ASSOCIATION OF
Average Adjusters

ASSOCIATION OF AVERAGE ADJUSTERS

RULES OF PRACTICE

May 2022

INTRODUCTION

In the middle of the 19th Century, when average adjusting as a separate profession was in its infancy, there was very little in the way of established law to guide practicing Adjusters. As a consequence, many points of practice had to be decided in accordance with custom. Some of these customs were ratified subsequently by legal decisions, but others were disapproved. It became evident that, unless steps were taken to establish a reasonable measure of uniformity among Average Adjusters, the profession would fall into disrepute. In order to remedy this situation, the Association of Average Adjusters was founded in 1869 with the principal object of the "the promotion of correct principles in the adjustment of averages and uniformity of practice amongst Average Adjusters".

After the formation of the Association, one of its first tasks was to consider the areas of divergence in practice and to decide how the various so-called "customs" could be brought together into uniform, if not universal, practice. This aim was achieved largely by the Association in the first fifteen years of its existence by a two-fold approach:

(a) By the collection and refinement of the Customs of Lloyd's. This task was undertaken by a Special Committee which reported to the Association in 1876. In the preamble to the Customs it was stated: "Nothing can be called a Custom of Lloyd's which is determined by a decision of the superior Courts; for whatever is thus sanctioned rests on a ground surer than custom. A Custom of Lloyd's then must relate to a point on which the law is doubtful, or not yet defined, but as to which, for practical convenience, it is necessary that there should be some uniform rule."

(b) By the adoption of Rules of Practice relating to the adjustment of averages and the duties of Adjusters in connection therewith. In the early days of the Association, it was debated hotly whether or not these Rules of Practice should bind Members. In the event, it was decided that the Rules of Practice would not be binding although naturally they would carry considerable authority. Even now, if Average Adjusters draw up a statement which is at variance with a Rule of Practice, they must place a note in the adjustment referring to the Rule of Practice and stating why they differ from it.

Since 1890, when the Customs of Lloyd's were reviewed and assimilated into the Rules of Practice,

various new Rules and amendments to existing Rules have been adopted from time to time in order to regulate the practice of Average Adjusters in areas where the law is silent or uncertain.

Proposals for new Rules of Practice can be put forward by members of the Association or appropriate industry bodies. Once drafted, a new Rule will be put forward under a resolution at the Annual General Meeting; if accepted by a two-thirds majority of the Fellows voting it becomes a Probationary Rule of Practice. The Probationary Rule is then kept under review and will generally be submitted to the next Annual General Meeting for confirmation as a Final Rule, again by a two-thirds majority of Fellows voting, after any amendments are considered.

The Rules of Practice are divided into seven sections. The Rules relating to General Average appear in three sections:

Section B : Rules relating to the adjustment of general average or the duties of Adjusters in all cases, whatever may be the basis of adjustment.

Section C : Rules relating to the adjustment of general average under York-Antwerp Rules.

Section F : Rules relating to the adjustment of general average under English law and practice.

The Rules contained in section F may be considered now to be of limited interest in view of the fact that the vast majority of general averages are now adjusted in accordance with the York-Antwerp Rules. However, these Rules of Practice have been retained not only to deal with any cases where the adjustment is prepared in accordance with English law and practice but also to demonstrate the early steps taken in the movement towards uniformity.

Section G contains similar rules of largely historic interest, that relate to particular average claims. Although often of some antiquity, many of these historic rules continue to illustrate useful points of principle and would still apply in the circumstances envisaged by the Rules.

RULES OF PRACTICE

SECTION A – GENERAL RULES

A1 ADJUSTMENTS FOR THE CONSIDERATION OF UNDERWRITERS

That any claim prepared for the consideration of Underwriters shall include a statement of the reasons of the Average Adjuster for stating such a claim, and when submitted in conjunction with a claim for which Underwriters are liable, shall be shown in such a manner as clearly to distinguish the claim for consideration from other claims included in the same adjustment.

A2 (INTEREST AND COMMISSION FOR ADVANCING FUNDS) – transferred to section G

A3 AGENCY COMMISSION AND AGENCY

That, in practice, neither commission (excepting bank commission) nor any charge by way of agency or remuneration for their involvement shall be allowed to the Shipowner in average, except in respect of services rendered on behalf of cargo when such services are not involved in the contract of affreightment.

A4 DUTY OF ADJUSTERS IN RESPECT OF COST OF REPAIRS

1) That in adjusting particular average on ship or general average which includes repairs, it is the duty of Adjusters to satisfy themselves that such reasonable and usual precautions have been taken to keep down the cost of repairs as a prudent Shipowner would have taken if uninsured.

2) Where a claim for particular average arises and the Assured has elected to repair the vessel, the Assured is entitled to:

   (a) recover the reasonable cost of repairs in terms of section 69(1) of the Marine Insurance Act 1906, irrespective of whether repairs are carried out before or after the expiry of the policy.

