



**COMMENTARY**  
**ON THE**  
**YORK-ANTWERP RULES 2004**

**July 2004**



## **INTRODUCTION**

On 4<sup>th</sup> June 2004 in Vancouver, the York-Antwerp Rules 2004 were approved by the Comité Maritime International (CMI).

This commentary sets out the background to the new Rules, summarises the main changes and includes a comparison between the 1994 and 2004 Rules as an Appendix.

The Association is indebted to Richard Cornah for his work in preparing this Commentary. Richard is a Fellow of the Association and played a prominent role in the deliberations at the Vancouver Conference.

The text of the 2004 Rules shown in the Appendix is provisional, pending official publication by the CMI.

Michael D Harvey  
Chairman of the Association of Average Adjusters.



## **BACKGROUND TO THE CHANGES**

General Average is a concept that is peculiar to maritime transport and has its origin in the earliest days of sea-borne trade in the Mediterranean. The basic principle was recognised by sea-faring nations in similar terms: any sacrifice of property, such as jettison, or any extraordinary expenditure that is made for the common safety of ship and cargo is contributed to by the surviving property on the basis of arrived values. In the 18<sup>th</sup> Century, divergence between English and European/US law and practice in the application of this principle became a serious inconvenience to commercial interests; from 1860 onwards there was a concerted international effort towards greater uniformity, culminating in the York-Antwerp Rules of 1890, which became operative by insertion into contracts of affreightment.

Since the 1924 revision of the Rules, their custodian has been the Comité Maritime International (CMI). CMI is a non-governmental international organisation dedicated to the unification of maritime law in all aspects, and made up from National Maritime Law Associations.

The International Union of Marine Insurers (IUMI) expressed dissatisfaction with the last revision of the Rules in 1994 and in their 1998 conference in Berlin, a Working Group submitted a paper entitled '*General Average - How should it be changed?*'. This resulted in a formal request to CMI the following year for further reform of the York-Antwerp Rules to be given consideration. IUMI felt that the concept of General Average reflected in the current York-Antwerp Rules was outdated. Their proposed solution (recognizing the difficulties of completely abolishing a concept embedded in the law of most maritime nations) was to restrict the categories of loss or expense that would be made good by General Average contributions between the parties; more losses would be allowed to lie where they fell.

The York-Antwerp Rules recognize two main types of allowance:

- i) 'Common safety' allowances: Sacrifice of property (such as flooding a cargo hold to fight a fire) or expenditure (such as salvage or lightening a vessel) that was made or incurred while the ship and cargo were in the grip of peril. Since the early 19<sup>th</sup> Century, English law and practice largely recognized only this category of General Average.
- ii) 'Common benefit' allowances: Once a vessel was at a port of refuge, European countries and the United States generally viewed expenses necessary to enable the ship to resume the voyage safely (but not the cost of repairing accidental damage to the ship) as also being General Average; for example, the cost of discharging, storing and reloading cargo as necessary to do repairs, port



## **BACKGROUND TO THE CHANGES** (continued)

charges, and wages etc. during detention for repairs and outward port charges.

In addition to addressing various minor differences in practice, the main thrust of the York-Antwerp Rules has been to unite these two strands.

IUMI's solution to the problems they perceived was to reduce the number of General Averages by restricting General Average to 'common safety' situations. Thus it would be a prerequisite for all allowances that they should relate strictly to sacrifices and expenditure in time of actual peril. Arguments for and against this radical proposal (and other incremental changes proposed by IUMI) were aired at subsequent CMI meetings in Toledo (2000), and Singapore (2001) and a Working Group was set up to give the matter more detailed consideration. Their report dated 7 March 2003 was progressed further by an International Sub-Committee meeting at Bordeaux in June 2003, and a final version was made ready for the recent 38<sup>th</sup> CMI Conference at Vancouver which set out both sides of the debate as even-handedly as possible (see [www.comitemaritime.org](http://www.comitemaritime.org) for details).

At Vancouver, there was little support for the radical restriction to the "common safety" concept, with delegates taking the view that the existing system for dividing costs at a port of refuge was widely understood and generally worked well. The greatest advantage was that action can be taken promptly within a known framework, leaving legal issues to be sorted out later.

However, there was considerable support from the delegations (made up from the Maritime Law Associations of over 40 countries) for many of the incremental changes proposed by IUMI, and a number of these were agreed and form the basis of the new 2004 Rules. These consisted of:

- the exclusion of Salvage from General Average, thus amending the present Rule VI, although credit will be given for any salvage paid by one party (usually ship) on behalf of others.
- an amendment to Rule XI so that crew wages will no longer be allowed while at a Port of Refuge.
- an amendment to Rule XIV so that savings to Ship interests achieved by effecting temporary repairs to accidental damage at a port of refuge are accounted for first, before any allowance in General Average is considered.
- the removal of any allowance for commission.



## **BACKGROUND TO THE CHANGES** (continued)

- the adoption of a procedure whereby the rate of interest (currently 7%) will be reviewed annually by CMI.
- the introduction of a Time Bar provision, where national jurisdictions permit.

These changes were not supported by the representatives of Shipowning interests at the conference. Speaking also on behalf of BIMCO, Intertanko and Intercargo, the International Chamber of Shipping (ICS) delegate told the conference that they considered it premature to produce a new set of rules after only ten years and before the 1994 version had become the norm. With General Average Absorption clauses in hull policies (whereby the hull insurers pay all General Average expenses up to a specified limit) removing some 50% of general average cases and improvements in shipping standards, many of the problems highlighted by IUMI had fallen away. ICS therefore felt that the 2004 Rules would be an unhelpful source of confusion.

The York-Antwerp Rules are not a Convention and only take effect by being incorporated into individual Contracts of Affreightment. The process of adoption is therefore relatively slow with many contracts of affreightment currently in use still specifying the penultimate 1974 set of Rules. The 2004 Rules represent the first occasion when a new set of Rules have been approved without a consensus between Shipowning and other interests.

It was agreed at the Vancouver conference, in both the International sub-committee and Plenary sessions, that the new Rules should be given the title of "York-Antwerp Rules 2004" to make it clear that these were not simply an amendment to or modification of the 1994 Rules (as happened with the 1990 amendment of the 1974 Rules in respect of Rule VI). Where contracts of affreightment such as Congenbill 1994 refer to "York-Antwerp Rules 1994 or any subsequent modification thereof...." the 1994 Rules will remain applicable.



## **THE 2004 CHANGES**

### **Rule VI - Salvage.**

As noted in Lowndes and Rudolf (*12 edition para. 6.11*) in all maritime countries other than the United Kingdom, salvage has generally been treated as General Average and has, together with other General Average losses, been apportioned over values at destination. The divergence of British practice occurred during the latter part of the 19<sup>th</sup> century when adjusters began to distinguish, on grounds of principle, between salvage and General Average, with salvage being apportioned over values pertaining at the place where the services ended.

