

## Rules of Practice of The Association of Average Adjusters of Japan

Preamble (Adopted on 28 October 1999)

These rules of practice provide for the standard treatment of average adjusting in Japan. Where an average adjuster considers that it is reasonable not to apply these rules of practice in preparing particular statement, the adjuster needs to note the reason in the statement.

### Section 1 General Average

Rule 1 Expenses for drydocking, and other corresponding expenses

(Adopted on 31 October 1958; Amended on 28 October 1999; Amended on 23 October 2003)

When a vessel is drydocked for undergoing repairs of both the particular average and general average damages simultaneously, which repairs can only be effected in drydock, one-half of the dock dues including the cost of entering and leaving the dock as well as the necessary expenses such as gas free charges etc. corresponding to drydocking, which are regarded as necessary expenses common to both repairs shall be allowed in general average.

Rule 2 Expenses for removing a vessel to effect repairs

(Adopted on 31 October 1958; Amended on 28 October 1999; Amended on 23 October 2003)

Expenses for removing a vessel to a place of repairs after the voyage such as towing expenses and other corresponding expenses shall be allowed as general average in proportion which the cost of general average repairs bears to the aggregate cost of repairs.

Rule 3 Proceeds of sale of old materials

(Adopted on 31 October 1958; Amended on 28 October 1999)

When new for old deduction is applied in general average repairs, full amount of the net proceeds of sale of old materials replaced with new ones shall be deducted from general average allowance after new for old deduction.

Rule 4 Survey fees (Adopted on 31 October 1958; Amended on 28 October 1999)

Expenses for survey in a case of general average shall be treated as follows:

(a) In respect of repairs of damage to a vessel the fees due to a classification society or other survey organisation, other than those for holding a preliminary survey at the port of refuge or for taking out a certificate of seaworthiness need for accomplishing the voyage, shall not be allowed as general average; but if the damage of a general average nature is involved, then such expense shall be allowed as general average in proportion which the cost of general average repairs bears to the aggregate cost of repairs.

(b) The expenses incurred by the shipowner or the carrier for specially holding survey of general conditions of both the vessel and the cargo shall be allowed in general average in full.

(c) The expenses incurred by the shipowner or the carrier for specially holding survey of the nature and extent of damage to the cargo shall be allowed in general average in full.

(d) The expenses incurred by the cargo owner or the cargo underwriter for holding survey of the damage to the cargo shall not be allowed as general average, except where no such survey has been held by the shipowner or the carrier, in which case the said expense shall be allowed as general average in proportion which the amount of general average damage bears to the aggregate amount of damage to the cargo.

Rule 5 Expenses for forwarding cargo by the substituted vessel

(Adopted on 31 October 1958; Amended on 28 October 1999)

In applying the York-Antwerp Rules 1974 or the York-Antwerp Rules 1994, when the cargo is forwarded by another vessel or by other method the extra cost of transshipment and forwarding shall be treated as substituted expenses irrespective of whether the freight be at risk of the shipowner or the carrier and whether or not the substituted vessel belongs to the same owner as that of the original carrying vessel.

In respect of the cargo forwarded by another vessel or other method as above it shall be regarded that there is no separation of interest from the original vessel; such cargo is liable to contribute general average and other expenditures as if it were carried by the original vessel, and its arrived value at destination shall be taken as the basis of adjustment.

Rule 6 Travelling expenses

(Adopted on 31 October 1958; Amended on 28 October 1999)

(a) The expenses for travelling of any of the shipowner or the carrier to or from the scene of accident, place of refuge or destination etc. shall be allowed as general average only when such travel is deemed either necessary or useful in dealing with the matters relative to salvage or general average.

(b) Engineer's travelling expense for the purpose of supervising the ship's damage repair shall be allowed as general average where there is a general average damage and in such proportion as the cost of general average repairs bears to the aggregate cost of repairs.

