

Name of the Clause: Rules of practice

Subject of the Clause: This document states rules for the adjustment of claims based on the US Marine Insurance's Conditions.

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Comments:

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**RULES OF PRACTICE OF
THE ASSOCIATION OF AVERAGE ADJUSTERS OF THE UNITED STATES**

I. Compensation and Expenses of Master

(Adopted February 17, 1885 - Rescinded October 2, 2002)

II. Interest on Allowances in General Average

(Adopted April 21, 1885 - Amended October 2, 2002)

When allowance, sacrifices or expenditures are charged or made good in general average, interest shall be allowed thereon at the prime rate prevailing on the last day of discharge, plus 2 %, and continue until three months after the issue date of the general average statement.

III. Deck Load Jettison

(Adopted October 9, 1894)

Where cargo consisting of one kind of goods is in accordance with a custom of trade, carried on and under deck, that portion of the cargo loaded on deck shall be subject to the same rules of adjustment in case of jettison and expenses incurred, as if the same were laden under deck.

IV. Loss of Freight on Cargo Sacrificed

(Adopted January 16, 1900 - Rescinded October 9, 1913, rescission having taken effect December 9, 1913)

V. Credit for Expenses Saved by Salvage Services, etc.

(Adopted October 9, 1902 - Amended October 2, 2002)

Where salvage services are rendered to a vessel, or she becomes disabled and is necessarily towed to her port of destination, and the expenses of such towage are allowable in general average, there shall be credited against the allowance the ordinary expenses which would have been incurred, but have been saved by the salvage or towage services. In calculating the savings there shall be taken into consideration such factors as additional fuel, if any, and crew's wages for the longer time under tow, or similar expenses, to arrive at the net savings.

VI. Credits for Old Material

(Adopted October 13, 1910)

Where old material is replaced by new, credit shall be given in the average statement for the value of proceeds of the old material, or, if there is no credit, the Adjuster shall insert a note in explanation.

VII. Approval of Repair Accounts

(Adopted October 13, 1910)

All repair accounts shall be examined, when practicable, by the owner's surveyor and a surveyor for underwriters before the statement is issued.

The adjuster shall insert a note in the average statement that this has been done and the result of same.

VIII. Scraping and Painting Bottom of Vessel

(Adopted October 13, 1910 - Rescinded October 5, 1961)

IX. Drydocking Charges and Expenses Incidental to Drydocking - Particular Average

(Adopted October 13, 1910)

When a vessel is drydocked:

1. For owners' account and repairs are found necessary for which underwriters are liable and which can only be effected in drydock; or
2. For survey and/or repairs for which underwriters are liable and repairs for owners' accounts are made which are immediately necessary for her seaworthiness, or she is due for ordinary drydocking (in accordance with the owners' custom), the cost of removing the vessel to and from the drydock, of docking and undocking, and as much of the dock dues as is common to both classes of work, shall be divided equally between the owners and underwriters.

When the vessel is drydocked for underwriters' account and the owners avail of her being in drydock to scrape and paint or to do other work for their own account which is not immediately necessary for seaworthiness, all the expense incidental to the drydocking of the vessel shall be charged to the underwriters.

The Adjuster shall insert a note in the average statement in explanation of the allowances made.

X. Overtime Work - General and Particular Average Savings - Apportionment

(Adopted October 13, 1910 - Amended October 14, 1937 and October 2, 2002)

The bonus or extra cost of overtime work on repairs shall be allowed in general and/or particular average up to the amount of the savings of drydock dues or other charges, which otherwise would have been incurred and allowed in general and/or particular average; and where the overtime work effects a savings both of general average expense (excluding general average repairs) and in the cost of repairs the extra cost for overtime shall be apportioned over the general average expenses saved and the savings in the cost of repairs.

This rule shall not prejudice a recovery of a bonus or extra cost of overtime work on repairs in accordance with the provisions of the Shipowner's hull and machinery policy.

The Adjuster shall insert a note in the average statement in explanation of the allowances made.

XI. Temporary Repairs - Particular Average

(Adopted October 13, 1910)

The cost of reasonable temporary repairs shall be allowed:

When made in order to effect a saving in the cost of permanent repairs.

When complete repairs cannot be made at the port where the vessel is.

When the material or parts necessary for permanent repairs are unobtainable at the port where the vessel is, except after unreasonable delay.

The Adjuster shall insert a note in the average statement in explanation of the allowances made.

XII. Allowance in Respect of Provisions

(Adopted October 13, 1910 - Amended 1913, 1917, 1920, 1922, 1923, 1930, 1942, 1947, May 19, 1952, October 1, 1970, October 6, 1976, September 30, 1981 and October 2, 2002)

When allowance is made in general average for provisions of Masters, Officers and Crews, the allowance shall be the actual cost of those Provisions beginning on or after October 2, 2002. For voyages beginning prior to October 2, 2002, the allowance shall be based on the previous Rule XII.

The rule shall apply to United States flag vessels in all instances and to vessels of other flags, on voyages to and from United States Ports, including Territories and Insular possessions, when the general average is stated in accordance with the laws and usages of the United States, even though such laws and usages may be modified by York–Antwerp Rules.

XIII. Allowance in General Average for Repairs to Vessels

(Adopted April 10, 1913 - Amended October 5, 1961; October 3, 1979)

Repairs to be allowed in general average shall not be subject to deductions in respect of 'new for old' where old materials or parts are replaced by new unless the ship is over fifteen years old in which case there shall be a deduction of one-third. The deductions shall be regulated by the age of the ship from the 31st December of the year of completion of construction to the date of the general average act, except for insulation, life and similar boats, communications and navigational apparatus and equipment, machinery and boilers for which the deductions shall be regulated by the age of the particular parts to which they apply.

