the litigation between policy holders and insurers waged before the Antwerp municipal court of aldermen. Registered deeds of judgment of the years mentioned demonstrate that lawyers for marine underwriters repeatedly attempted to refute the many claims for compensation with which they were confronted.<sup>28</sup> As early as 1548 these events triggered the interest of Mary of Hungary, the governess-general of the Netherlands, who asked her councillors to report on what was transpiring in the Antwerp insurance market.<sup>29</sup> An initial action in response to the problems then, came from the central government. Following the councillors' advice, drafts of legislation were drawn up, the contents of which reveal a notable change in policy.

26 De Groote, *De zeeassurantie*, 155-156.

27 The 1541 contract mentioned (ACA, N, 3133, f. 36r) is an example of marine insurance in which only Spaniards (most probably Castilians) were involved. *Nations* judged among members only. On peer pressure exerted within *nations*, see B. Blondé, O. Gelderblom and P. Stabel, 'Foreign Merchant Communities in Bruges, Antwerp and Amsterdam, c. 1350-1650', in: D. Calabi and S.T. Christensen (eds.), *Cities and Cultural Exchange in Europe, 1400-1700* (Cambridge 2007) 159.

28 ACA, V, deeds of judgment of the AMC concerning insurance claims following the capture or abduction of a ship: 1241, f. 4r (1 March 1548 n.s.),

f. 48v-49v (7 May 1547), 1242, f. 50v-52 (10 April 1548 n.s.), and 1244, f. 25v (17 October 1555). Other deeds of judgment of this period refer to average calculations following capture: ACA, V, 1242, f. 127r (18 August 1548), 1244, f. 60v-61 (24 December 1555), f. 126v-127v (12 March 1556 n.s.), and f. 128-130 (1 April 1556 n.s.).

29 Sicking, *Neptune and the Netherlands*, footnote 152 (letter, June 1548). See also General Archives of the Realm in Brussels (hereafter GARB), Papiers d'État et de l'Audience (hereafter PEA), 1633/1, Letter of the Audience of the governess-general to provincial princely councils, 14 January 1549 (n.s.).

Whereas in 1537 a princely ordinance had regulated the enforcement of claims from marine insurance contracts<sup>30</sup>, in 1548 the central government of the Netherlands went one step further. Until then projects of ordinance mostly concerned the arming of ships and the fitting-out of convoys, for it was thought that insured ships were less armed and thus more prone to capture. Here however, even though the purpose of the ordinance was to reduce the use of marine insurance, for the first time rules were also fixed for determining the contents of marine insurance contracts. Furthermore, these rules were devised as open-access institutions: they would apply to all parties to insurance contracts made in Antwerp, irrespective of their status or *nation*. The princely actions thus conformed to the open access policy of the Antwerp municipal court in matters of marine insurance. However, in contrast to the Antwerp aldermen-judges, the princely initiative was concerned not merely with rules of procedure and debt recovery (as demonstrated below) but also with contractual content. In the earliest stages of the proposal princely councillors were asked to seek the opinions of merchants with expertise in the matter.<sup>31</sup> Their consultations with merchants (among them members of the Castilian consulate in Bruges), captains and seamen of ports in the Low Countries took place in 1549, and draft ordinances were distributed and amended with their comments.<sup>32</sup> One such draft, dating from June 1549, limited the portion of merchandise that could be insured to one third for ships that did not sail to the Mediterranean; in addition, versions of the ordinance also ruled out hull insurance policies. When the subsequent princely law was finally issued in January 1550 though, it allowed for some open-access terms of insurance contracts providing for example, that any marine insurance of cargo would encompass a maximum of nine tenths of its value<sup>33</sup>, while also

30 Ch. Laurent, Jules Lameere and H. Simont (eds.), *Recueil des Ordonnances des Pays-Bas* (S.l. 1893), 2nd series, vol. 4, 34-35 (Princely ordinance, 25 May 1537); O. De Smedt, 'De keizerlijke verordeningen van 1537 en 1539 op de obligaties en wisselbrieven. Eenige kanttekeningen', *Nederlandsche Historiebladen* 3 (1940) 15-21.

31 GARB, PEA, 1633/1, Letter of the Audience of the governess-general to provincial princely councils, 14 January 1549 (n.s.) '[...] visiter ladite minyete et en communiquer a aucuns bons personaiges marchans et aucuns de votre gens eulx cognoissans en telz affaires [...]'].

32 L. Sicking, 'Los grupos de intereses marítimos de la Península Ibérica en la ciudad de Amberes: La gestión de riesgos y la navegación en el siglo XVI',

in: J.A. Solórzano Telechea, M. Bochaca and A. Aguiar Andrade (eds.), *Gentes de mar en la ciudad atlántica medieval* (Logroño 2012) 169 and 177.

