

## **Proposal**

**To change the guidelines of how the rate of interest under the YAR 2004 shall be decided.**

Rule XXI (b) of the YAR 2004 provides that:

*Each year the Assembly of the Comité Maritime International shall decide the rate of interest which shall apply. This rate shall be used for calculating interest accruing during the following calendar year.*

When the YAR 2004 were adopted the Plenary Session of the Vancouver Conference also adopted the following:

*"Guidelines for the Assembly of the Comité Maritime International when deciding the annual interest rate provided for in YAR Rule XXI.*

*The Assembly is empowered to decide the rate of interest based upon any information or consideration, which in the discretion of the Assembly are considered relevant, but may take the following matters into account:*

*The rate shall be based upon a reasonable estimate of what is the rate of interest charged by a first class commercial bank to a ship owner of good credit rating.*

*Due regard shall be had to the following:*

- *That the majority of all G.A. adjustments are drawn up in USD.*
- *That therefore the level of interest for one-year USD loans shall be given particular consideration.*
- *That most adjustments, which are not drawn up in USD, are drawn up in GBP, EUR or JPY.*
- *That, if the level of interest for one year loans in GBP, EUR or JPY differs substantially from the level of interest for one year loans in USD, this shall be taken into account.*
- *That readily available information about the level of interest such as USD - prime rate and LIBOR shall be collected and used.*
- *Any amendment of these guidelines shall be made by a decision of a conference of the CMI."*

Since 2004 the Assembly has each year fixed the rate of interest which is published in CMI's website. The Assembly has made its decision at the basis of reports made by a small working group.

Information about the basic level of interest such as LIBOR are of course easily available, but the additional “spread” which must be added to reflect the rate of interest “charged by a first class commercial bank to a ship owner of good credit rating” has been increasingly difficult to ascertain.

The bankers consulted advise that one year loans to ship owners of good credit rating from a first class commercial bank hardly exist anymore. Such banks would normally not grant one year loans to ship owners not even if they are of good credit rating. Such ship owners are rare and would normally use other methods of finance should they need this. Even in long time financing of ships the spread varies considerable from bank to bank and from ship owner to ship owner. For long term financing it may however still be possible to get information of the spread charged to a ship owner of good credit rating.

As is well known the YAR 2004 are not generally used, however they are applied in some important trades and by some large charterers. It is unlikely that this situation will change soon if at all by the expected adoption of the new YAR. Even if this happens there will still be a need to decide the rate of interest for some years until all pending GA-matters under the 2004 YAR are finalised.

It is therefore necessary that the Assembly continues to decide which rate of interest shall apply year by year. In view of the difficulties to do this it is proposed to amend the guidelines for fixing interest under the YAR 2014.

Since the commercial parties have agreed that the rate of interest under the expected new YAR shall be LIBOR plus 4 percent it is proposed to use the same rate of interest for the 2004 YAR. This may be achieved by amending these guidelines to read as follows:

*"Guidelines for the Assembly of the Comité Maritime International when deciding the annual interest rate provided for in YAR Rule XXI.*

*The Assembly is empowered to decide the rate of interest based upon any information or consideration, which in the discretion of the Assembly are considered relevant.*

*The rate shall be based upon a reasonable estimate but the Assembly shall as a general principle normally decide that the rate shall be as provided for in Rule XXI (b) of the York Antwerp Rules 2016.*

*These guidelines shall apply to the rate of interest from the first of January 2017.*

*Any amendment of these guidelines shall be made by a decision of a conference of the CMI."*

Bent Nielsen