The deductions shall be made only from the cost of the new material or parts when finished and ready to be installed on the ship.

No deduction shall be made in respect of provisions, stores, anchors and chain cables.

Drydock and slipway dues and costs of shifting the ship shall be allowed in full.

The costs of cleaning, painting or coating of bottom shall not be allowed in general average unless the bottom has been painted or coated within the twelve months preceding the date of the general average act in which case one half of such costs shall be allowed.

XIV. Freight - Contributory Value and Amount Made Good in General Average

(Adopted October 9, 1913 - Amended October 11, 1939 and October 11, 1950)

The contributory value of freight shall be the amount at risk of the Shipowners or Charterers and earned on cargo on board, to which shall be added the allowance in general average for net freight lost, and from the total shall be deducted the expenses (except those allowed in general average) incurred to earn it after the date of the general average act; and if there be any cargo on

board on which the freight is not at risk of the Shipowners or Charterers the charges to be deducted from the freight at their risk shall be only those which would have been incurred if such cargo had not been aboard:

And when loss of freight at risk of the Shipowners or Charterers is allowed in general average the allowance shall be for the net freight lost, to be ascertained by deducting from the gross freight sacrificed the expenses that would have been incurred, subsequent to the sacrifice, to earn it, but which, because of the sacrifice, have not been incurred.

Where the general average is prepared in accordance with York-Antwerp Rules and there be any cargo on board on which the freight is not at risk of the Shipowners or Charterers, the deductions made from the freight at their risk to arrive at the contributory value of freight shall be determined in accordance with the principles set forth above.

XV. Classification Surveyor's Fees - Particular Average

(Adopted April 19, 1923 - Amended October 14, 1937)

Fees of Classification Societies for surveys of particular average damages shall be allowed (notwithstanding that a survey of such damages would have been required for classification purposes) in addition to a fee paid an independent surveyor.

XVI. Compensation and Expenses of Owner's Superintendent

(Adopted April 19, 1923)

In cases where a superintendent, or other shore employee, in the permanent employ of the owner of a vessel superintends the repair of average damage, compensation for such service and incidental expenses shall be allowed in average:

First - When an independent surveyor, or outside man, has not been employed for this purpose, and the vessel is repaired at a port other than where the superintendent or other employee, makes his headquarters; or

Second - When the owner has incurred extra expense by employing, temporarily, another man to do the work of the superintendent, or other shore employee, while either of the latter is engaged in superintending repair of average damage.

XVII. Allowances for Cargo Damaged and Sold and Contributory Value of Same

(Adopted June 2, 1927)

Where cargo is damaged, as a consequence of a general average act, and sold, and the extent of the loss has not been otherwise determined, the amount, if any, to be made good for same shall be based on the market value at the date of arrival or at the termination of the adventure (dependent on the facts) and shall be determined on the "salvage loss" basis irrespective of the date of sale.

The contributory value of such cargo shall be based on the proceeds of sale to which shall be added any amount made good; deduction being made of charges incurred subsequent to the general average act, except such charges as are allowed in general average.

"The date of arrival" in the case of a vessel herself delivering all cargo saved shall be the last day of discharge; and in complex cases, this principle shall be followed as far as possible.

XVIII. Wages and Provisions - General Average

(Adopted October 14, 1937)

In making allowance for wages and provisions in general average either under American law or York-Antwerp Rules a period of less than twelve hours, either alone or in excess of a number of complete days, shall be disregarded and a period of twelve hours or more, either alone or in excess of a number of complete days, shall be treated as a whole day.

XIX. Fire Extinguishers

(Adopted October 14, 1937)

The cost of replacing gas or any commodity used in efforts to extinguish a fire on board a vessel shall be allowed in general average even though the gas or commodity was on board the vessel at the time the fire was discovered.

XX. Apportionment of Legal Costs and/or Other Expenses in Collision Cases

(Adopted April 13, 1961)

In cases involving collisions, the legal costs and/or other expenses incurred to determine liability either by court action, arbitration or determination by consent of the parties shall be apportioned ratably over the full provable damages, excluding interest and costs, of the claim and counter-claim which have been or would have been allowed.

Nothing contained in this rule shall affect those legal costs and/or other expenses incurred specifically for the purpose of defense or recovery which shall be charged accordingly.

XXI. Air Freight

(Adopted April 13, 1961 - Amended October 3, 1991)

The cost of ordinary air freight on repair parts shall be allowed as part of the reasonable cost of repairs.

The cost of any extraordinary shipments by air, such as chartered aircraft or similar means, shall be dealt with by the Adjuster considering (1) the reasons for such shipment and/or (2) the savings resulting there from. The Adjuster shall insert a note in the average statement in explanation of the allowances or charges made.

XXII. SALVAGE SETTLEMENTS UNDER YORK ANTWERP RULES 2004 – ALLOWANCE FOR INTEREST

(Probationary Rule – October 6, 2004)

When the adjustment is subject to the York Antwerp Rules 2004 and includes, applying the provisions of Rule VI (a) of those Rules, contributions to salvage paid by one party to the adventure on behalf of another party to the adventure as well as on its own behalf, the provisions of Rule XXI of the Rules will apply to the paying party's salvage payments, including interest thereon and legal fees associated with such payments, as if they were General Average expenditure.