

Non-binding recommendations by the German Insurance Association (GDV) for optional use. Other conditions may be agreed. In case of deviations the German wording shall prevail.

Instructions for Technical Experts in Inland Navigation 2024

(Last amended: July 2024)

Standard policy conditions of the GDV

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<p>1 Client, loss/damage assessment, independence within the scope of assignment</p> <p>1.1 The expert’s client is the Insurer specified in the insurance contract under which the Insured is making the claim.</p> <p>1.2 An expert may only accept and carry out the assignment to ascertain a loss or damage event and to prepare a loss/damage assessment if they are independent of the parties involved in the loss/damage and if they can carry out the assignment freely and without prejudice.</p> <p>1.3 The expert must ascertain the loss/damage to the subject-matter insured. The expert must estimate the repair costs. The expert must prepare a loss/damage assessment of such costs.</p> <p>2 Definitions</p> <p>2.1 Subject-matter insured</p> <p>The insurance covers the vessel with its machinery, appurtenances, installations and equipment (Clause B2 ADB 2024).</p> <p>2.2 Insured value</p> <p>The insured value equals the market value of the insured vessel upon commencement of the respective current policy year (Clause A9.1 ADB 2024).</p> <p>The parties may agree that the insured value equals the present value of the insured vessel at the start of the respective current policy year (Clause B11.4 ADB 2024).</p> <p>2.3 Market value, present value</p> <p>2.3.1 The market value is the estimated amount that could be achieved for an object of the same kind and quality in the usual course of business on the basis of expert knowledge and without consideration of any unusual or personal circumstances (Clause A9.2 ADB 2024).</p> <p>2.3.2 The present value is defined as the value as new of the insured item, less an amount that is calculated considering its age and operating condition, in particular wear and tear and maintenance, the use and utilisation, as well as the average technical useful life and lifespan (Clause B11.5 ADB 2024). The present value is the technical value, not the fair market value.</p>	<p>2.4 Sums insured</p> <p>2.4.1 Sum insured under the hull insurance</p> <p>The sum insured under the hull insurance should equal the market value (Clause B11.2 ADB 2024).</p> <p>2.4.2 Liability to third parties</p> <p>The sum insured is specified in the insurance policy (Clause C4.1 ADB 2024).</p> <p>The Strasbourg Convention of 2012 (CLNI 2012) governs the limitation of liability in inland navigation.</p> <p>In Germany, legislation passed on 5 July 2016 (German Federal Law Gazette 2016 I page 1578 ff.) incorporated CLNI 2012 into the German Inland Navigation Act (“<i>Binnenschiffahrtsgesetz</i>” (BinSchG)). According to this, the vessel owner can limit their liability to the maximum amounts specified in Sections 5e to 5k BinSchG. The limitation of liability may be effected by setting up a fund in accordance with the Allocation Regulation under Navigation Law (“<i>Schiffahrtsrechtliche Verteilungsordnung</i>”) or by setting up a fund in another CLNI member state.</p> <p>CLNI 2012 was ratified subject to reservations or declarations by Belgium, Luxembourg, Switzerland and Serbia, and was accepted by the Netherlands. Hungary joined the Convention (as at: June 2024).</p> <p>2.5 Technical expert procedure</p> <p>In the formal technical expert procedure, both parties appoint one expert each, who then elect a third expert as an umpire. The provisions in Clause A14 ADB 2024 apply.</p> <p>Either the Insured or the Insurer may request that the technical expert procedure be carried out (Clause A14.1 ADB 2024).</p> <p>3 Conditions for preparing a loss/damage assessment</p> <p>3.1 A loss/damage assessment may only be prepared if</p> <ul style="list-style-type: none"> – the vessel in its damaged condition has been presented to the expert, – the shipmaster’s accident report has been submitted to the expert.

This is the only way to ensure that the expert can correctly assess which loss/damage, in terms of both type and extent, results from the specified event and shall be included in the loss/damage assessment.

- 3.2 If the vessel was not presented to the expert in its damaged condition or if partial repairs have already been performed, this must be set out in the loss/damage assessment.
- 3.3 If the accident report is not submitted to the expert, the Insurer must be informed without delay.
- 3.4 Clauses 1.2, 3.1 to 3.3 apply correspondingly to a contradictory loss/damage assessment. An exception is the submission of an accident report that is to be submitted only to the Insured's Insurer. In general, the expert may not sign the loss/damage assessment if the conditions specified in Clauses 1.2, 3.1 to 3.3 have not been met.

4 Notification of parties involved in the loss/damage

- 4.1 If a third party is involved in a loss/damage, such third party is to be required to participate in the contradictory ascertainment of the loss/damage. The expert shall inform the third party or an expert named by the latter of the damage inspection date.
- 4.2 The expert is obliged under their assignment to ensure that the Insured's and/or Insurer's rights vis-à-vis all parties involved in the damage are honoured and not compromised.