33 For the ordinance, see: *Recueil des Ordonnances des Pays-Bas*, 2nd series, vol. 6, 3-13 (19 January 1550 n.s.). On the history of this ordinance, see besides Sicking, 'Los grupos': L. Sicking, 'Stratégies de réduction de risque dans le transport maritime des Pays-Bas au XVIe siècle', in: S. Cavaciocchi (ed.), *Ricchezza del mare, ricchezza dal mare, secc. XIII-XVIII* (Prato 2006) 797-798 and J. Craeybeckx, 'De organisatie en de konvooiing van de koopvaardijvloot op het einde van de regering van Karel V. Bijdrage tot de geschiedenis van de scheepvaart en de admiraliteit', *Bijdragen voor de Geschiedenis der Nederlanden* 3 (1949) 188-193.



Heavily armed ships were one of the options to protect one's commodities but they too could meet stormy weather, heavy seas and marine creatures. Engraving by Hieronymus Cock after an original by Pieter Brueghel the Elder (c. 1541-1560). Collections artistiques de l'Université de Liège.

permitting hull insurance policies under certain conditions.<sup>34</sup> It seems then, that the opinions of consulted merchants had indeed been taken into account.

### An outsider's proposal

In October 1555, Giovanni Battista Ferrufini, a merchant who had probably come from Piedmont but who by that time resided in Antwerp, submitted a petition to the Council of Finance of the Netherlands. In his official request he complained about daily discussions and lawsuits in Antwerp, and about the 'deceit and abuse' ('tromperies et abuz') in marine underwriting in that city. Ferrufini proposed to make it mandatory for all merchants engaging in marine insurance policies in Antwerp to have their insurance contracts drawn up by a public broker. This official would devise the contents of insurance contracts in the 'best form possible' and arrange for their authentication with the sovereign's seal by an assistant notary. This certification served the purpose of distinguishing the policies from other – unofficial – contracts, which were not able to be brought to court. Ferrufini clearly intended to make a profit: without calling it by its name, his proposal actually comprised a monopoly combining insurance brokerage with said registration. Moreover, he proposed to establish the function of public broker in the form of an office, which was to be granted to a beneficiary *ad vitam*. Ferrufini asked the prince to award him the office in exchange for an annual sum of 500 guilders (£ 83.33 gr. Fl.), which would be paid for the remainder of his life after a trial period of ten years, a remunerative proposal for the central government. Ferrufini would furthermore profit from his proposal to charge for each insurance contract 0.25 percent of the value insured.<sup>35</sup>

Even so, some features of Ferrufini's request point to the fact that its author was not firmly embedded in the Antwerp insurance scene. To his petition a statement was added that had been signed by thirty-three Antwerp-based merchants of different nationalities, supporting Ferrufini's project, and which confirmed the mentioned brokerage rate as being common in Antwerp. Notwithstanding the fact that these merchants declared they insured freights, this rate was true for only a minority of them. Six of the merchants endorsing Ferrufini's proposal were mentioned as insurers in the accounts of Henriquez, dating a few years later, and six as insurance purchasers, among them four of the former six underwriters.<sup>36</sup> For six others, indications are that they

34 Sicking, 'Los grupos', 197.

35 GARB, PEA, 145, f. 136r-v, Request of Giovanni Battista Ferrufini to the Council of Finance, 1 October 1555.

36 The underwriters were Alessandro Bonvisi, Jeronimo de Salamanca, Anton del Rio, Jacob Lang, Marcos Nunez Perez and Christopher Pruynen. The insurance purchasers were Bonvisi, del Rio, Lang, Pruynen, Giovanni Battista Sforzoso and Jeronimo Spinosa.

were insurance underwriters at some point in their life.<sup>37</sup> Nevertheless, the other (nineteen) endorsing merchants do not appear to have been involved in insurance in Antwerp.<sup>38</sup> All of them did belong to the highest stratum of the mercantile community of the city though. They included prominent bankers and royal representatives, such as Anton Palos, who was the agent of the Portuguese king, and Lazarus Tucher, who had been financial agent of the Habsburg emperor. It is likely that Ferrufini matched the same profile of outsider: there are no traces of his being involved in insurance, as policy holder or underwriter, before October 1555.

Ferrufini then, gathered support for his largely self-interested proposal from merchants with whom the central institutions were acquainted, but he was mistaken in assuming seemingly oligarchic features of the princely legislative procedure. Ferrufini considered it a top-down process, whereby the central government imposed regulation on cities, most probably because he knew about the princely practice of consulting prominent merchants. ‘Principal merchants’ (‘marchands principaulx’) such as the ones listed after Ferrufini’s petition were often asked by the prince and his advisors for their opinion on matters of trade, or for drawing up reports on such issues.<sup>39</sup> Ferrufini had deliberately not informed the Antwerp government of his petition, despite two Antwerp aldermen (Fernando de Bernuy and Johan Verheyden) having signed

37 ACA, v, 1242, f. 270v (12 January 1549 n.s., defendant-underwriter Gaspar Schetz); 1244, f. 63r-66r (24 December 1555, defendant-underwriter Diego de Santa Cruz); Goris, *Étude*, 641-642 (summons, August 1543, Diego de Santa Cruz and Silvestro Cattaneo underwriters); C. Wyffels, ‘Een Antwerpse zeeverzekeringsspolis uit het jaar 1557’, *Handelingen van de Koninklijke Commissie voor Geschiedenis* 113 (1948) 103 (contract 8-9 February 1557, underwriter Galeotto Magalotti); Hofmeister, ‘Eine Hansische Seeversicherung’, 174 (member of the Micheli family and Giovanni Carlo d’Affaitadi).

