

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.

Category : Document

Number: **Date:** Various between 1885 and 1980

Country: USA **Issued by:** Association of Average Adjusters of the United States.

Comments:

Disclaimer : Fortunes de Mer est un site privé & non officiel. Il s'agit de pages personnelles. Ces pages n'ont qu'un but d'information. Les informations de nature juridique que vous pourrez trouver sur ce serveur ne peuvent faire l'objet d'une quelconque garantie ou d'une quelconque certification quant à leur validité, leur effectivité, leur applicabilité et ne peuvent donc en aucun cas engager la responsabilité du directeur de la publication. En effet, seules les informations provenant d'une source officielle font foi. En France, en matière d'information juridique, c'est le Journal Officiel de la République Française qui est habilité à publier et diffuser la plupart des textes. A l'étranger, des institutions similaires assurent la mission dévolue au Journal Officiel de la République Française. Cette situation n'est pas exclusive de productions privées. Aussi, la plupart des informations que vous trouverez ici apparaissent comme étant à jour (hormis les textes législatifs anciens et les polices d'assurances anciennes !). Pour ce qui concerne les textes applicables actuellement, vous devez vérifier qu'il s'agit bien de dispositions applicables avant d'en faire usage ou de prendre une décision.

Les textes des polices d'assurances et des clauses additionnelles sont délivrés à titre purement informatif. La plupart n'ont plus cours aujourd'hui et n'ont donc qu'un intérêt "historique". Aucun usage ne peut en être fait. Si vous souhaitez des informations officielles, vous pouvez vous adresser à la FFSA ou aux organismes similaires existant à l'étranger. En conséquence de quoi, vous renoncez expressément à toute poursuite ou réclamation à l'encontre du concepteur et de l'hébergeur de ce site. Vous vous engagez également à ne faire aucune copie des fichiers de ce site, sauf accord express ET écrit de "Fortunes de Mer" OU mention de l'origine des documents.

The information contained on this site is provided in good faith as a guide only and is based on information obtained from a variety of sources over a period of time. This information is subject to change and should, in each case, be independently verified before reliance is placed on it. "www.fortunes-de-mer.com hereby" excludes, any and all liability to any person, corporation or other entity for any loss, damage or expense resulting from reliance, publication or duplication of information obtained from this site.

Rules of Practice of Association of Average Adjusters of the United States

I. COMPENSATION AND EXPENSES OF MASTER

Adopted February 17, 1885

Where the voyage is broken up by reason of shipwreck or condemnation of the skip at a place short of the port of destination, the master shall be entitled to compensation from the general interests for the time necessarily occupied by him in transacting the business growing out of the disaster until his departure thence for the home port with the proceeds, general accounts and vouchers.

He shall also be entitled to a reasonable indemnification for his necessary expenses and services in returning to the home port when needed or required, by the peculiar circumstances of the case, to justify his acts at the place of disaster, or to give information, not otherwise afforded, to finally adjust and apportion the average charges to be paid by the general or special interests for whom such services are performed, to be determined by the nature of the case.

These rules shall apply whether the vessel be in ballast or with cargo.

II. INTEREST ON ALLOWANCES IN GENERAL AVERAGE

Adopted April 21, 1885

Where allowances, sacrifices or expenditures are charged or made good in general average, interest shall be allowed thereon at the legal rate prevailing at the place of adjustment.

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 dock, that portion of tire 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 SACRIFIED

Adopted January 16 1900

Rescinded October 9, 1913 rescission to take effect December 9, 1913

V. CRÉDIT FOR EXPENSES SAVED BY SALVAGE SERVICES, ETC.

Adopted October 9, 1902

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 such ordinary expenses as would have been incurred, but have been saved by the salvage or towage services.

VI. CRÉDITS 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 owners' 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 dry-docked:

(1) For owners' account and repairs are found necessary for which underwriters are liable and which can only be effected in dry-dock; 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 dry-docking (in accordance with the owners' custom), the cost of removing the vessel to and from the dry-dock, 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 dry-docked for underwriters' account and the owners avail of her being in dry-dock to scrape and paint or to do other work for their own account which is not immediately necessary for seaworthiness, all the expenses incidental to the dry-docking 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

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 saving of dry-dock 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.

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 & October 1, 1980

When allowance is made in General Average for provisions of Masters, Officers, and crews, the allowance shall be \$8.00 per person per day for voyages beginning on or after October 1, 1980. For voyages beginning prior to October 6 1976, the allowance shall be based on 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. ALLOWANCES IN GENERAL AVERAGE FOR REPAIRS TO VESSELS

Adopted April 10, 1913; Amended October 5, 1961 & October 4, 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 31 st 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 in the ship.

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

Dry-dock 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 & 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 SURVEYORS' 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 OWNERS' 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 rateably 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 defence or recovery which shall be charged accordingly.

XXI. AIR FREIGHT

Adopted April 13, 1961

The cost of air freight on repair parts shall be allowed as part of the reasonable cost of repairs when the shipment of such parts by water and/or land conveyance would result in unreasonable delay.

Nevertheless when shipment by air saves General Average expense the extra cost of shipment by air over the cost of water and/or land conveyance shall be allowed in General Average up to the expense saved.