Rule 7 Basis of calculating wages and maintenance of the crew

(Adopted on 31 October 1958; Amended on 1 November 1982; Amended on 28 October 1999)

In calculating the amount of wages and maintenance of the crew which are allowed in general average, the following scale shall apply:

For the time less than three hours	: Nil
From three to nine hours	: A quarter of a day
From nine to fifteen hours	: One-half of a day
From fifteen to twenty-one hours	: Three quarters of a day
Over twenty-one hours	: A day

The wages of the crew include allowances which are paid regularly every year except reserves for retirement allowances.

When the crew is employed through manning company, their agency fees shall not be allowed in general average as the wages of the crew.

Rule 8 Settling commission (Adopted on 16 April 1975)

Commission allowed on services of settling general average balances shall be admissible as general average, such commission being limited to two and half percent of the total amount of general average.

Rule 9 Interest and commission of special charges on cargo

(Adopted on 16 April 1975)

When the shipowner or the charterer or other operator of the vessel, besides incurring general average expenditures, has paid in advance special

charges which will ultimately borne by the concerned in cargo, interest and commission shall be allowed on such payments at the same rates as are allowable on general average disbursements; such interest and commission shall be treated as special charges on cargo.

Rule 10 Bunkers etc. (Adopted on 28 July 1983)

All items as are on board and which belong to parties other than the shipowner, such as bunkers, stores, outfit or equipment shall contribute general average as independent interests.

Rule 11 Chartered voyage in ballast (Adopted on 28 July 1983)

When the vessel is proceeding in ballast under time charter and / or under voyage charter entered into by the time charterer, the general average contributing interests shall be the vessel, and such bunkers, stores, outfit or equipment as belong to parties other than the shipowner. The voyage shall be deemed to end, and the values for contribution to general average calculated, at the first loading port upon commencement of loading, unless the voyage has been terminated earlier.

Rule 12 Loss by sale of cargo at the port of refuge etc.

(Adopted on 28 July 1983)

If the cargo is sold or otherwise disposed of with the consent of the cargo owner at the port of refuge etc. in order to save expenses of handling, discharging, storing and reloading the cargo, the cost of which would be admissible in general average, any loss sustained by the cargo owner shall be allowed as general average up to the amount of the general average expenses saved.

This rule shall also apply to any loss resulting from the sale or disposal of fuel or fresh water etc. on board the vessel.

Rule 13 Application of provisions on general average

(Adopted on 23 October 2003)

When the vessel and the cargo belong to the same owner, provisions on general average shall be applied as if the vessel and the cargo belonged to different owners.

Rule 14 General average arising on the fishing vessel

(Adopted on 23 October 2003)

(a) Subject to Rule 13, when general average happens on the fishing vessel, fishing instruments, catch, bite, ice and other fishing materials which are aboard the vessel shall be regarded as cargo.

(b) Wages and maintenance of persons aboard the vessel who exclusively engage in fishing and / or processing of catch shall not be allowed as general average.

Rule 15 Adjustment for advance payment of general average expenditures

(Adopted on 23 October 2003)

(a) The wages and maintenance of the crew, fuel and stores not replaced during the voyage and expenses for communications and other miscellaneous expenses shall not be included in advance payment of general average expenditures.

(b) Commission and interest allowed on such advance payment of general average shall be distributed in the proportion that the sum advanced bears to the total general average expenditures.

Supplementary provisions on the York-Antwerp Rules 1950

Supplementary provision 1 Expenses for removing a vessel to effect repairs

(Adopted on 31 October 1958; Amended on 28 October 1999)

In applying the provision of the second paragraph, Rule X (a) of the York-Antwerp Rules 1950, when the vessel is to be removed to a port or place of repair after discharging cargo (wholly or partly) at the first port of refuge, which discharge is necessary to effect repairs, the expenses specially incurred in removing the vessel shall be treated as constituting a part of the cost of repairs; and if general average repairs are involved, then such expenses for removal shall be allowed as general average in proportion which the cost of general average repairs bears to the aggregate cost of repairs.