5 Loss/damage assessment

5.1 General information

The loss/damage assessment must contain the following information

- Client
- Name of the vessel, European number of identification (ENI)
- Technical information on the vessel (year of construction, tonnage, engine specifications, special technical equipment, etc.)
- Engine construction year
- Parties involved in the loss/damage event
- Parties involved in recording the damage
- Date and time of the loss/damage event
- Description of the loss/damage event
- Cause of the loss/damage
- Place and date of inspection
- Repair yard, commencement and end dates of repairs, date the vessel left the repair yard

5.2 Ascertainments contained in the loss/damage assessment

The loss/damage assessment must contain the ascertainment that

- 5.2.1 the loss/damage is recorded "without any prejudice regarding fault, the cause of the loss/damage and the liability of the insurers";
- 5.2.2 the assessed loss/damage is "supposed to have been the result of" the accident in question (not "is the result of").

If the ascertained loss/damage could be attributed to a cause other than the one specified, this must be expressly noted in the loss/damage assessment.

5.3 Information on the loss/damage

The following information must be included in the loss/damage assessment:

5.3.1 Description of the loss/damage

5.3.2 Extent of the individual losses/damages

- Amount of the loss/damage, including an itemised list specifying where new parts are to be installed (Clause A13.3 fourth item marker ADB 2024).
- Reinforcements and improvements resulting from the repair, including an indication of the difference in value (Clause A13.3 fifth item marker ADB 2024).
- Increase of the entire vessel's value through the repairs.
- Dock, slip, helling, shifting or towing costs associated with the repairs.
- Consequential damage resulting from delayed repairs to propellers or shafts in the gearing or engine (Clause B7.4 ADB 2024).
- Carrying out of temporary repairs. The Insurer must be informed separately of any temporary repairs.
- Impairment of the vessel's fitness for inland navigation through deferral of repairs (Clause B7.1 ADB 2024). It must be noted whether the deferral of repairs is justified and until when the repairs are to be deferred (Clause B7.3 ADB 2024).

5.4 Additional information on compensation, individual items and repair work

5.4.1 It must be taken into account with regard to any and all loss/damage that the Insurer is obliged to compensate only for the cost of restoring the original condition. Special attention must be paid to the fact that only proportional compensation will be provided for parts of the vessel that were already in need of restoration due to their condition prior to the accident. The proportional compensation must be itemised in the loss/damage assessment.

5.4.2 The loss/damage assessment must specify for every individual item whether it involves renewals or mere straightening work.

5.4.3 If repairs require overtime, night shifts or work on a Sunday exclusively in order to mitigate the damage, this necessity must be set out in the loss/damage assessment. The additional cost must be specified.

5.4.4 Any work requested by the owner and carried out in parallel must be set out in the loss/damage assessment.

5.4.5 Where a loss/damage to tank vessels is assessed and ascertained, it must be reviewed whether degassing/cleaning is to be carried out immediately and whether full compensation of the cost is justified. Otherwise, the cost is to be determined on a pro rata basis in consideration of all circumstances.

6 Special duties to provide information

6.1 The expert must inform the Insurer without undue delay if the accident-related repair costs significantly exceed the current estimate or loss/damage assessment. The Insurer will then decide on how to proceed.

6.2 In case of special intervention, e.g. severe collisions, lifting and rescue measures, the expert must obtain the Insurer's instructions for all associated decisions. If it is not possible to consult the Insurer, the first

- undeferrable measures must be initiated for the vessel owner's and/or the cargo's account.
- 6.3 The Insurer must be informed if the ascertainment and assessment of the loss/damage is postponed until the next opportunity when the vessel is at a shipyard, provided the vessel's fitness for inland navigation is guaranteed (Clause A13.2 ADB 2024).
- 7 Supervision of repairs**
- The expert is obliged to inform the Insurer if they believe it necessary to supervise the repairs (Clause B7.2 ADB 2024).
- 8 Quotes for the cost of repairs**
- The expert is obliged to inform the Insurer if they believe it necessary to request several quotes for the repair costs (Clause A15.1 ADB 2024). If the Insurer believes this necessary, they will inform the expert thereof.
- 9 Contradictory loss/damage assessment** (*"Kontradiktorische Schadentaxe"*)
- 9.1 Any ascertainment of a loss/damage involving third parties must contain the following note:
- "Duration of repairs ..., working days from ... until Without prejudice to any claims for loss of use on the merits and in terms of amount unless otherwise agreed between the parties involved."
- The contradictory loss/damage assessment is to exclusively specify the amount of days required to repair the accident loss.
- 9.2 In case of disagreements with the opposing party's expert, the appointed expert must provide a written statement of reservations regarding the items in dispute at the end of the contradictory loss/damage assessment. The Insurer must be informed without undue delay of the reservations, in particular those regarding the extent of the loss/damage resulting from the accident.
- 9.3 If no agreement can be reached in the contradictory loss/damage assessment, the appointed expert must contact the Insurer without undue delay.
- The Insurer is responsible for deciding whether to carry out a technical expert procedure.
- The expert is not authorised to negotiate any settlement.
- 9.4 If the parties involved intend to additionally give the contradictory loss/damage assessment a prejudicial effect with regard to other circumstances related to the accident, especially with regard to the cause of the loss/damage, this must be expressly agreed in advance.
- 9.4.1 The Insured may only make a statement in this respect with the Insurer's explicit consent. Under no circumstances may an agreement regarding the Insurer's liability be made.
- 9.4.2 If such an agreement was made, Clause 5.2.2 sentence 1 of these instructions does not apply; Clause 5.2.1 applies correspondingly.