In 1926 the British Association of Average Adjusters passed a Rule of Practice that permitted the allowance of commission and interest on salvage awards, but the divergence in practice regarding inclusion of salvage awards in General Average was not finally resolved until a further Rule of Practice in 1942.

During the 1974 revision of the YAR, the old Rule VI was removed and the first version of the current Rule VI was inserted in order to ensure that international practice was uniform on this point.

The IUMI proposal was based on the view that the re-distribution of salvage was not necessary and gave rise to additional expense. The arguments for and against were set out as follows in the Working Party Report.

#### *"6.2.1 Arguments **for exclusion** of salvage from General Average:*

- *Inclusion of salvage involves unnecessary duplication of the apportionment of the salvage remuneration between contributing interests.*
- *In most cases the proportions are not changed significantly but the cost of readjustment may be relatively high.*
- *It requires collection of two sets of security to cover basically the same moneys.*
- *It prolongs the whole operation, sometimes for years.*
- *It involves additional hassle for cargo underwriters.*

#### *6.2.2 Arguments **for inclusion** of salvage in General Average:*

- *It produces a fairer result at the end of the case.*



## **Rule VI - Salvage.** (continued)

- *In some cases to leave salvage where it falls after salvage settlement or arbitration can cause serious injustice; e.g. sacrifices made good in General Average are added back in computing the values under Rule G. Take for example, a vessel with a sound value of \$1,500,000 and a cargo of \$1,000,000. The vessel is intentionally run aground for the common safety and suffers damage of \$500,000. She is then salvaged. After deducting the cost of damage repairs for the purpose of arriving at the salvaged values at the termination of the salvage service, ship and cargo would each pay 50% of the salvage award, assuming that it was settled separately and not included in General Average. However, the shipowner will ultimately receive an allowance in General Average for the sacrificial damage. If salvage is included in General Average, as it is at present, and the amount made good is added to the arrived value of the vessel at the completion of the voyage, then the contributory value of the vessel would be \$1,500,000, and ship would pay 60% of the salvage, which is more equitable in the circumstances.*
  
- *A second casualty can also materially affect the values at the end of the adventure and thus the apportionment. If, for example, a vessel carrying cargo under deck and other cargo on deck receives salvage services, the deck cargo contributes to the salvage award in proportion to its value at the termination of the salvage. If, after suitable repairs, the vessel proceeds towards destination, but encounters very heavy weather in which the deck cargo is carried away and lost, the value of the lost deck cargo at completion of the voyage is nil and that deck cargo will not contribute to the salvage remuneration if it is readjusted in General Average.*
  
- *In some cases the salvage remuneration can be assessed on the basis of rough figures, leaving the fine tuning of the apportionment to be done later in General Average. This can expedite salvage settlements and save costs.*
  
- *Some jurisdictions e.g. Netherlands contain laws, which require the shipowner to pay salvage in full and collect from cargo in General Average – this is recognised by the IUMI proposals.*



**Rule VI - Salvage.** (continued)

- *In many serious casualties General Average security will still be collected because the shipowner's likely financial exposure may not be fully known and the possible extent of cargo sacrifices cannot be determined without delaying the release of cargo.*
- *It redresses the balance if one party to the adventure is able to use commercial or other pressures to reach a particularly favourable negotiated settlement with salvors leaving other parties to pay the full cost at arbitration.*
- *Even if salvage is not allowed in General Average, it will still be treated as a special charge (which will be deducted in calculating contributory values) therefore the adjustment cannot be completed until the final amount of the salvage charges paid by each interest is available."*

The majority of delegates in Vancouver favoured the exclusion and the first paragraph of the existing Rule is replaced with the following:

*(a) Salvage payments, including interest thereon and legal fees associated with such payments, shall lie where they fall and shall not be allowed in General Average, save only that if one party to the salvage shall have paid all or any of the proportion of salvage (including interest and legal fees) due from another party (calculated on the basis of salvaged values and not General Average contributory values), the unpaid contribution to salvage due from that other party shall be credited in the adjustment to the party that has paid it, and debited to the party on whose behalf the payment was made.*

Associated minor amendments are also made to paragraphs b) and c). The extent to which salvage is re-admitted when paid by one party on behalf of others is on very limited terms. It is purely an accounting transaction, so that credit is given without the amount being considered as General Average. No allowance for Interest can therefore be made for the period that the paying party is out of pocket and, also taking into account the abolition of the 2% allowance for commission, Shipowners may prefer to opt for a Lloyd's Open Form type of salvage agreement (where each party is separately liable) rather than initially fund the whole salvage operation themselves.





## **Rule VI - Salvage.** (continued)

The likely savings envisaged by IUMI may not in fact be always significant. With Lloyd's Open Form and similar cases, the amount of salvage paid will still have to be ascertained and deducted from Contributory Values as a special charge. With contract salvages, it may be necessary to calculate separate salvaged values in addition to the contributory values at destination, in order to make the accounting credit in the manner called for by the Rule.

The exclusion of salvage from General Average will in many cases extend the effectiveness of General Average Absorption Clauses (under which the Hull Insurers pay General Average in full up to a specified limit). Previously, in cases involving salvage, the Absorption Clause limit has often been exhausted by an actual payment for contract salvage or by the anticipated award under Lloyd's Open Form, necessitating the collection of General Average security to recover other items of expenditure.

## **Rule XI - Wages and Maintenance.**

At the Vancouver Conference various proposals were put forward to remove existing allowances for wages and maintenance, and/or fuel and stores and/or port charges while at a port of refuge. A number of delegates felt particularly strongly that wages were a loss by delay and should not be singled out for a special allowance when Rule C excluded all other such losses. On the other hand, it was noted that the allowance of wages had been an accepted part of General Average in many jurisdictions prior to the first York-Antwerp Rules. A compromise was suggested by the Canadian delegation to exclude wages only while at the port of refuge, retaining the status quo for the deviation to the port and subsequent regaining of position.

Rule XI(a) is therefore unchanged, but all reference to wages is now removed from the new XI(c) which was formerly Rule XI(b), a change having been made in the ordering of the paragraphs. The Rule reads as follows:



**Rule XI - Wages and Maintenance.** (continued)

*"(c)(i) When a ship shall have entered or been detained in any port or place in consequence of accident, sacrifice or other extraordinary circumstances which render that necessary for the common safety, or to enable damage to the ship caused by sacrifice or accident to be repaired, if the repairs were necessary for the safe prosecution of the voyage, fuel and stores consumed during the extra period of detention in such port or place until the ship shall or should have been made ready to proceed upon her voyage, shall be allowed in general average, except such fuel and stores as are consumed in effecting repairs not allowable in general average.*

*(ii) Port charges incurred during the extra period of detention shall likewise be allowed as general average except such charges as are incurred solely by reason of repairs not allowable in general average.*

*(iii) Provided that when damage to the ship is discovered at a port or place of loading or call without any accident or other extraordinary circumstance connected with such damage having taken place during the voyage, then fuel and stores consumed and port charges incurred during the extra detention for repairs to damages so discovered shall not be admissible as general average, even if the repairs are necessary for the safe prosecution of the voyage.*

*(iv) When the ship is condemned or does not proceed on her original voyage, fuel and stores consumed and port charges shall be admitted as general average only up to the date of the ship's condemnation or of the abandonment of the voyage or up to the date of completion of discharge of cargo if the condemnation or abandonment takes place before that date."*

XI(d) is unchanged.

