

General average menurut kitab undang undang hukum dagang dengan
york antwerp rules 1994 suatu perbandingan kerugian laut = General
average according to the Indonesia commercial code icc and the york
antwerp rules 1994 a comparative average / Dody Purnomo Sidhi

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Abstrak

ABSTRAK

Dalam pengangkutan laut, risiko bahaya laut bagi kapal dan muatan membutuhkan penyelesaian disebut general average. Saat ini, di Indonesia setidaknya terdapat dua pilihan hukum terkait general average yaitu menurut Kitab Undang-Undang Hukum Dagang (KUHD) dan York-Antwerp Rules 1994 (YAR 1994). Tesis ini membahas perbedaan pengaturan mengenai general average pada KUHD dan YAR 1994, serta pengaturan mana yang lebih memberikan perlindungan hukum bagi pemilik kapal dan pemilik muatan dalam general average. Penelitian yang menggunakan metode yuridis normatif ini, menyimpulkan terdapat perbedaan ruang lingkup biaya atau kerugian yang termasuk dalam general average, dan prinsip-prinsip umum dari general average. Selain itu, pengaturan general average pada YAR 1994 lebih memberikan perlindungan hukum bagi pemilik kapal dan muatan dalam pengangkutan laut, karena alasan ruang lingkup biaya atau kerugian; dan alasan prinsip-prinsip umum general average.

ABSTRACT

In sea transport, with the perils of the sea to the vessel and cargo requires settlement called general average. Currently, in Indonesia consisted at least two legal options related to the general average which according to the Indonesian Commercial Code (ICC) and the York-Antwerp Rules 1994 (YAR 1994). The thesis discusses the differences in rules of general average between ICC and YAR 1994, as well as which rules gives more legal protection for the vessel owners and the cargo owners in general average. The research using normative juridical method concluded that is a difference in the scope of costs or losses are included in the general average, and the general principles of general average. In addition, the rule of general average under YAR 1994 giving more legal protection to the owner of the vessel and cargo in sea transport by reason of the scope of costs or losses; and general principles of general average.