Supplementary provision 2 Expenses for forwarding cargo by the substituted vessel (Adopted on 31 October 1958; Amended on 28 October 1999)

In applying the provision of Rule X (d) of the York-Antwerp Rules 1950, when the cargo is forwarded by another vessel the extra cost of

transshipment and forwarding shall be treated as substituted expenses irrespective of whether the freight be at risk of the shipowner or the carrier and whether the freight be "prepaid" or "to collect" and whether or not the substituted vessel belongs to the same owner as that of the original carrying vessel.

In respect of the cargo forwarded by another vessel as above it shall be regarded that there is no separation of interest from the original vessel; such cargo is liable to contribute general average and other expenditures as if it were carried by the original vessel, and its arrived value at destination shall be taken as the basis of adjustment.

## Section 2 Sue and labour expenses

### Rule 16 Treatment of salvage remuneration (sue and labour expenses) under hull & machinery policy

(Adopted on 23 October 2003; Amended on 23 October 2014)

Salvage remunerations allowed as sue and labour expenses, whether under salvage contract or otherwise, shall be treated in accordance with the following sub sections in addition to the provisions of the insurance policy:

- (a) When the hull insurer is making a payment on account in respect of salvage remunerations under a hull policy covering general average, the sum payable shall not exceed estimated ship's proportion of general average. In this instance, commission and interest allowed on such payment on account in a general average statement shall be credited to the insurer, taking into account the sum paid by him and the date when such payment was made.
- (b) When salvage remunerations are allowed to general average under a hull policy not covering general average, the ship's proportion of the salvage remunerations shall be calculated based on her contributory value for general average. Where commission and interest are allowed on salvage remunerations in the statement of general average, such commission and interest shall not be admitted as a part of the salvage remunerations.

When the hull insurer is making a payment on account in respect of salvage remunerations under a hull policy not covering general

average, the sum payable shall not exceed estimated amount of salvage remunerations due from the insurer. In this instance, commission and interest allowed on such advance payment in a general average statement shall not be credited to the insurer.

- (c) Bail fees and the interest on money borrowed by the assured to provide a cash deposit to the salvor can be allowed as sue and labour expenses.

Rule 17 Treatment of expenses incurred for providing security in cases of collision under hull & machinery policy

(Adopted on 23 October 2003; Amended on 23 October 2014)

Under a hull policy covering the collision liability, where, in consequence of a collision between vessels, expenses are reasonably incurred by obtaining release or avoiding arrest of the vessel, only bail fees and interest on money borrowed for the period during which a cash deposit is required can be admitted as part of the expenses of lawsuit under sue and labour expenses.

Section 3 Cost of Repairs

Rule 18 Removal expenses for effecting repairs

(Adopted on 23 October 2003)

- (a) After having sustained damage, (1) in immediately proceeding to the nearest place for repairs, (2) in resuming the voyage originally contemplated immediately after completion of repairs, and (3) in engaging a voyage for sea trials after completion of damage repairs, costs and expenses reasonably incurred in such voyages are referred to as removal expenses for effecting repairs. Such removal expenses for effecting repairs include cost of temporary repairs, towage, escorting charges, charges for personnel and instruments necessary for the removal, survey fees, additional premiums of marine insurance, bunkers consumed, wages and maintenance of the master, officers and crew, expenses for other consumable goods, port charges, agent fees, pilotage and other similar expenses. However, when any ordinary expense which would have been incurred is saved, such saved amount shall be deducted from the removal expenses.

In calculating wages of the crew, bonuses and other allowances paid regularly every year shall be taken into account, but no account shall be taken in respect of reserves for retirement allowances.

In addition, when the crew is employed through manning agents, their agency commissions shall not be included in wages of the crew.

- (b) The phrase "in immediately proceeding to the nearest place for repairs", referred to as above (1), shall include such a situation where the vessel, upon completion of the voyage in which the vessel was engaged at the time of the accident, proceeds to the place for repairs.