Under English law, dating back to *Robertson v. Ewer* (1786), crew wages are not allowable in Particular Average and this position is confirmed by the Institute Time Clauses 1.10.83., the International Hull Clauses 2003 and similar wordings.



## **Rule XIV - Temporary Repairs.**

Under York-Antwerp Rules 1994, temporary repairs to accidental damage effected for the safe prosecution of the voyage at a port of refuge are allowed to General Average up to the savings in General Average realised thereby. For example:

Cost of temporary repairs.	<u>US\$ 100,000</u>
Savings:	
Cost of handling cargo.	US\$ 50,000
Extra detention if permanent repairs effected.	25,000
	<hr/>
	US\$ 75,000
	<hr/> <hr/>
General Average allowance.	<u>US\$ 75,000</u>

Under York-Antwerp Rules 1994 the allowance is made "without regard to other savings". In some cases the effecting of a temporary repair may allow the permanent repair to be completed after the voyage at a much cheaper location, resulting in a significant saving to ship interests. The amendment to the Rule sought to ensure that the savings to Ship interests are accounted for first, before any allowance in General Average is considered.

Although there was no suggestion that the allowance of temporary repairs for the common safety or of sacrificial damage should be interfered with, the Vancouver delegates voted in favour of changing the position regarding repairs to accidental damage with the following amendment to the second paragraph of the Rule:

*(b) Where temporary repairs of accidental damage are effected in order to enable the adventure to be completed, the cost of such repairs shall be allowed as general average without regard to the saving, if any, to other interests, but only up to the saving in expense which would have been incurred and allowed in general average if such repairs had not been effected there. Provided that for the purposes of this paragraph only, the cost of temporary repairs falling for consideration shall be limited to the extent that the cost of temporary repairs effected at the port of loading, call or refuge, together with either the cost of permanent repairs eventually effected or, if unrepaired at the time of the adjustment,*



**Rule XIV - Temporary Repairs.** (continued)

*the reasonable depreciation in the value of the vessel at the completion of the voyage, exceeds the cost of permanent repairs had they been effected at the port of loading, call or refuge.*

Thus:

Actual temporary repair cost.	US\$ 100,000
Actual permanent repair cost.	500,000
	<hr/>
	US\$ 600,000
	<hr/>

Estimated permanent repair cost at the port of refuge:

- A) US\$600,000 - no allowance.
- B) US\$550,000 - this is less than the combined actual costs so that US\$50,000 can be considered for allowance in General Average, subject as before to savings. On the basis of the figures used above, the US\$50,000 could be allowed in full, given savings of US\$75,000.

It is envisaged that any reduction in General Average allowances under this new wording would be met as part of the Particular Average claim, assuming the vessel to be insured.

**Rule XX - Provision of funds.**

The first paragraph is deleted, therefore the existing allowance for 2% Commission can no longer be made. Adjusters will continue to make allowances for reasonable out of pocket expenses relating to the General Average.



## **Rule XXI – Interest.**

It was considered by the majority of delegates that the fixed interest of 7% was too inflexible and that a system that was more responsive to changing economic conditions should be adopted.

The York-Antwerp Rules 2004 Rule now provides:

*(b) Each year the Assembly of the Comité Maritime Internationale shall decide the rate of interest which shall apply. This rate shall be used for calculating interest accruing during the following year.*

The following guidelines have been set out for fixing the rate:

*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 GA 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.*



### **Rule XXIII – Time Bar for Contributions to General Average.**

An entirely new Rule was added in order to try and achieve greater certainty regarding applicable Time Bars.

*"(a) Subject always to any mandatory rule on time limitation contained in any applicable law:*

*(i) Any rights to general average contribution including any rights to claim under general average bonds and guarantees, shall be extinguished unless an action is brought by the party claiming such contribution within a period of one year after the date upon which the general average adjustment was issued. However, in no case shall such an action be brought after six years after the date of termination of the common maritime adventure.*

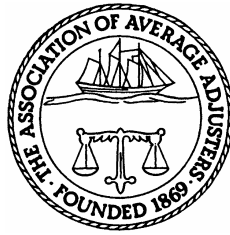
*(ii) These periods may be extended if the parties so agree after the termination of the common maritime adventure.*

*(b) This rule shall not apply as between the parties to the general average and their respective insurers."*

As recognised in the opening words, some countries have mandatory time bar periods that cannot be varied by contract. However, it was considered that the rule would provide a greater degree of certainty in countries where variation is possible, or in the few countries that have no statutory provision at all.

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Finally, minor amendments to the Rules have been made to "tidy up" the drafting and provide a more coherent numbering system.



## **APPENDIX**

### **YORK-ANTWERP RULES 1994**

### **AND 2004 COMPARED**

**(Areas of difference in the 2004 Rules  
are shown in bold type)**



# **YORK-ANTWERP RULES**

**2004**

**York-Antwerp Rules, 1994**

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## **RULE OF INTERPRETATION**

**In the adjustment of general average the following Rules shall apply to the exclusion of any Law and Practice inconsistent therewith.**

**Except as provided by the Rule Paramount and the numbered Rules, general average shall be adjusted according to the lettered Rules.**

## **RULE PARAMOUNT**

**In no case shall there be any allowance for sacrifice or expenditure unless reasonably made or incurred.**

**York-Antwerp Rules, 2004**

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## York-Antwerp Rules, 1994

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### **RULE A**

**There is a general average act when, and only when, any extraordinary sacrifice or expenditure is intentionally and reasonably made or incurred for the common safety for the purpose of preserving from peril the property involved in a common maritime adventure.**

**General average sacrifices and expenditures shall be borne by the different contributing interests on the basis hereinafter provided.**

### **RULE B**

**There is a common maritime adventure when one or more vessels are towing or pushing another vessel or vessels, provided that they are all involved in commercial activities and not in a salvage operation.**

**When measures are taken to preserve the vessels and their cargoes, if any, from a common peril, these Rules shall apply.**

**A vessel is not in common peril with another vessel or vessels if by simply disconnecting from the other vessel or vessels she is in safety; but if the disconnection is itself a general average act the common maritime adventure continues.**

## York-Antwerp Rules, 2004

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**2) A vessel is not in common peril with another vessel or vessels if by simply disconnecting from the other vessel or vessels she is in safety; but if the disconnection is itself a general average act the common maritime adventure continues.**