38 Some may have worked with another broker than Henriquez. Yet sources of the later 1540s and of the 1550s, reflecting marine insurance practice in Antwerp, do not mention one of the nineteen merchants named who stood with Ferrufini: ACA, CB, 10, f. 43r (18 May 1555) and f. 273v (July 1555) 11, f. 201v (11 April 1556), 12, f. 149r (17 November 1557), 14, f. 16r-v (19 June 1559) and 15, f. 159r-160r (24 April 1550); ACA, v, 1243, f. 309r-310r (deed of judgment AMC, 20 May 1553,

mentioning seven underwriters), 1244, f. 25v (17 October 1555) and f. 64r-66r (24 December 1555, mentioning twenty-one underwriters); Denucé, *L’Afrique*, 93-95 (66 insured, 1550-1556). It is possible but unlikely that many of the merchants signing Ferrufini’s statement passed away or left the city shortly after October 1555. For seven of the nineteen supporters, there is ample evidence that they stayed in Antwerp until the 1560s. Additional data can be obtained from the authors.

39 See, for example, GARB, PEA, 1635/1, Letter of councilor Albert van Loo to the governess-general, 14 October 1553 (referring to a consultation by Lazarus Tucher on the effects of the postponement of payment at the Antwerp fair that was imposed by central decree), and GARB, PEA, 1737/3, f. 419r-420r (letter of 30 October 1565, written by Gaspar Schetz, who was the Habsburg factor from November 1555, to the governess-general and regarding the impact of a monopoly that was granted in the grain trade on the Antwerp market).

the added statement on their own behalf. However, consulting usually also involved local magistrates and stakeholders (as will be seen below).

What is more, the outsider characteristics of Ferrufini's proposals are shown clearly by their contents. In his petition Ferrufini referred to the 'commun stille ès escriptures et polis des dictes assurances' (the common style in contracts and policies of said insurance)<sup>40</sup>, and later, when in April 1557 he clarified some of his ideas, he claimed that brokers often falsely presented new practices and provisions of contract as usages and customs ('soubz ombre de ceditz uz et coutumes').<sup>41</sup> However, even though Ferrufini envisaged these notions as reflecting rules of thumb and as having commonly known contents, since he did not define them in any way, not many of these rules were known in the Antwerp insurance business around 1555. In the period between 1488 and 1555, deeds of judgment of the Antwerp municipal court of aldermen contain only few references to 'customs' relating to marine underwriting and naval accidents that were brought forward as arguments in the courtroom. Moreover, although such mentions of customs concerned open access rules that were imposed by the municipal court on all members of the urban mercantile community, they mostly related to procedural issues and delays and they did not so much concern actual terms of insurance.<sup>42</sup> As for the contents of contracts, there were virtually no municipal or mercantile standards. As late as the 1560s the *nation* of Castilians in Bruges emphasised that no one knew what the marine insurance customs of Antwerp regarding contractual provisions were, even though around that time reference was commonly made to the 'customs of the Antwerp Exchange' in insurance

40 AGRB, PEA, 145, f. 136r (request of Giovanni Battista Ferrufini to the Council of Finance, 1 October 1555). See also: P. Génard, 'Jean-Baptiste Ferrufini et les assurances maritimes à Anvers au XVI<sup>e</sup> siècle', *Bulletin de la Société de géographie d'Anvers* 7 (1882) 197; D. Moscarda, 'L'italiano Giovan Battista Ferrufini, sovrintendente alle Assicurazioni in Anversa', in: E. Capuzzo and E. Maserati (eds.), *Per Carlo Ghisalberti: Miscellanea di Studi* (Napels 2003) 80. All historians writing on Ferrufini's proposal (including Jan Goris, Emile Coornaert, Wilfrid Brulez, Hans Pohl, up to Gelderblom) based their accounts on Génard's article; therefore, they will not be cited hereafter.

41 ACA, PK, 1019/120, Further explanations by Giovanni Battista Ferrufini, April 1557. See also: Génard, 'Jean-Baptiste Ferrufini', 204; Moscarda, 'L'italiano Giovan Battista Ferrufini', 83.

42 They regarded procedural periods of payment of compensation by the underwriters (two months, one year), the sharing of damages that had been produced during the saving of a ship over all those having freights in that ship (i.e. gross or general average) and the rule that insurance after loss was legitimate only if the insured had been unaware of the loss. The possibility for an insurance purchaser to forfeit his rights of ownership on insured merchandise to the underwriters of the insurance contract, after one year, was also described as a custom. See: ACA, v, deeds of judgment of the AMC: 1239, f. 117v and f. 138v (19 July 1544). On the sharing of damages: ACA, v, 1241, f. 104r (16 July 1547), f. 283r (8 March 1548 n.s.), 1244, f. 61r (24 December 1555), and f. 126v (12 March 1556 n.s.). On the lawfulness of insurance after loss: ACA, v, deeds of judgment of the AMC, 1241, f. 49r (7 May 1547), 1242, f. 51v (10 April 1548 n.s.) and 1238, f. 62r (17 September 1543).