In addition, "in resuming the voyage originally contemplated immediately after completion of repairs" , referred to as above (2), shall include such a situation, after completion of the damage repairs, when the vessel returns to the same port where she had completed the previous voyage in which she was engaged at the time of the accident.

- (c) Removal expenses for effecting repairs shall be indemnified in full when the insured vessel proceeds to the nearest place for repairs immediately after she sustained damage and effects the damage repairs (including the cases described in the preceding paragraph), notwithstanding that the shipowner may take advantage of the opportunity to carry out owners' works on that occasion.

When, however, owners' works are carried out concurrently with damage repairs at the time and place originally contemplated, removal expenses for effecting repairs shall not be indemnified at all except for expenses incurred on account of the accident in excess of the removal expenses for owners' works.

- (d) In order to save the cost of repairs, with the consent of the hull insurers, the vessel proceeds to a place for repairs other than the nearest one and she can earn any new freight or other income through the removal, the removal expenses for effecting repairs shall be apportioned pro rata between the saved cost of repairs and the freight or other income earned.



- (a) A voyage for sea trials referred to in the above section shall commence at the earlier of either the time when the anchor is heaved up or the time when the mooring line is discharged for sea trials at the place for repairs, and terminates when the engineers workers of the dockyard on board the vessel for sea trials leave her after completion of sea trials. If, however, the insured vessel commences another new voyage before they leave her, the voyage for sea trials shall terminate on commencement of the new voyage.
- (b) A voyage for adjusting a magnetic compass is not included as a voyage for sea trials.

Rule 20 Apportionment of slipway and drydocking charges

(Adopted on 23 October 2003)

- (a) When two or more damage repairs are carried out concurrently, the cost and expenses which are in common for slipway and drydocking shall be apportioned equally to each casualty and shall be added to the cost of the respective repairs.
- (b) If the cost of damage repairs of any one accident is less than a deductible amount stipulated in a policy, those costs and expenses shall be apportioned to the other damage repairs and shall be added to the repair cost thereof.

Rule 21 Requirements for admitting unrepaired damage claim of vessel

(Adopted on 23 October 2003; Amended on 23 October 2014)

When there is either of the following circumstances, unrepaired damage claim may be admitted as if there is depreciation in vessel's value recognised due to damage:

- (a) When the vessel encounters a significant accident, which renders her impossible to continue trading, as the result of which she is sold as scrap.
- (b) When the damaged vessel is sold to a new owner abroad without effecting repairs and when the new owner will use her as a vessel. However, where the vessel is still insured with Japanese insurers, claim will be dealt with as deferred damage repairs.

Rule 22 Calculation on depreciation in value under unrepaired damage claim  
(Adopted on 23 October 2003)

- (a) Unrepaired damage claim shall be limited to the depreciation in value of the damaged vessel. Such depreciation shall be calculated in accordance with the following formula;

$$\text{Insured Value} \times \frac{\text{Sound Value} - \text{Damaged Value}}{\text{Sound Value}}$$

- (b) Damaged value by the above formula shall be the vessel's actual selling price.
- (c) It is acceptable even if the amount of unrepaired damage claim (calculated by using the above formula (a)) should exceed the sound market value of the vessel.

Rule 23 Estimated cost of repairs in the context of unrepaired damage claim  
(Adopted on 23 October 2003; Amended on 23 October 2014)

- (a) In assessing estimated cost of unrepaired damage, due care shall be taken in ascertaining the extent of damage and in preparing repair specification.

Included in such estimation are dry-dock dues, if dry docking is necessary for damage repairs, and also cost for accessory work. However, it is not necessary to deduct any part of shipyard's profit margin.

- (b) In principle, no diver's report is admitted as evidence for reasonable assessment for estimated cost of repairs, except when the damaged part is limited and/or specified.

Rule 24 Air Freight for replacement parts (Adopted on 23 October 2003)

Where replacement parts are transported by aircraft, applicable air freight using regular flights in principle shall be treated as part of the reasonable cost of repairs when such method of transportation is considered usual/reasonable taking into account duration of repairs/type of the vessel etc..