

# IUMI welcomes revised York-Antwerp Rules



9th May 2016

In general, the International Union of Marine Insurance (IUMI) welcomes the revised York-Antwerp Rules (YAR 2016) which were adopted by the Comité Maritime International (CMI) at its conference in New York last week.



The York-Antwerp Rules (YAR) is a set of rules by which General Average (GA) is adjusted (see detailed explanation in the notes below). IUMI has a particular interest in their content as, on average, the GA system increases the cost of maritime casualties by between 10%-30% largely due to interest (7% p.a. under the 1994 and 1974 YAR), commission (2%) on nearly all expenses and sacrifices, and adjusters' fees. The process of collecting GA security from all the cargo interests, assembling information about ship and cargo values and expenses then re-adjusting all GA expenses and sacrifices usually takes several years and prevents claims files being closed quickly. For these reasons IUMI has, for more than 20 years, been campaigning for a set of YAR which allow more GA expenses to lie where they fall outside GA (but usually still covered as "particular average" under marine insurance policies) and encourage the quicker publication of GA adjustments.

Prior to YAR 2016, CMI had adopted YAR 2004 following a long campaign by IUMI. YAR 2004 contained a number of measures which reduced the cost of GA such as a variable but generally lower interest rate on GA allowances (averaging 3.86%), the abolition of commission at 2%, the exclusion of salvage from GA (except in cases where one party paid the salvage liability of another), and the reduction of the amount of wages and maintenance which a shipowner can recover in GA while detained at a port of refuge. If the YAR 2004 had been universally incorporated into contracts of carriage it is estimated that the underwriters' GA exposure would have been reduced by roughly 20% p.a. on average.

For a number of reasons YAR 2004 were not incorporated into BIMCO's standard forms of contract and so have remained largely redundant. YAR 1994 have continued to be the most frequently encountered set of YAR costing insurers significant sums each year which might have been saved under the YAR 2004.

To resolve this, a CMI international working group undertook in 2012 a complete re-appraisal of YAR in view of adoption at the CMI conference last week.

The new YAR 2016 introduces some helpful measures which, if incorporated into contracts, may

reduce insurers' GA exposure by a few percentage points.

The most important gains in the new YAR for insurers are:

1. Interest will be fixed annually at ICE LIBOR on the first banking day of each year in the currency of the adjustment plus 4 percentage points. For a US\$ adjustment that would produce a rate of 5.18% for 2016 as opposed to 7% under YAR 1994 or 2.5% for YAR 2004. However while this will result in savings in the short term if interest rates rise substantially insurers may be exposed to rates even higher than 7%.
2. Commission at 2% will no longer be recoverable. This was one of the few changes made by the YAR 2004 which was retained.
3. Several measures designed to speed up the adjusting process have been introduced; these include excluding low value cargo from contributing in GA if the cost of including them is greater than their contribution and clarifying the process by which adjusters can estimate GA allowances in the absence of information from the parties.
4. Approved CMI Guidelines about the nature and operation of the GA process have been introduced which it is hoped will assist those involved in GA in understanding what is required of them.

Against these helpful moves a number of changes made by the YAR 2004 and/or sought by IUMI have not found their way into the YAR 2016. These include:

- (a) Wages and maintenance of crew while a vessel is detained at a place of refuge are to be allowed (as in YAR 1994 but not in the YAR 2004).
- (b) The cost of temporary repairs of accidental damage at a port of refuge will not be capped as it is under the YAR 2004 thus restoring the position under the YAR 1994.
- (c) Salvage will be re-adjusted in GA in most cases save where such re-adjustment is going to make no material difference to the parties' situations, the so-called simple salvage situations.

A number of other, generally minor, amendments have been made to the YAR with varying effects on insurers.

Overall IUMI welcomes the YAR 2016 as being an improvement on the YAR 1994. On Tuesday 10th May BIMCO's Documentary Committee meet to consider whether to approve the YAR for incorporation into their standard contracts. Should this be done the new YAR should start to be incorporated into contracts of carriage by the end of 2016 and will hopefully start to show small reductions in the extent of insurers' GA liabilities in 2017.

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