## York-Antwerp Rules, 1994

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### RULE C

**Only such losses, damages or expenses which are the direct consequence of the general average act shall be allowed as general average.**

**In no case shall there be any allowance in general average for losses, damages or expenses incurred in respect of damage to the environment or in consequence of the escape or release of pollutant substances from the property involved in the common maritime adventure.**

**Demurrage, loss of market, and any loss or damage sustained or expense incurred by reason of delay, whether on the voyage or subsequently, and any indirect loss whatsoever, shall not be admitted as general average.**

### RULE D

**Rights to contribution in general average shall not be affected, though the event which gave rise to the sacrifice or expenditure may have been due to the fault of one of the parties to the adventure, but this shall not prejudice any remedies or defences which may be open against or to that party in respect of such fault.**

## York-Antwerp Rules, 2004

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**3) Demurrage, loss of market, and any loss or damage sustained or expense incurred by reason of delay, whether on the voyage or subsequently, and any indirect loss whatsoever, shall not be **allowed** as general average.**

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## York-Antwerp Rules, 1994

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### **RULE E**

**The onus of proof is upon the party claiming in general average to show that the loss or expense claimed is properly allowable as general average.**

**All parties claiming in general average shall give notice in writing to the average adjuster of the loss or expense in respect of which they claim contribution within 12 months of the date of the termination of the common maritime adventure.**

**Failing such notification, or if within 12 months of a request for the same any of the parties shall fail to supply evidence in support of a notified claim, or particulars of value in respect of a contributory interest, the average adjuster shall be at liberty to estimate the extent of the allowance or the contributory value on the basis of the information available to him, which estimate may be challenged only on the ground that it is manifestly incorrect.**

### **RULE F**

**Any additional expense incurred in place of another expense which would have been allowable as general average shall be deemed to be general average and so allowed without regard to the saving, if any, to other interests, but only up to the amount of the general average expense avoided.**

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## York-Antwerp Rules, 1994

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### **RULE G**

**General average shall be adjusted as regards both loss and contribution upon the basis of values at the time and place when and where the adventure ends.**

**This rule shall not affect the determination of the place at which the average statement is to be made up.**

**When a ship is at any port or place in circumstances which would give rise to an allowance in general average under the provisions of Rules X and XI, and the cargo or part thereof is forwarded to destination by other means, rights and liabilities in general average shall, subject to cargo interests being notified if practicable, remain as nearly as possible the same as they would have been in the absence of such forwarding, as if the adventure had continued in the original ship for so long as justifiable under the contract of affreightment and the applicable law.**

**The proportion attaching to cargo of the allowances made in general average by reason of applying the third paragraph of this Rule shall not exceed the cost which would have been borne by the owners of cargo if the cargo had been forwarded at their expense.**

## York-Antwerp Rules, 2004

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### **RULE G**

**1) General average shall be adjusted as regards both loss and contribution upon the basis of values at the time and place when and where the adventure ends.**

**2) This rule shall not affect the determination of the place at which the average statement is to be made up.**

**3) When a ship is at any port or place in circumstances which would give rise to an allowance in general average under the provisions of Rules X and XI, and the cargo or part thereof is forwarded to destination by other means, rights and liabilities in general average shall, subject to cargo interests being notified if practicable, remain as nearly as possible the same as they would have been in the absence of such forwarding, as if the adventure had continued in the original ship for so long as justifiable under the contract of affreightment and the applicable law.**

**4) The proportion attaching to cargo of the allowances made in general average by reason of applying the third paragraph of this Rule shall not exceed the cost which would have been borne by the owners of cargo if the cargo had been forwarded at their expense.**



## York-Antwerp Rules, 1994

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### **RULE I. JETTISON OF CARGO**

No jettison of cargo shall be made good as general average, unless such cargo is carried in accordance with the recognised custom of the trade.

### **RULE II. LOSS OR DAMAGE BY SACRIFICES FOR THE COMMON SAFETY**

Loss of or damage to the property involved in the common maritime adventure by or in consequence of a sacrifice made for the common safety, and by water which goes down a ship's hatches opened or other opening made for the purpose of making a jettison for the common safety, shall be made good as general average.

### **RULE III. EXTINGUISHING FIRE ON SHIPBOARD**

Damage done to a ship and cargo, or either of them, by water or otherwise, including damage by beaching or scuttling a burning ship, in extinguishing a fire on board the ship, shall be made good as general average; except that no compensation shall be made for damage by smoke however caused or by heat of the fire.

## York-Antwerp Rules, 2004

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## York-Antwerp Rules, 1994

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### **RULE IV. CUTTING AWAY WRECK**

Loss or damage sustained by cutting away wreck or parts of the ship which have been previously carried away or are effectively lost by accident shall not be made good as general average.

### **RULE V. VOLUNTARY STRANDING**

When a ship is intentionally run on shore for the common safety, whether or not she might have been driven on shore, the consequent loss or damage to the property involved in the common maritime adventure shall be allowed in general average.

### **RULE VI. SALVAGE REMUNERATION**

(a) Expenditure incurred by the parties to the adventure in the nature of salvage, whether under contract or otherwise, shall be allowed in general average provided that the salvage operations were carried out for the purpose of preserving from peril the property involved in the common maritime adventure.

Expenditure allowed in general average shall include any salvage remuneration in which the skill and efforts of the salvors in preventing or minimising damage to the environment such as is referred to in Art.13 paragraph 1(b) of the International Convention on Salvage, 1989 have been taken into account.

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### **RULE IV. CUTTING AWAY WRECK**

Loss or damage sustained by cutting away wreck or parts of the ship which have been previously carried away or are effectively lost by accident shall not be **allowed** as general average.

### **RULE V. VOLUNTARY STRANDING**

When a ship is intentionally run on shore for the common safety, whether or not she might have been driven on shore, the consequent loss or damage to the property involved in the common maritime adventure shall be allowed in general average.

### **RULE VI. SALVAGE REMUNERATION**

(a) Salvage payments, including interest thereon and legal fees associated with such payments, shall lie where they fall and shall not be allowed in General Average, save only that if one party to the salvage shall have paid all or any of the proportion of salvage (including interest and legal fees) due from another party (calculated on the basis of salvaged values and not General Average contributory values), the unpaid contribution to salvage due from that other party shall be credited in the adjustment to the party that has paid it, and debited to the party on whose behalf the payment was made.