   (b) defer repairs, subject to Class approval, to the first reasonable opportunity which is likely to be the next routine overhaul or dry-docking period. Any increase in the overall cost of repairs arising from deferment beyond the first reasonable opportunity will be for the account of the Assured.

A5 CLAIMS ON SHIP'S MACHINERY

That in all claims on ship's machinery for repairs, no claim for a new propeller, shaft or other major machinery part shall be admitted into an adjustment, unless the Adjusters shall obtain and insert into their statement details of any residual value.

A6 (WATER CASKS) – transferred to section G.

A7 ADJUSTMENT: POLICIES OF INSURANCE

That no adjustment shall be drawn up showing the amount of payments by or to the Underwriters, unless the policies or copies of the policies of insurance or certificates of insurance, for which the statement is required, are produced to the Average Adjusters.

A8 APPORTIONMENT OF COSTS IN COLLISION CASES

That when a vessel both sustains and does damage by collision, and litigation consequently results for the purpose of testing liability, the technicality of the vessel having been plaintiff or defendant in the litigation shall not necessarily govern the apportionment of the costs of such litigation, which shall be apportioned between claim and counter-claim in proportion to the amount, excluding interest, which has been or would have been allowed in respect of each in the event of the claim or counter-claim being established; provided that when a claim or counter-claim is made solely for the purpose of defence, and is not allowed, the costs apportioned thereto shall be treated as costs of defence.

A9 (FRANCHISE CHARGES) – transferred to section G.

SECTION B – GENERAL AVERAGE

B1 BASIS OF ADJUSTMENT

In all cases the Adjusters shall:

1. Give particulars in a prominent position in the adjustment of the clause or clauses contained in the charter party and/or bills of lading that relate to the adjustment of general average or, if no such clause or clauses exist, the law and practice obtaining at the place where the adventure ends.

2. Set out the facts that give rise to the general average.

3. Where the York-Antwerp Rules or similar apply, identify the lettered and/or numbered Rules that are relied upon in making the principal allowances in the adjustment.

B2-B8 inclusive – transferred to section F.

B9 CLAIMS ARISING OUT OF DEFICIENCY OF FUEL

That in adjusting general average arising out of deficiency of fuel, the facts on which the general average is based shall be set forth in the adjustment, including the material dates and distances, and particulars of fuel supplies and consumption.

B10-B23 inclusive – transferred to section F.

B24 CONTRIBUTORY VALUE OF SHIP

That in any adjustment of general average the Average Adjusters shall include the certificate on which the contributory value of the ship is based or, if no such certificate exists, the information adopted in lieu thereof, and details of any damage deductions and amounts made good shall be specified.

B25 CONTRIBUTORY VALUE OF FREIGHT

That in any adjustment of general average there shall be set forth the amount of the gross freight and the freight advanced, if any; also the charges and wages deducted and any amount made good.

B26 VESSEL IN BALLAST AND UNDER CHARTER: CONTRIBUTING INTERESTS

For the purpose of ascertaining the liability of Underwriters on policies of insurance that are subject to English law and practice, the following provisions shall apply:-

1. In applying the following Rules, and when the charter to which the Shipowners are a party provides for York-Antwerp Rules, the general average shall be adjusted in

accordance with those Rules and English law and practice and without regard to the law and practice of any foreign port at which the adventure may terminate.

2. When a vessel is proceeding in ballast to load under a voyage charter entered into by the Shipowners before the general average act:

   a) The interests contributing to the general average shall be the vessel, such items of bunkers, stores and equipment as belong to parties other than the Owners of the vessel and the freight earned under the voyage charter computed in the usual way after deduction of contingent expenses subsequent to the general average act.

   b) Failing a prior termination of the adventure, the place where the adventure shall be deemed to end and at which the values for contribution to general average shall be calculated is the final port of discharge of the cargo carried under the charter but in the event of the prior loss of the vessel and freight, or either of them, the general average shall attach to any surviving interest or interests including freight advanced at the loading port deducting therefrom contingent expenses subsequent to the general average act.

3. When a vessel is proceeding in ballast under a time charter alone or a time charter and a voyage charter entered into by the Time Charterer:

   a) The general average shall attach to the vessel and such items of bunkers, stores and equipment as belong to parties other than the Owners of the vessel. Failing a prior termination of the time charter, values for the purposes of contribution shall be those pertaining at the time the ship is, or should have been, made ready to depart from the port of refuge.

   b) Failing a prior termination of the time charter, the voyage shall be deemed to end at the first port of discharge of cargo at which the vessel arrives after the general average act.