contracts.<sup>43</sup> Ferrufini admitted this practice to a certain extent in his 1557 additions as well, because he insisted on the need for a princely law, which he stated was necessary because customs of Antwerp regarding marine insurance had ‘not been declared’ (*‘ne fusrent oncques déclairés’*).<sup>44</sup>

To his 1557 clarifications Ferrufini thus added a standard policy, containing what he considered to be ‘the style’ and ‘the customs’ of contracts of marine insurance in Antwerp. Given the sparse number of existing Antwerp insurance customs and the lack of rules relating to provisions in insurance contracts, Ferrufini had devised a common style of insurance policies in his model standard contract, rather than defending an existing one. The mandatory insurance contract that he proposed, in addition to his call for princely legislation imposing it, can be considered arguments underscoring Ferrufini’s largely pretended aim for the common good. Notwithstanding, Ferrufini’s contribution to the development of Antwerp marine insurance lay in the fact that he was the first to submit a proposal of extant legislation regulating many terms of contract in response to fraudulent practices and general lack of security in the insurance sector. Ferrufini anticipated princely concerns therefore, which had become public in the central government’s law of 1550 and in another one of 1551<sup>45</sup>, and he set in motion a process that would ultimately bring about standards for terms in insurance contracts in the Antwerp market.

### From consultation to protest to legislative negotiations

The central authorities responded to Ferrufini’s petition by seeking additional information. The Council of Finance delegated the issue to Gaspar

43 See: S.M. Coronas González, ‘La ordenanza de seguros marítimos del consulado de la nación de España en Brujas’, *Anuario de historia del derecho* 54 (1984) 390, footnote 18 ‘[...] el qual uso y costumbre [of Antwerp] nunca se a visto por escrito, ny ay persona que sepa el dicho uso ny costumbre [...]’; Ch. Verlinden, ‘Code d’assurances maritimes selon la coutume d’Anvers, promulgué par le consulat espagnol de Bruges en 1569’, *Handelingen van de Koninklijke Commissie voor de uitgave der Oude Wetten en Verordeningen van België* 16 (1950) 60 (referring to the introduction to the French printed version). It seems that this remark concerned the ongoing situation of confusion as to standards in terms of contract, and that it did not follow on from differences between the

1563 princely law (see further) and practices of the Antwerp municipal court. The references to ‘customs of the Antwerp Exchange’ in insurance contracts, from the later 1550s onwards, do not point to a set of customs, but rather to general insurance practices (especially when combined with a reference to the customs of the London Strada, which was still common in the 1560s) or to mercantile usages known in Antwerp and/or (mostly procedural) practices of the Antwerp municipal court in matters of insurance.

44 Génard, ‘Jean-Baptiste Ferrufini’, 203; Moscarda, ‘L’italiano Giovan Battista Ferrufini’, 82.

45 *Recueil des Ordonnances des Pays-Bas*, 2nd series, vol. 6, 163-177 (princely ordinance, 19 July 1551) (s. 18-22).



Schetz for analysis. As trading agent of the sovereign, Schetz was one of the ‘principal merchants’ close to the monarch and he had expertise in marine underwriting.<sup>46</sup> Although he had endorsed Ferrufini’s claims by signing the added statement regarding the brokerage remuneration, he was appointed to carry out further investigation. A conflict of interests of this kind was not unusual. ‘Principal merchants’, among them supporters of Ferrufini’s proposal, were thought to represent the community of all merchants in Antwerp<sup>47</sup> – even if they were not unanimous in their opinions – and to be leading experts in mercantile matters.<sup>48</sup> In his report Schetz confirmed that the Antwerp insurance market was quite chaotic and required princely regulation, namely with a mandatory contract form; he also favoured Ferrufini’s proposal that one officer centralise the writing and registration of all policies, but he added that more had to be paid to the treasury of the prince. Already at that time Schetz expected disagreement among Antwerp’s merchants.<sup>49</sup> On 5 December 1556 Schetz’ report was sent to the Antwerp magistracy for further counsel on the feasibility of Ferrufini’s projects and on the wishes of merchants.<sup>50</sup> These actions therefore make evident that – in contrast to Ferrufini – the princely authorities aimed at seeking legislation that was broadly backed by the Antwerp government and its resident merchants.

In the following years these endeavours at consulting resulted in a joint undertaking in which princely and foremost municipal commissioners sought to draw up an ordinance containing rules that were likely to be accepted by merchants trading in Antwerp. This enterprise was another consequence of protests against the Ferrufini proposal. Reactions materialised in October 1557 and in February 1558, when the plans became known in their entirety.<sup>51</sup> Afterwards, many merchants residing in Antwerp who did not agree with Ferrufini’s intended monopolisation of the brokering and registration of insurance contracts, submitted elaborate petitions to the Antwerp government.<sup>52</sup> In total, no less than 165 merchants rose up against

46 See footnote 37; A. Louant, ‘Gaspar Schetz, seigneur de Grobbendonck, facteur du roi d’Espagne à Anvers (1555-1561)’, *Annales de l’Académie royale d’archéologie de Belgique* 77 (1930) 315-328.