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**(b) Special compensation payable to a salvor by the shipowner under Art.14 of the said Convention to the extent specified in paragraph 4 of that Article or under any other provision similar in substance shall not be allowed in general average.**

### **RULE VII. DAMAGE TO MACHINERY AND BOILERS**

**Damage caused to any machinery and boilers of a ship which is ashore and in a position of peril, in endeavouring to refloat, shall be allowed in general average when shown to have arisen from an actual intention to float the ship for the common safety at the risk of such damage; but where a ship is afloat no loss or damage caused by working the propelling machinery and boilers shall in any circumstances be made good as general average.**

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**(b) Salvage payments referred to in paragraph (a) above shall include any salvage remuneration in which the skill and efforts of the salvors in preventing or minimising damage to the environment such as is referred to in Art. 13 paragraph 1(b) of the International Convention on Salvage 1989 have been taken into account.**

**(c) Special compensation payable to a salvor by the shipowner under Art. 14 of the said Convention to the extent specified in paragraph 4 of that Article or under any other provision similar in substance (such as SCOPIC) shall not be allowed in General Average and shall not be considered a salvage payment as referred to in paragraph (a) of this Rule.**

### **RULE VII. DAMAGE TO MACHINERY AND BOILERS**

Damage caused to any machinery and boilers of a ship which is ashore and in a position of peril, in endeavouring to refloat, shall be allowed in general average when shown to have arisen from an actual intention to float the ship for the common safety at the risk of such damage; but where a ship is afloat no loss or damage caused by working the propelling machinery and boilers shall in any circumstances be **allowed** as general average.



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### **RULE VIII. EXPENSES LIGHTENING A SHIP WHEN ASHORE AND CONSEQUENTIAL DAMAGE**

When a ship is ashore and cargo and ship's fuel and stores or any of them are discharged as a general average act, the extra cost of lightening, lighter hire and reshipping (if incurred), and any loss or damage to the property involved in the common maritime adventure in consequence thereof, shall be admitted as general average.

### **RULE IX. CARGO, SHIP'S MATERIALS AND STORES USED FOR FUEL**

Cargo, ship's materials and stores, or any of them, necessarily used for fuel for the common safety at a time of peril shall be admitted as general average, but when such an allowance is made for the cost of ship's materials and stores the general average shall be credited with the estimated cost of the fuel which would otherwise have been consumed in prosecuting the intended voyage.

### **RULE X. EXPENSES AT PORT OF REFUGE, ETC.**

(a) When a ship shall have entered a port or place of refuge or shall have returned to her port or place of loading in consequence of accident, sacrifice or other extraordinary circumstances which render that necessary for the common safety, the expenses of

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### **RULE VIII. EXPENSES LIGHTENING A SHIP WHEN ASHORE AND CONSEQUENTIAL DAMAGE**

When a ship is ashore and cargo and ship's fuel and stores or any of them are discharged as a general average act, the extra cost of lightening, lighter hire and re-shipping (if incurred), and any loss or damage to the property involved in the common maritime adventure in consequence thereof, shall be **allowed** as general average.

### **RULE IX. CARGO, SHIP'S MATERIALS AND STORES USED FOR FUEL**

Cargo, ship's materials and stores, or any of them, necessarily used for fuel for the common safety at a time of peril, shall be **allowed** as general average, but when such an allowance is made for the cost of ship's materials and stores the general average shall be credited with the estimated cost of the fuel which would otherwise have been consumed in prosecuting the intended voyage.

### **RULE X. EXPENSES AT PORT OF REFUGE, ETC.**

(a) (i) When a ship shall have entered a port or place of refuge or shall have returned to her port or place of loading in consequence of accident, sacrifice or other extraordinary circumstances which render that necessary for the common safety, the expenses of entering such port or place shall be





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entering such port or place shall be admitted as general average; and when she shall have sailed thence with her original cargo, or a part of it, the corresponding expenses of leaving such port or place consequent upon such entry or return shall likewise be admitted as general average.

When a ship is at any port or place of refuge and is necessarily removed to another port or place because repairs cannot be carried out in the first port or place, the provisions of this Rule shall be applied to the second port or place as if it were a port or place of refuge and the cost of such removal including temporary repairs and towage shall be admitted as general average. The provisions of Rule XI shall be applied to the prolongation of the voyage occasioned by such removal.

(b) The cost of handling on board or discharging cargo, fuel or stores whether at a port or place of loading, call or refuge, shall be admitted as general average, when the handling or discharge was necessary for the common safety or to enable damage to the ship caused by sacrifice or accident to be repaired, if the repairs were necessary for the safe prosecution of the voyage, except in cases where the damage to the ship is discovered at a port or place of loading or call without any accident or other extraordinary circumstances connected with such damage having taken place during the voyage.

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**allowed** as general average; and when she shall have sailed thence with her original cargo, or a part of it, the corresponding expenses of leaving such port or place consequent upon such entry or return shall likewise be **allowed** as general average.

(ii) When a ship is at any port or place of refuge and is necessarily removed to another port or place **of refuge** because repairs cannot be carried out in the first port or place, the provisions of this Rule shall be applied to the second port or place **of refuge** as if it were a port or place of refuge and the cost of such removal including temporary repairs and towage shall be **allowed** as general average. The provisions of Rule XI shall be applied to the prolongation of the voyage occasioned by such removal.

(b) (i) The cost of handling on board or discharging cargo, fuel or stores whether at a port or place of loading, call or refuge, shall be **allowed** as general average, when the handling or discharge was necessary for the common safety or to enable damage to the ship caused by sacrifice or accident to be repaired, if the repairs were necessary for the safe prosecution of the voyage, except in cases where the damage to the ship is discovered at a port or place of loading or call without any accident or other extraordinary circumstances connected with such damage having taken place during the voyage.



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The cost of handling on board or discharging cargo, fuel or stores shall not be admissible as general average when incurred solely for the purpose of restowage due to shifting during the voyage, unless such restowage is necessary for the common safety.

(c) Whenever the cost of handling or discharging cargo, fuel or stores is admissible as general average, the costs of storage, including insurance if reasonably incurred, reloading and stowing of such cargo, fuel or stores shall likewise be admitted as general average. The provisions of Rule XI shall be applied to the extra period of detention occasioned by such reloading or restowing.

But when the ship is condemned or does not proceed on her original voyage, storage expenses shall be admitted as general average only up to the date of the ship's condemnation or of the abandonment of the voyage or up to the date of completion of discharge of cargo if the condemnation or abandonment takes place before that date.

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(ii) The cost of handling on board or discharging cargo, fuel or stores shall not be **allowable** as general average when incurred solely for the purpose of restowage due to shifting during the voyage, unless such restowage is necessary for the common safety.

(c) Whenever the cost of handling or discharging cargo, fuel or stores is **allowable** as general average, the costs of storage, including insurance if reasonably incurred, reloading and stowing of such cargo, fuel or stores shall likewise be **allowed** as general average. The provisions of Rule XI shall be applied to the extra period of detention occasioned by such reloading or restowing.

But when the ship is condemned or does not proceed on her original voyage, storage expenses shall be **allowed** as general average only up to the date of the ship's condemnation or of the abandonment of the voyage or up to the date of completion of discharge of cargo if the condemnation or abandonment takes place before that date.