4. It shall be immaterial whether the extra period of detention takes place at a port of loading, call or refuge, provided that the period of detention in consequence of accident, sacrifice or other extraordinary circumstance occurring whilst the vessel is in ballast is reasonable.

5. In practice neither time charter hire, as such, nor Time Charterers' voyage freight shall contribute to general average.

B27 ULTERIOR CHARTERED FREIGHT: CONTRIBUTION TO GENERAL AVERAGE

That, when at the time of a general average act, the vessel has on board cargo shipped under charter-party or bills of lading, and is also under a separate charter to load another cargo after the cargo then in course of carriage has been discharged, the ulterior chartered freight shall not

contribute to the general average.

B28 DEDUCTIONS FROM FREIGHT AT CHARTERER'S RISK

That freight at the risk of the Charterer shall be subject to no deduction for wages and charges, except in the case of charters in which the wages or charges are payable by the Charterer, in which case such freight shall be governed by the same rule as freight at the risk of the Shipowners.

B29 FORWARDING CHARGES ON ADVANCED FREIGHT

That in case of wreck, the cargo being forwarded to its destination, the Charterer, who has paid a lump sum on account of freight, which is not to be returned in the event of the vessel being lost, shall not be liable for any portion of the forwarding freight and charges, when the same are less than the balance of freight payable to the Shipowners at the port of destination under the original charter-party.

B30 (Sacrifice for the common safety: direct liability of Underwriters) and
B31 (Sacrifice of ship's stores: direct liability of underwriters) – replaced by

B 30 SACRIFICE FOR THE COMMON SAFETY: DIRECT LIABILITY OF UNDERWRITERS

That in cases of general average sacrifice there is, under ordinary policies of insurance, a direct liability on Underwriters on ship for loss or damage to ship's materials and fuel and stores, when they form part of the property at risk, and on Underwriters on goods and freight, for loss of or damage to goods or loss of freight so sacrificed as a general average loss.

B32 ENFORCEMENT OF GENERAL AVERAGE: LIEN BY SHIPOWNERS

That in all cases where general average damage to ship is claimed direct from the Underwriters on that interest, the Average Adjusters shall ascertain whether the Shipowners have taken the necessary steps to enforce their lien for general average on the cargo and shall insert in the average statement a note giving the result of their enquiries.

B33 UNDERWRITERS' LIABILITY

1. If the ship or cargo be insured for more than its sound market value, the Underwriters pay what is assessed on the contributory value. But where insured for less than the sound market value, the Underwriters pay on the insured value.

2. That in practice, in applying the above rule for the purpose of ascertaining the liability of Underwriters for contribution to general average and salvage charges, deduction shall be made from the insured value of all losses and charges for which Underwriters are liable and which have been deducted in arriving at the contributory value.

3. This rule does not apply to non English adjustments, when the basis of contribution is calculated on a basis other than the net value of the thing insured.

4. In adjusting the liability of Underwriters on freight for general average contribution and salvage charges, effect shall be given to Section 73 of the Marine Insurance Act, 1906, by comparing the gross and not the net amount of freight at risk with the insured value in the case of a valued policy or the insurable value in the case of an unvalued policy.

B34 THE DUTY OF ADJUSTERS IN CASES INVOLVING REFUNDS OF GENERAL AVERAGE DEPOSITS OR APPORTIONMENT OF SALVAGE, COLLISION RECOVERIES, OR OTHER FUNDS

That in cases of general average where deposits have been collected and it is likely that repayments will have to be made, measures must be taken by the Adjusters to ascertain the names of Underwriters who have reimbursed their assured in respect of such deposits; that the names of any such Underwriters be stated in the adjustment as claimants of refund, if any, to which they are apparently entitled; and that on completion of the adjustment, notice be sent to all Underwriters whose names are so stated as to any refund of which they appear as claimants and as to the steps to be taken in order to obtain payment of the same.

And that in cases of apportionment of salvage or other funds for distribution, similar measures be taken by the Adjusters to safeguard the interests of any Underwriters who may be entitled to benefit under the apportionment.

B35 (Memorandum to Statements showing refunds in respect of General Average Deposits) - replaced by

B35 TREATMENT OF CASH DEPOSITS

Where cash deposits have been collected in respect of general average, salvage or special charges by the Average Adjusters, such sums shall be placed in a special account, earning interest where possible, in the name of the Adjusters. The account shall be held separately from the Adjusters' own funds

B36 INTEREST ON DEPOSITS

That, unless otherwise expressly provided, the interest accrued on deposits on account of salvage and/or general average and/or particular and/or other charges, or on the balance of such deposits after payments on account, if any, have been made, shall be credited to the depositors or those to whom their rights in respect of the deposits have been transferred.