47 GARB, PEA, 1191/41, 43 (in 37), Project of (princely?) ordinance, c. 1547. This (aborted) project, dating from the later 1540s, foresaw the installation of a court of merchants in Antwerp. Four ‘presidents’, who were ‘principal merchants’ because they were thought to represent all merchants in the Antwerp market, would oversee the election of judges.

48 See for example GARB, PEA, 1633/1, Letter of the Audience of the governess-general to the provincial princely councils, 14 January 1549 (n.s.).

49 ACA, PK, 1019/104, Report of Gaspar Schetz, 8 October 1556. See also Génard, ‘Jean-Baptiste Ferrufini’, 201-202.

50 Génard, ‘Jean-Baptiste Ferrufini’, 203.

51 *Ibid.*, 216. Initially, the plans were not widely disclosed. From Italian proposals (see footnote 57) it seems that only the leaders of (some?) *nations* had known of Ferrufini’s plans, and not all members of *nations*.

52 ACA, PK, 1019/127, Petition of merchants, February 1558, 128, Petition of merchants, 13 October 1557 and 130, Petition of merchants, end of 1557. Génard published 127 (Génard, ‘Jean-Baptiste Ferrufini’, 215-233) as well as another petition dating from 1557

Ferrufini's plans.<sup>53</sup> Entire groups of foreign merchants trading in Antwerp were mobilised in the protest. In the turmoil nine of Ferrufini's former supporters changed sides.<sup>54</sup> To gauge potentially different interests within the mercantile community (larger versus smaller insurers and insurance-takers), the present study has linked the names of those of who endorsed the 1555 Ferrufini proposal and the names of the protesters with the 1562-1563 accounts of Juan Henriquez, the aforementioned marine insurance broker, thereby determining the extent of their marine insurance activities. Seventeen merchants mentioned in the Henriquez ledgers as insurers who did not purchase insurance themselves signed the 1557-1558 protests, together with thirty-five who were active as underwriters and insurance purchasers, in addition to twenty-seven traders who only bought insurance. The analysis shows that the few insurers and insurance purchasers in the pro-Ferrufini group who were also clients of Henriquez were mostly underwriting and insuring for large values. The 1557-1558 protesters therefore, were to a great extent policy holders who insured for lower values.<sup>55</sup>

Position regarding Ferrufini	Insurers			Insured		
	N	Mean	St. Dev.	N	Mean	St. Dev.
Pro in 1555	6	6,765.81	5,672.16	6	9,994.58	10,321.73
Contra in 1557	52	4,274.76	7,832.14	62	4,472.62	6,229.21

Table 2. Position in regard to the Ferrufini-proposals of underwriters and policy holders brokered by Juan Henriquez in 1562-1563 (insured value, in £ gr. Fl.).<sup>56</sup>

(213-214) and a list of names of protesters (210-212), of which the original could not be found (Génard does not provide a reference to the source; the list of names dates from February 1558, not from October 1557 as is suggested in Génard's article).

53 Génard, 'Jean-Baptiste Ferrufini', 210-212, 213, 233. The names have been entered into a database file that can be obtained from the authors. ACA, PK, 1019/128 and 130 do not contain names.

54 These were Giovanni Carlo d'Affaitadi, Alessandro Bonvisi, Anton del Rio, Jacob Lang, Zacaria Leccaro, Galeotto Magalotti, Bartolomeo Micheli, Manuel Riccio and Giovanni Battista Sforzoso. See Génard, 'Jean-Baptiste Ferrufini', 199-200, 210-212, 233. Jacob Lang, Alessandro Bonvisi, Anton del Rio and Giovanni Battista

Sforzoso are mentioned in Henriquez' ledgers of 1562-1563. For the others, with the exception of Zacaria Leccaro and Manuel Riccio, there are indications that they were at some point active as underwriter as well (see above).

55 An independent, two-tailed samples T-test (means) for the means of the total insured value (through Henriquez) of 1555 proponents and 1557 antagonists of Ferrufini's proposal reports a statistically significant difference of means ( $p=0.05$ ) (equality of variance assumed: Levene's test for equality of variance,  $p>0.05$ ). Data can be requested from the authors.

56 Source: Génard, 'Jean-Baptiste Ferrufini', 210-212, 233, 247; Wastiels, *Juan Henriquez*, 870-884. Abbreviation St. Dev. in table: standard deviation.