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### **RULE XI. WAGES AND MAINTENANCE OF CREW AND OTHER EXPENSES BEARING UP FOR AND IN A PORT OF REFUGE, ETC.**

**(a) Wages and maintenance of master, officers and crew reasonably incurred and fuel and stores consumed during the prolongation of the voyage occasioned by a ship entering a port or place of refuge or returning to her port or place of loading shall be admitted as general average when the expenses of entering such port or place are allowable in general average in accordance with Rule X(a).**

**(b) When a ship shall have entered or been detained in any port or place in consequence of accident, sacrifice or other extra-ordinary circumstances which render that necessary for the common safety, or to enable damage to the ship caused by sacrifice or accident to be repaired, if the repairs were necessary for the safe prosecution of the voyage, the wages and maintenance of the master, officers and crew reasonably incurred during the extra period of detention in such port or place until the ship shall or should have been made ready to proceed upon her voyage, shall be admitted in general average.**

**Fuel and stores consumed during the extra period of detention shall be admitted as general average, except such fuel and stores as are consumed in effecting repairs not**

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### **RULE XI. WAGES AND MAINTENANCE OF CREW AND OTHER EXPENSES PUTTING IN TO AND AT A PORT OF REFUGE, ETC.**

**(a) Wages and maintenance of master, officers and crew reasonably incurred and fuel and stores consumed during the prolongation of the voyage occasioned by a ship entering a port or place of refuge or returning to her port or place of loading shall be **allowed** as general average when the expenses of entering such port or place are allowable in general average in accordance with Rule X(a).**

**(b) For the purpose of this and the other Rules wages shall include all payments made to or for the benefit of the master, officers and crew, whether such payments be imposed by law upon the shipowners or be made under the terms of articles of employment.**

**(c)(i) When a ship shall have entered or been detained in any port or place in consequence of accident, sacrifice or other extraordinary circumstances which render that necessary for the common safety, or to enable damage to the ship caused by sacrifice or accident to be repaired, if the repairs were necessary for the safe prosecution of the voyage, fuel and stores consumed during the extra period of detention in such port or place until the ship shall or should have been made ready to proceed upon her voyage, shall be **allowed** in general average, except such fuel and stores as are consumed in effecting repairs not allowable in general**



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allowable in general average.

Port charges incurred during the extra period of detention shall likewise be admitted as general average except such charges as are incurred solely by reason of repairs not allowable in general average.

Provided that when damage to the ship is discovered at a port or place of loading or call without any accident or other extraordinary circumstance connected with such damage having taken place during the voyage, then the wages and maintenance of master, officers and crew and fuel and stores consumed and port charges incurred during the extra detention for repairs to damages so discovered shall not be admissible as general average, even if the repairs are necessary for the safe-prosecution of the voyage.

When the ship is condemned or does not proceed on her original voyage, the wages and maintenance of the master, officers and crew and fuel and stores consumed and port charges shall be admitted as general average only up to the date of the ship's condemnation or of the abandonment of the voyage or up to the date of completion of discharge of cargo if the condemnation or abandonment takes place before that date.

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average.

(ii) Port charges incurred during the extra period of detention shall likewise be **allowed** as general average except such charges as are incurred solely by reason of repairs not allowable in general average.

(iii) Provided that when damage to the ship is discovered at a port or place of loading or call without any accident or other extraordinary circumstance connected with such damage having taken place during the voyage, then fuel and stores consumed and port charges incurred during the extra detention for repairs to damages so discovered shall not be **allowable** as general average, even if the repairs are necessary for the safe prosecution of the voyage.

(iv) When the ship is condemned or does not proceed on her original voyage, **fuel and stores consumed and port charges** shall be **allowed** as general average only up to the date of the ship's condemnation or of the abandonment of the voyage or up to the date of completion of discharge of cargo if the condemnation or abandonment takes place before that date.



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### ***N.B. Paragraphs of Rule XI(b) 1974 reordered***

**(c) For the purpose of this and the other Rules wages shall include all payments made to or for the benefit of the master, officers and crew, whether such payments be imposed by law upon the shipowners or be made under the terms of articles of employment.**

**(d) The cost of measures undertaken to prevent or minimise damage to the environment shall be allowed in general average when incurred in any or all of the following circumstances:**

**(i) as part of an operation performed for the common safety which, had it been undertaken by a party outside the common maritime adventure, would have entitled such party to a salvage reward;**

**(ii) as a condition of entry into or departure from any port or place in the circumstances prescribed in Rule X(a);**

**(iii) as a condition of remaining at any port or place in the circumstances prescribed in Rule XI(b), provided that when there is an actual escape or release of pollutant substances the cost of any additional measures required on that account to prevent or minimise pollution or environmental damage shall not be allowed as general average;**

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**(d) The cost of measures undertaken to prevent or minimise damage to the environment shall be allowed in general average when incurred in any or all of the following circumstances:**

**(i) as part of an operation performed for the common safety which, had it been undertaken by a party outside the common maritime adventure, would have entitled such party to a salvage reward;**

**(ii) as a condition of entry into or departure from any port or place in the circumstances prescribed in Rule X(a);**

**(iii) as a condition of remaining at any port or place in the circumstances prescribed in Rule XI(c), provided that when there is an actual escape or release of pollutant substances the cost of any additional measures required on that account to prevent or minimise pollution or environmental damage shall not be allowed as general average;**



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(iv) necessarily in connection with the discharging, storing or reloading of cargo whenever the cost of those operations is admissible as general average.

### **RULE XII. DAMAGE TO CARGO IN DISCHARGING, ETC.**

Damage to or loss of cargo, fuel or stores sustained in consequence of their handling, discharging, storing, reloading and stowing shall be made good as general average, when and only when the cost of those measures respectively is admitted as general average.

### **RULE XIII. DEDUCTIONS FROM COST OF REPAIRS**

Repairs to be allowed in general average shall not be subject to deductions in respect of "new for old" where old material or parts are replaced by new unless the ship is over fifteen years old in which case there shall be a deduction of one third. The deductions shall be regulated by the age of the ship from the 31st December of the year of completion of construction to the date of the general average act, except for insulation, life and similar boats, communications and navigational apparatus and equipment, machinery and boilers for which the deductions shall be regulated by the age of the particular parts to which they apply.

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(iv) necessarily in connection with the discharging, storing or reloading of cargo whenever the cost of those operations is **allowable** as general average.

### **RULE XII. DAMAGE TO CARGO IN DISCHARGING, ETC.**

Damage to or loss of cargo, fuel or stores sustained in consequence of their handling, discharging, storing, reloading and stowing shall be **allowed** as general average, when and only when the cost of those measures respectively is **allowed** as general average.

### **RULE XIII. DEDUCTIONS FROM COST OF REPAIRS**

(a) Repairs to be allowed in general average shall not be subject to deductions in respect of "new for old" where old material or parts are replaced by new unless the ship is over fifteen years old in which case there shall be a deduction of one third. The deductions shall be regulated by the age of the ship from the 31st December of the year of completion of construction to the date of the general average act, except for insulation, life and similar boats, communications and navigational apparatus and equipment, machinery and boilers for which the deductions shall be regulated by the age of the particular parts to which they apply.



