

Comité Maritime International

General Average - possible revision of the York-Antwerp Rules

Summary of conclusions of the International Sub-Committee's first meeting held in Bordeaux on 11 June 2003

At the finalisation of the meeting, the chairman's summary of the conclusions of the meeting was unanimously approved by the International Sub-Committee (ISC). These conclusions were as follows:

1. The work shall continue with the aim of making final decisions at the CMI conference in Vancouver next year.

No final decisions were made with respect to the following subjects referred to in the Working Group's report:

- Common benefit (abolition, incremental changes)
- Redistribution of salvage charges
- Time bar
- Interest
- Commission
- Tidying up of the text of the York-Antwerp Rules (YAR).

It was concluded that the subjects dealt with under the heading of:

- Absorption clauses
- Separate treatment of sacrifices of property

shall be considered finalised and therefore not be debated further.

2. The Working Group shall continue its work with the aim of producing a draft working paper for the Vancouver conference. A draft of this working paper will be considered by a second meeting of the ISC to be held in London on 17 November 2003 and on the basis of the discussions at that meeting, the Working Group will finalise the document. To be included in the 2004 CMI Year Book to be published before the Vancouver Conference this paper must be in final form no later than the end of December 2003.

3. Common benefit

Draft wordings shall be made of the following clauses to amend the YAR:

- To exclude from GA allowance for crew wages and maintenance
- To exclude from GA allowance for crew wages, maintenance, fuel and stores
- To limit allowance for temporary repairs so as to avoid any undue advantages for ship owners, particularly in cases where a temporary repair makes it possible for the ship to make final repairs at a place where repairs can be made cheaper than close to the port of refuge (Bailey method).

4. Salvage

Although there was some support of the proposal to exclude allowance for salvage charges from GA, this was not enough to make a final decision at this meeting.

No further drafting would be required.

5. Time limit

There was substantial resistance, in particular by the South American countries and other civil law countries against the proposed draft clause. However, it seemed that a compromise may be reached about an amended wording.

The Working Group is to prepare such a new draft and, in doing so, consult with members (in the Working Group's choice) from the MLA's in South America and other civil law countries.

The ISC approved the Working Group's proposal that CMI shall recommend UNCITRAL that a rule of time barring of general average contribution as proposed should be included in the convention on issues of transport law now under consideration.

The representative of IUMI stressed the importance that the rule of time barring was combined so that it includes a provision under which the time was running from the date of the incident.

6. Interest

The proposal by the Working Group for a formula linking the rate to LIBOR was rejected as being too complicated.

However, there was substantial support of a change whereby the interest is made variable in a more simple way, possibly by providing for the CMI to fix the interest rate at suitable intervals.

The Working Group is to produce a draft clause as well as draft guidelines for the CMI Executive Council and Assembly for the fixing of the rate.

There was no support of abolishing interest altogether.

7. Commission

No final decisions were made; the Working Group shall look into drafting a clause under which the actual costs of administering GA would be allowed.

Bent Nielsen
Chairman