In October 1557 protesters reacted against the intended monopolisation in brokerage and registration. In February 1558 protest grew even stronger, despite the fact that Ferrufini had adjusted his initial plans to some extent. Specifically, some prominent members of Italian *nations* had argued that elected merchants should be appointed as brokers or registrars of insurance contracts.<sup>57</sup> In response, Ferrufini proposed that, next to one ‘superintendent’, who was meant to act as registrar, there would be four commissioned brokers.<sup>58</sup> As a result of this proposal, important *nations* or foreign communities could elect a member to oversee insurance contracts and receive commissions. Moreover, the leaders of the Genoese *nation* lobbied for appointed merchants writing the insurance ordinance<sup>59</sup> as well as a model for the insurance contract.<sup>60</sup> Lobbying efforts stopped though, because of protests advanced by the majority of merchants – for a large part small-scale insurance purchasers and underwriters – in favour of freedom in selecting brokerage. They considered the softened monopoly of centralised registration and brokerage by way of four commissioners to be a significant breach of mercantile liberties, and their protest caused those advocating the four-broker model to concede. In February 1558, merchants of all *nations* – among them earlier supporters of Ferrufini and leaders of the Genoese *nation* – subsequently stressed that they should be able to choose their insurance broker freely, as well as the clauses of the contracts, and that no registrar should be appointed.<sup>61</sup>

Notably, the lobbying efforts mentioned above did not concern *nations* arguing in favour of the law of their home region<sup>62</sup>, even though discussions most probably also touched upon some insurance techniques that were not accepted by every *nation*.<sup>63</sup> This topic had much to do with a conviction that in contractual matters local law had to apply. The rulers of the Genoese *nation* for example, stressed that it was the Antwerp aldermen who issued an

57 ACA, PK, 1019/98, Petition, s.d., in Italian, proposing four elected brokers assisted by a scrivener and 100, Petition of merchants, s.d., early 1558, probably *nation* of Lucca, proposal to appoint an alderman as registrar having two merchants as assistants.

58 Génard, ‘Jean-Baptiste Ferrufini’, 216.

59 ACA, PK, 1019/119, Petition of the Genoese *nation*, s.d., early 1558.

60 A model contract was at some point proposed by Italian merchants. See ACA, PK, 1019/186, Short report, s.d.

61 Génard, ‘Jean-Baptiste Ferrufini’, 215-232.

62 ACA, PK, 1019/100, Petition of merchants, s.d., early 1558 and 119, Petition of the Genoese *nation*, s.d., early 1558.

63 An example is barratry, which was loss due to the conduct of the captain or his crew. In the mid-sixteenth century, it was not accepted in Genoa and in Spanish insurance centers, whereas in the Low Countries, London and Rouen it was a risk in cargo insurance policies for which underwriters commonly provided coverage. See G. Rossi, *Insurance in Elizabethan London: The London Book of Order* (PhD University of Cambridge 2012) 173-176; Van Niekerk, *The Development*, vol. 1, 376-379.

ordinance, and not the princely government.<sup>64</sup> All the petitioners of February 1558 recognised the need for reform but insisted that any project of ordinance should necessarily be deliberated in conjunction with merchants, both because of their expertise and in order to seek their consent.<sup>65</sup> Theretofore, consultations had been the normal practice, and merchants stressed that they should also be involved in devising terms of contract and rules of thumb. In other words, the majority of merchants did not protest against an ordinance regulating the contents of contracts. Instead, they reacted against the restrictions of controlled brokerage, against registration and against unilaterally imposed legislation.

From October 1557 onwards, the Antwerp magistracy delayed Ferrufini's plans. The Antwerp aldermen, who had not ventured in detailing rules of thumb with regard to clauses of contract, also hesitated because it proved impossible to reach a compromise.<sup>66</sup> The repeated protest then turned efforts toward consulting into full negotiations about the contents of a princely ordinance, which now also involved the Antwerp municipal leaders. In the summer of 1558 the princely government responded to the petitions, which the Antwerp magistracy had forwarded, by appointing new commissioners Gaspar Schetz, Lazarus Tucher, Gaspar Ducci and Anton Palos.<sup>67</sup> This selection of a group of commissioners from different communities (Dutch, German, Italian and Portuguese merchants) further reflects the particularist tendencies of *nations*, despite the fact that they had formally joined forces against Ferrufini's schemes in February 1558.

In the early autumn of 1558 Ferrufini gave in and downsized his plans further by agreeing to the free choice of brokers instead of the earlier proposed monopoly of four who were to assist the official registrar.<sup>68</sup> Near the end of December 1558 and following negotiations with merchants and city officials, the four commissioners mentioned wrote a compromise text, together with a form of insurance contract. In spite of the opposition to monopolised registration, this compromise stated that a superintendent would write down all insurance contracts, yet it did confirm that brokerage was to remain free. The superintendent could only act as broker if the parties chose him as such. The mandatory standard insurance contract that was added to the 1558 project was in some respects close to the one that had been submitted by

64 ACA, PK, 1019/119, Petition of the Genoese *nation*, s.d., early 1558.

65 ACA, PK, 1019/127, Petition of merchants, February 1558. See also Génard, 'Jean-Baptiste Ferrufini', 228 (s. 36-37). See also 231-232 (s. 50).

66 Génard, 'Jean-Baptiste Ferrufini', 234-235, Reminders of the governor-general, dating 25 October 1557, 23 March 1558 n.s., and 27 June 1558.

67 Génard, 'Jean-Baptiste Ferrufini', 237. Two of them, Gaspar Schetz and Gaspar Ducci, had expertise as underwriters. For Ducci, see: Hofmeister, 'Eine Hansische Seeversicherung', 173 (contract, July 1531).