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**The deductions shall be made only from the cost of the new material or parts when finished and ready to be installed in the ship.**

**No deduction shall be made in respect of provisions, stores, anchors and chain cables.**

**Drydock and slipway dues and costs of shifting the ship shall be allowed in full.**

**The costs of cleaning, painting or coating of bottom shall not be allowed in general average unless the bottom has been painted or coated within the twelve months preceding the date of the general average act in which case one half of such costs shall be allowed.**

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**(b)** The deductions shall be made only from the cost of the new material or parts when finished and ready to be installed in the ship. No deduction shall be made in respect of provisions, stores, anchors and chain cables. Drydock and slipway dues and costs of shifting the ship shall be allowed in full.

**(c)** The costs of cleaning, painting or coating of bottom shall not be allowed in general average unless the bottom has been painted or coated within the twelve months preceding the date of the general average act in which case one half of such costs shall be allowed.



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### **RULE XIV. TEMPORARY REPAIRS**

**Where temporary repairs are effected to a ship at a port of loading, call or refuge, for the common safety, or of damage caused by general average sacrifice, the cost of such repairs shall be admitted as general average.**

**Where temporary repairs of accidental damage are effected in order to enable the adventure to be completed, the cost of such repairs shall be admitted as general average without regard to the saving, if any, to other interests, but only up to the saving in expense which would have been incurred and allowed in general average if such repairs had not been effected there.**

**No deductions "new for old" shall be made from the cost of temporary repairs allowable as general average.**

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### **RULE XIV. TEMPORARY REPAIRS**

**(a) Where temporary repairs are effected to a ship at a port of loading, call or refuge, for the common safety, or of damage caused by general average sacrifice, the cost of such repairs shall be **allowed** as general average.**

**(b) Where temporary repairs of accidental damage are effected in order to enable the adventure to be completed, the cost of such repairs shall be allowed as general average without regard to the saving, if any, to other interests, but only up to the saving in expense which would have been incurred and allowed in general average if such repairs had not been effected there. Provided that, for the purposes of this paragraph only, the cost of temporary repairs falling for consideration shall be limited to the extent that the cost of temporary repairs effected at the port of loading, call or refuge, together with either the cost of permanent repairs eventually effected or, if unrepaired at the time of the adjustment, the reasonable depreciation in the value of the vessel at the completion of the voyage, exceeds the cost of permanent repairs had they been effected at the port of loading, call or refuge.**

**(c) No deductions "new for old" shall be made from the cost of temporary repairs allowable as general average.**





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### RULE XV. LOSS OF FREIGHT

Loss of freight arising from damage to or loss of cargo shall be made good as general average, either when caused by a general average act, or when the damage to or loss of cargo is so made good.

Deduction shall be made from the amount of gross freight lost, of the charges which the owner thereof would have incurred to earn such freight, but has, in consequence of the sacrifice, not incurred.

### RULE XVI. AMOUNT TO BE MADE GOOD FOR CARGO LOST OR DAMAGED BY SACRIFICE

The amount to be made good as general average for damage to or loss of cargo sacrificed shall be the loss which has been sustained thereby based on the value at the time of discharge, ascertained from the commercial invoice rendered to the receiver or if there is no such invoice from the shipped value. The value at the time of discharge shall include the cost of insurance and freight except insofar as such freight is at the risk of interests other than the cargo.

When cargo so damaged is sold and the amount of the damage has not been otherwise agreed, the loss to be made good in general average shall be the difference between the net proceeds of sale and the net sound value as computed in the first paragraph of this Rule.

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### RULE XV. LOSS OF FREIGHT

Loss of freight arising from damage to or loss of cargo shall be **allowed** as general average, either when caused by a general average act, or when the damage to or loss of cargo is so **allowed**.

Deduction shall be made from the amount of gross freight lost, of the charges which the owner thereof would have incurred to earn such freight, but has, in consequence of the sacrifice, not incurred.

### RULE XVI. AMOUNT TO BE **ALLOWED** FOR CARGO LOST OR DAMAGED BY SACRIFICE.

(a) The amount to be **allowed** as general average for damage to or loss of cargo sacrificed shall be the loss which has been sustained thereby based on the value at the time of discharge, ascertained from the commercial invoice rendered to the receiver or if there is no such invoice from the shipped value. The value at the time of discharge shall include the cost of insurance and freight except insofar as such freight is at the risk of interests other than the cargo.

(b) When cargo so damaged is sold and the amount of the damage has not been otherwise agreed, the loss to be **allowed** in general average shall be the difference between the net proceeds of sale and the net sound value as computed in the first paragraph of this Rule.



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### **RULE XVII. CONTRIBUTORY VALUES**

The contribution to a general average shall be made upon the actual net values of the property at the termination of the adventure except that the value of cargo shall be the value at the time of discharge, ascertained from the commercial invoice rendered to the receiver or if there is no such invoice from the shipped value. The value of the cargo shall include the cost of insurance and freight unless and insofar as such freight is at the risk of interests other than the cargo, deducting therefrom any loss or damage suffered by the cargo prior to or at the time of discharge. The value of the ship shall be assessed without taking into account the beneficial or detrimental effect of any demise or time charterparty to which the ship may be committed.

To these values shall be added the amount made good as general average for property sacrificed, if not already included, deduction being made from the freight and passage money at risk of such charges and crew's wages as would not have been incurred in earning the freight had the ship and cargo been totally lost at the date of the general average act and have not been allowed as general average; deduction being also made from the value of the property of all extra charges incurred in respect thereof subsequently to the general average act, except such charges as are allowed in general

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### **RULE XVII. CONTRIBUTORY VALUES**

**(a)(i)** The contribution to a general average shall be made upon the actual net values of the property at the termination of the adventure except that the value of cargo shall be the value at the time of discharge, ascertained from the commercial invoice rendered to the receiver or if there is no such invoice from the shipped value.

**(ii)** The value of the cargo shall include the cost of insurance and freight unless and insofar as such freight is at the risk of interests other than the cargo, deducting therefrom any loss or damage suffered by the cargo prior to or at the time of discharge.

**(iii)** The value of the ship shall be assessed without taking into account the beneficial or detrimental effect of any demise or time charterparty to which the ship may be committed.

**(b)** To these values shall be added the amount **allowed** as general average for property sacrificed, if not already included, deduction being made from the freight and passage money at risk of such charges and crew's wages as would not have been incurred in earning the freight had the ship and cargo been totally lost at the date of the general average act and have not been allowed as general average; deduction being also made from the value of the property of all extra charges incurred in respect thereof subsequently to the general average act, except such charges as



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average or fall upon the ship by virtue of an award for special compensation under Art.14 of the International Convention on Salvage, 1989 or under any other provision similar in substance.

