

Agreed Value Practice in Ship Insurances

The concepts of "insured value", "actual value of the matter insured" and "agreed value" in hull and machinery insurance and other property insurance of ships can sometimes lead to confusion.



Especially in case of major damages, the insurer's reduction of the amount subject to compensation due to incorrect value determination in the policy is a situation that no insured wants to face. For this reason, the demand for the insured value to be noted as the agreed value in the policy is frequently expressed.

On the application of agreed value;

According to Article 1460 of the Turkish Commercial Code, "The insured value is the full value of the insured interest." The insured value in watercraft means the current fair value of the integrity consisting of the ship's hull, machinery and integral parts. According to Section A.4 of the Turkish Hull Insurance General Conditions, "fuel, provisions and supplies, seafarers' wages" are not included in this value.

In assessing requests for agreed value by the assureds, insurers may request a valuation survey. The purpose of the valuation survey is to determine the current market value of the ship by an expert who has the necessary qualification to carry out this study, so that an up-to-date agreement can be reached between the insurer and the policyholder regarding the insured value and the actual value of the matter insured.

In case of a possible damage, the right of the insured or the policy holder to request an assessment of the current value of the ship before the damage is always reserved. Agreed value application does not mean that the parties waive this right. With agreed value application, it is aimed to reduce the possibility of a difference between actual value of the matter insured, and the insured value in case of a possible damage, and as a result, the implementation of the "Underinsurance" and "Overinsurance" scenarios defined in Articles 1462 and 1463 of the Turkish Commercial Code.

If the insured value is reconciled in accordance with the current market conditions and the insured value is determined in accordance with the actual value of the matter insured, the probability of the following scenarios will decrease, especially in large damages;

- 1) Decreased indemnity right of the insured due to the application of "underinsurance".
- 2) Avoidance of discussions about "overinsurance". Namely, in overinsurance, insurance valuations on the insurance policy in excess of actual value of the matter insured / insured value of the ship will become invalid. In addition to Article 1463 of the Turkish Commercial Code, Article 77 of the Turkish Code of Obligations prohibits debt relationships that may lead to "unjust enrichment".

The fact that insurance companies write special conditions contrary to the mandatory provisions of the laws in the policies they issue creates legally complex situations and it is not legally possible to implement such contractual conditions in the policies. The "agreed value" wordings, which are a special conditions, should also be evaluated in this way in terms of the TCC and the Turkish Code of Obligations.



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Following his graduation from Istanbul Technical University with a degree in Mathematics Engineering, Umut started his marine risks insurance career in 2005 at Anadolu Insurance Company. He later joined Aon ve Omni as an insurance and reinsurance broker. In 2014 he took the position as Underwriter of Turkish P&I. Umut's responsibilities include establishment of Company's risk and business acceptance criteria, review and guidance of rating practices and application of these practices to both prospect business and portfolio, and ensuring smooth and continuous run of the Company's reinsurance treaty programmes. His articles on various insurance related topics continue to be published in maritime and insurance sector periodicals.



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However, as long as the agreed value wordings are used correctly, they are extremely important tools in terms of protecting the interests of the policyholder, namely;

1) The existence of a recently agreed value report between the insurer and the insured will weaken the insurer's claims of "underinsurance" or "overinsurance" and strengthen the hand of the policyholder in this regard. Unless there is an "agreed value" report, since the insurance amount will be determined in the policy according to the statement of the insured, the policy holder will be obliged to prove that "the insured amount is compatible with the actual value of the matter insured" in case of a possible damage. However, if the insurer is objecting to the agreed value, and there exists a recent valuation report accepted and agreed by the insurer accordingly, it will be the insurer who has to bear the liability to prove his objections to the insured value are just.

2) The agreed value wordings do not provide 100% protection against changes in the fair values of ships in line with market conditions. If the policyholder thinks that the market conditions affect the actual value of the of the ship, it will be in his interest to take action to update and reconcile the insured value.

3) Despite the correct application of the agreed price conditions, if the polich holder has a reservation that there will be a deficiency in the amount of compensation, especially in case of total loss, or in case of total loss with respect to "fuel, provisions and supplies, seafarers' wages", which are exceptions according to the the Turkish Hull Insurance General Conditions and there is an expectation of getting a compensation for the items, the policyholder may consider to take out Increased Value insurance regardless of the insured value of the ship, in consideration that Increased Value insurances assume "Policy Proof of Interest".