68 ACA, PK, 1019/91, Explanations by Giovanni Battista Ferrufini, s.d. and 141, Letter of the magistracy of Antwerp to the prince, 6 October 1558.

Ferrufini the year before, but it was additionally realigned with the practice of the Antwerp municipal court. Since it was a well-accepted custom that was also acknowledged by the Antwerp aldermen-judges, insurance after loss, which Ferrufini had opposed, was considered legally valid, albeit under conditions. In other respects, the compromise corroborated some practices should become standard rules, for example barratry, at the expense of *nations* that did not accept them.<sup>69</sup>

In January 1559, on the basis of the 1558 compromise, the aldermen in Antwerp's city council could finally accept the candidacy of Ferrufini for the new office of superintendent.<sup>70</sup> By that point, the Antwerp leaders were demonstrating particularist and even rent-seeking behaviour themselves. Opposition against the registrar had not faded away, but the Antwerp administrators tried to get a piece of the pie by luring Ferrufini into a financial deal. They combined his nomination with a loan of 8,000 guilders, which had to be repaid at a 15 percent interest rate under the condition that Ferrufini would receive the central government's approval of the municipal appointment.<sup>71</sup> In February and March 1559, the Antwerp executives were involved in constant discussions with the princely councils over which level of government controlled the superintendent: the Antwerp government tried to turn the registrar into an Antwerp officer.<sup>72</sup>

After obtaining princely authorisation of appointment, Ferrufini took the lead in fine-tuning the 1558 compromise into an ordinance. For the drafting of the proposal merchants were again consulted, and the drawing up of the text took place under close supervision by the Antwerp government.<sup>73</sup> Around the middle of 1559 a proposal was finished<sup>74</sup>, which was in line with the 1558 compromise. However, because of the lasting protests against the registration of insurance contracts by one individual officer, it was not imposed in the form of an ordinance from either the central government or Antwerp. In this regard, there are traces of a lawsuit started by the Portuguese *nation* in an effort to cancel Ferrufini's appointment.<sup>75</sup> In the end, it appears unlikely that Ferrufini ever assumed his office, and if he did, he did not hold for any length of time.<sup>76</sup>

69 ACA, PK, 1019/140, Report of the royal commissioners Schetz, Tucher, Ducci and Palos, December 1558.

70 ACA, PK, 1019/131, Decision of the Antwerp magistracy, 18 January 1559 n.s., 133 (idem, 6 February 1559 n.s. and 159, Oath taken by Ferrufini before the Antwerp magistracy, 15 February 1559 n.s.

71 Génard, 'Jean-Baptiste Ferrufini', 249-250.

72 ACA, PK, 478/143, Notes of *pensionaris* Jan Gillis, February-March 1559 n.s.

73 ACA, PK, 1019/163, Letter of Ferrufini to the prince, May 1559 and 161, Letter of the prince to the Antwerp magistracy, 18 May 1559.

74 ACA, PK, 1019/177, Project of ordinance, 1559. See also Génard, 'Jean-Baptiste Ferrufini', 261-267.

75 ACA, PK, 1019/89, Report, s.d. (probably October 1561).

76 He is last mentioned in 1561. See ACA, CB, 17, f. 180, Certificate of the Antwerp aldermen, 26 September 1561.

After Ferrufini's death or departure, new plans to nominate a registrar were blocked once more in 1563.<sup>77</sup> This renewed opposition resulted in a unilateral princely law, from October 1563<sup>78</sup>, which contained a mandatory contract form that was much stricter than the 1558 compromise.<sup>79</sup> In October 1570 a new registrar, Diego Gonzalez Gante, was appointed by the central government and a new princely law similar to the one of 1563 was passed.<sup>80</sup> All this again provoked reaction from Antwerp merchants. Also, in June 1570 the Antwerp aldermen had proposed rules that hewed closely to the 1558 compromise in their project of municipal law (*costuymen*), which had been submitted to the princely councils.<sup>81</sup> All this resulted in a new princely ordinance of January 1571, which now stuck for the most part to the 1558 solutions, which in this case were imposed as a guideline, rather than a mandatory contract.<sup>82</sup> There are no traces of any official registrar's activities in Antwerp after 1563 and October 1570, which was most probably due to merchants' refusal to cooperate.

## Conclusion

The organisation and regulation of Antwerp's marine insurance market in the middle of the sixteenth century was clearly a source and subject of contention. The central government played a vital part in addressing the unrest and in seeking solutions. Although they agreed with Ferrufini's request for the most part, the swift intuition of princely officials was to consult those that were engaging in marine insurance, doing so well before the massive protests of 1557-1558. Regulation of the marine insurance market thus was not imposed unilaterally by the state. Informing and consulting were key features of the political economy in the Low Countries in the 1500s. Nor did regulation result from the city government's adoption of the wishes of the mercantile

77 De Groote, *De zeeassurantie*, 81 (referring to a letter by governor-general the Duke of Alba of 15 January 1570).

78 *Ordonnantie ... Placcaerten van Vlaenderen*, vol. 2 (Antwerp 1662) 307-334 (princely ordinance, 31 October 1563).