In the circumstances envisaged in the third paragraph of Rule G, the cargo and other property shall contribute on the basis of its value upon delivery at original destination unless sold or otherwise disposed of short of that destination, and the ship shall contribute upon its actual net value at the time of completion of discharge of cargo.

Where cargo is sold short of destination, however, it shall contribute upon the actual net proceeds of sale, with the addition of any amount made good as general average.

Mails, passengers' luggage, personal effects and accompanied private motor vehicles shall not contribute in general average.

### **RULE XVIII. DAMAGE TO SHIP**

The amount to be allowed as general average for damage or loss to the ship, her machinery and/or gear caused by a general average act shall be as follows:

(a) When repaired or replaced,

The actual reasonable cost of repairing or replacing such damage or loss, subject to deductions in accordance with Rule XIII;

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are allowed in general average or fall upon the ship by virtue of an award for special compensation under Art. 14 of the International Convention on Salvage, 1989 or under any other provision similar in substance.

(c) In the circumstances envisaged in the third paragraph of Rule G, the cargo and other property shall contribute on the basis of its value upon delivery at original destination unless sold or otherwise disposed of short of that destination, and the ship shall contribute upon its actual net value at the time of completion of discharge of cargo.

(d) Where cargo is sold short of destination, however, it shall contribute upon the actual net proceeds of sale, with the addition of any amount **allowed** as general average.

(e) Mails, passengers' luggage, personal effects and accompanied private motor vehicles shall not contribute **to** general average.

### **RULE XVIII. DAMAGE TO SHIP**

The amount to be allowed as general average for damage or loss to the ship, her machinery and/or gear caused by a general average act shall be as follows:

(a) When repaired or replaced,

The actual reasonable cost of repairing or replacing such damage or loss, subject to deductions in accordance with Rule XIII;



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### **(b) When not repaired or replaced,**

**The reasonable depreciation arising from such damage or loss, but not exceeding the estimated cost of repairs. But where the ship is an actual total loss or when the cost of repairs of the damage would exceed the value of the ship when repaired, the amount to be allowed as general average shall be the difference between the estimated sound value of the ship after deducting therefrom the estimated cost of repairing damage which is not general average and the value of the ship in her damaged state which may be measured by the net proceeds of sale, if any.**

### **RULE XIX. UNDECLARED OR WRONGFULLY DECLARED CARGO**

**Damage or loss caused to goods loaded without the knowledge of the Shipowner or his agent or to goods wilfully misdescribed at time of shipment shall not be allowed as general average, but such goods shall remain liable to contribute, if saved.**

**Damage or loss caused to goods which have been wrongfully declared on shipment at a value which is lower than their real value shall be contributed for at the declared value, but such goods shall contribute upon their actual value.**

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### **(b) When not repaired or replaced,**

The reasonable depreciation arising from such damage or loss, but not exceeding the estimated cost of repairs. But where the ship is an actual total loss or when the cost of repairs of the damage would exceed the value of the ship when repaired, the amount to be allowed as general average shall be the difference between the estimated sound value of the ship after deducting therefrom the estimated cost of repairing damage which is not general average and the value of the ship in her damaged state which may be measured by the net proceeds of sale, if any.

### **RULE XIX. UNDECLARED OR WRONGFULLY DECLARED CARGO**

**(a) Damage or loss caused to goods loaded without the knowledge of the Shipowner or his agent or to goods wilfully misdescribed at time of shipment shall not be allowed as general average, but such goods shall remain liable to contribute, if saved.**

**(b) Damage or loss caused to goods which have been wrongfully declared on shipment at a value which is lower than their real value shall be contributed for at the declared value, but such goods shall contribute upon their actual value.**



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### **RULE XX. PROVISION OF FUNDS**

A commission of 2 per cent. on general average disbursements, other than the wages and maintenance of master, officers and crew and fuel and stores not replaced during the voyage, shall be allowed in general average

The capital loss sustained by the owners of goods sold for the purpose of raising funds to defray general average disbursements shall be allowed in general average.

The cost of insuring average disbursements shall also be admitted in general average.

### **RULE XXI. INTEREST ON LOSSES MADE GOOD IN GENERAL AVERAGE**

Interest shall be allowed on expenditure, sacrifices and allowances in general average at the rate of 7 per cent. per annum, until three months after the date of issue of the general average adjustment, due allowance being made for any payment on account by the contributory interests or from the general average deposit fund.

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### **RULE XX. PROVISION OF FUNDS**

(a) The capital loss sustained by the owners of goods sold for the purpose of raising funds to defray general average disbursements shall be allowed in general average.

(b) The cost of insuring average disbursements shall also be **allowed** in general average.

### **RULE XXI. INTEREST ON LOSSES ALLOWED IN GENERAL AVERAGE**

(a) Interest shall be allowed on expenditure, sacrifices and allowances in general average until three months after the date of issue of the general average adjustment, due allowance being made for any payment on account by the contributory interests or from the general average deposit fund.

(b) 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.



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### **RULE XXII. TREATMENT OF CASH DEPOSITS**

**Where cash deposits have been collected in respect of cargo's liability for general average, salvage or special charges such deposits shall be paid without any delay into a special account in the joint names of a representative nominated on behalf of the shipowner and a representative nominated on behalf of the depositors in a bank to be approved by both. The sum so deposited together with accrued interest, if any, shall be held as security for payment to the parties entitled thereto of the general average, salvage or special charges payable by cargo in respect of which the deposits have been collected. Payments on account or refunds of deposits may be made if certified to in writing by the average adjuster. Such deposits and payments or refunds shall be without prejudice to the ultimate liability of the parties.**

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### **RULE XXII. TREATMENT OF CASH DEPOSITS**

Where cash deposits have been collected in respect of cargo's liability for general average, salvage or special charges, such deposits shall be paid without any delay into a special account in the joint names of a representative nominated on behalf of the shipowner and a representative nominated on behalf of the depositors in a bank to be approved by both. The sum so deposited together with accrued interest, if any, shall be held as security for payment to the parties entitled thereto of the general average, salvage or special charges payable by cargo in respect of which the deposits have been collected. Payments on account or refunds of deposits may be made if certified to in writing by the average adjuster. Such deposits and payments or refunds shall be without prejudice to the ultimate liability of the parties.



## York-Antwerp Rules, 1994

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## York-Antwerp Rules, 2004

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### **RULE XXIII. – TIME BAR FOR CONTRIBUTIONS TO GENERAL AVERAGE**

**(a) Subject always to any mandatory rule on time limitation contained in any applicable law:**

**(i) Any rights to general average contribution including any rights to claim under general average bonds and guarantees, shall be extinguished unless an action is brought by the party claiming such contribution within a period of one year after the date upon which the general average adjustment was issued. However, in no case shall such an action be brought after six years from the date of termination of the common maritime adventure.**

**(ii) These periods may be extended if the parties so agree after the termination of the common maritime adventure.**

**(b) This rule shall not apply as between the parties to the general average and their respective insurers.**