79 D. De ruysscher, 'Van kade naar stadhuis. Informatieuitwisseling, fraudebestrijding en gereguleerde innovatie in Antwerpse zeeverzekeringen (ca. 1550-ca. 1700)', *Tijdschrift voor Geschiedenis* 125:3 (2012) 370-371.

80 On the 1570 registrar, see W. Couvreur, 'Recht en zeeverzekeringspraktijk in de 17de en 18de

eeuwen', *The Legal History Review* 16 (1939) 186-187; De Groote, *De zeeassurantie*, 80-83; Van Niekerk, *The Development*, vol. 1, 203-205.

For the 1570 law, see Ch.F. Reatz, 'Ordonnances du duc d'Albe sur les assurances maritimes de 1569, 1570 et 1571, avec un précis de l'histoire du droit d'assurance maritime dans les Pays-Bas', *Handelingen van de Koninklijke Commissie voor Geschiedenis* 4th series 5 (1878) 89-105.

81 De ruysscher, 'Van kade naar stadhuis', 371.

82 J.-M. Pardessus (ed.), *Collection de lois maritimes antérieures au XVIIIe siècle* (Paris 1838) vol. 4, 103-119 (princely law, 20 January 1571 n.s.).

community or of its supple selection of optimal solutions, as has been stressed in the work of Oscar Gelderblom. Even though changing circumstances invited renewal of the institutional framework, there was no specific formula imposed from within by the market.

Similar processes can be observed in the cases of the wine and grain trade. In the wine trade of the 1540s there was a serious conflict concerning a prohibition and later a tax on the import of French wine. Monopolists were held responsible for a price rise and the circumvention of the traditional wine staple towns. In this case, the central government displayed a rather ambiguous position: monopolies were condemned, though not harshly, since the state relied on the credit-lines of the monopoly merchants. Smaller traders and staple towns protested here as well, and again it took some time to come to an agreement between the different interested parties.<sup>83</sup> Yet regulation ultimately proved futile and was largely ignored. Gradually the argument of free trade in the wine sector became stronger. On the other hand, the contrary was true for the grain trade, a basic necessity for many (as opposed to wine, which was more of a luxury). In the grain trading sector of the 1560s intense lobbying by municipal governments and grain merchants cornering the market all tried to influence central government policy; the former to maintain social peace and the common good, the latter to continue their profit-making schemes. The grain trade thus called for strict regulation – also after a compromise was found – and the punishment of monopolists.<sup>84</sup>

Similarly, finding a compromise on the organisation of brokerage and the contents of marine insurance regulations was a difficult enterprise because of the diversity of possible remedies and of opinions. The Antwerp magistracy proved hesitant, all the while pursuing an agreement among the various parties involved. Over time, throughout the consultations and discussions, positions were modified and altered until a compromise was reached. Following the protests of 1557-1558 prominent merchants accepted open access in brokerage, some reluctantly, others after having changed their mind. In February 1558, this compromise resulted in Italian *nations* dropping their claim of electing brokers. Under the pressure of the protests nine of Ferrufini's earlier supporters changed their opinion from a brokerage monopoly to freedom of choice. Self-aggrandisement and particularism were motives that were – overtly or implicitly – present in the debates, but these phenomena cannot be conceived as having stifled any optimum economic alternative that was 'out there' from the start. Such options are evident in the broad range of opinions in 1557 and early in 1558 among the opponents of Ferrufini's plans. The compromise that came into being from 1558 onwards was the product of these debates. Furthermore, it is telling that elements of the conciliatory

83 Craeybeckx, *Un Grand Commerce d'Importation*, 211-228.

84 Van Dixhoorn, 'The Grain Issue of 1565-1566'.

solution reported here could be contested afterwards. To be sure, starting in 1558 an official registrar function and a mandatory contract form, in combination with free choice of a broker, had come to be established. Yet even as part of the many deals struck among all contenders, that compromise did not exclude a relapse into earlier positions and, as a consequence, new strife.

Finally, there is yet another argument that concerns the different consequences of interacting causes (political, economic) in the legislative processes. It is provided by the variations in solutions that were the outcome of discussions on marine insurance registration and standard contracts in other cities, where marine insurance experienced comparable developments to those in Antwerp. In southern European insurance centres such as Burgos and Florence for instance, standard contracts had been imposed in 1514 and 1523 respectively.<sup>85</sup> At least in the case of Florence, where in 1524-1526 two marine insurance contracts were drawn up on average each day, it has been demonstrated that – despite the dominance of a small group of underwriters (between 40 and 50 underwriters signed 70 percent of all contracts) – many occasional insurers (some 260 to 270) were active there at that time.<sup>86</sup> In summary, generalising from this detailed case-study of marine insurance in Antwerp, this investigation can readily conclude that commercial growth was indeed a catalyst for change. Nevertheless, it did not provide for a standard of economic behaviour that was anything else but the result of political-economic constraints and actions involving several interested parties.

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85 Van Niekerk, *The Development*, vol. 1, 486.

86 G. Ceccarelli, *Un mercato del rischio. Assicurare e farsi assicurare nella Firenze rinascimentale* (Venice 2012) 163-164, 177-202, 216-226, 263.



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