B37 APPORTIONMENT OF INTEREST ON AMOUNTS MADE GOOD

That in practice (in the absence of express agreement between the parties concerned) interest allowed on amounts made good shall be apportioned between assured and Underwriters, taking into account the sums paid by Underwriters and the dates when such payments were made, notwithstanding that by the addition of interest the Underwriters may receive a larger sum than they have paid.

SECTION C – YORK-ANTWERP RULES

C1 SALVAGE SERVICES RENDERED UNDER AN AGREEMENT

Expenses for salvage services rendered by or accepted under agreement shall in practice be treated as general average provided that such expenses were incurred for the common safety within the meaning of Rule "A" of the applicable York-Antwerp Rules.

C2 COMMISSION ALLOWED UNDER YORK-ANTWERP RULES

That the commission of 2 per cent where allowed on general average disbursements under the York-Antwerp Rules shall be credited in full to the party who has authorised the expenditure and is liable for payment, except that where the funds for payment are provided in the first instance in whole or in part from the deposit funds, or by other parties to the adventure, or by Underwriters, the commission on such advances shall be credited to the deposit funds or to the parties or Underwriters providing the funds for payment.

C3 YORK-ANTWERP RULES, 1924: RULES X (a) AND XI

That, in practice, where a vessel is at any port or place in circumstances in which the wages and maintenance of crew during detention there for the purpose of repairs necessary for the safe prosecution of the voyage would be admissible in general average under Rule XI of the York-Antwerp Rules, 1924, and the vessel is necessarily removed thence to another port or place because such repairs cannot be effected at the first port or place, the provisions of Rule X (a) shall be applied to the second port or place as if it were a port or place of refuge within that Rule and the provisions of Rule XI shall be applied to the prolongation of the voyage occasioned by such removal.

C4 YORK-ANTWERP RULES 1950, 1974, 1994 AND 2016: RULE X (a)

That in practice, in applying the second paragraph of Rule X (a), a vessel shall be deemed to be at a port or place of refuge when she is at any port or place in circumstances in which the wages and maintenance of the Master, Officers and crew incurred during any extra period of detention there would be admissible in general average under the provisions of Rule XI.

C5 YORK-ANTWERP RULES 1924: RULE XIV

That, in practice, in applying Rule XIV of the York-Antwerp Rules, 1924, the cost of the temporary repair of the accidental damage there referred to shall be allowed in general average up to the saving to the general average by effecting such temporary repair, without regard to the saving (if any) to other interests.

SECTION D – DAMAGE AND REPAIRS TO SHIP

D1 EXPENSES OF REMOVING A VESSEL FOR REPAIR

1. For the purpose of ascertaining the reasonable cost of repairs, and subject to any express provisions in the policy, where a vessel is at any port place or location (hereinafter referred to as 'port') and is necessarily or reasonably removed to some other port for the purpose of repairs, either because the repairs cannot be effected at the first port, or cannot be effected prudently, the additional expenses reasonably incurred by the Shipowners in removing the vessel (other than any expenses allowable in general average) shall be treated as part of the reasonable cost of repairs.

2. (a) Where the vessel after repairing forthwith returns to the port from which she was removed, the expenses incurred both in removing the vessel to the port of repair and in returning shall be treated as part of the expenses of removal.

(b) Where the vessel loads a new cargo at the port of repair or proceeds thence to some other port for the same purpose, the expenses shall be calculated as though, but for the repairs, the vessel had previously been engaged to proceed direct from the port from which she was removed to the loading port.

(c) Where, immediately following a casualty, or upon completion of the voyage on which the casualty occurred, the vessel is removed solely to enable repairs to be effected which are essential for continued trading, the expenses may, at the Owners' option, be calculated only for the single passage to the repair port.

3. (a) The expenses of removal shall include, inter alia, the cost of any necessary temporary repairs, wages and provisions of crew and/or runners, pilotage, towage, extra marine insurance, port charges, bunkers and stores.

(b) Where by moving the vessel to or from the port of repair any new freight or hire is earned, such net earnings shall be deducted from the expenses of removal.

4. The expenses of removing the vessel for repair shall be charged as follows:

(a) Where the vessel is removed to the port of repair as an immediate consequence of damage for the repair of which Underwriters are liable, or the vessel is necessarily taken out of service especially to effect repairs arising from that damage, the whole cost of removal shall be treated as part of the cost of repairing that damage, notwithstanding that the Shipowners may have taken advantage of the removal to carry out survey for classification purposes or to effect other average repairs or repairs on their own account.

However, where the vessel is removed for Owners' purposes, other than a routine overhaul as in 4(b) below, or as an immediate consequence of damage for which Underwriters are not liable, no part of the cost of removal shall be charged to

Underwriters, notwithstanding that repairs for which they are liable may be carried out at the port of repair.

(b) Where the vessel is removed to the port of repair for routine overhaul at which repairs on both Owners' and Underwriters' accounts are effected, the expenses of removal shall be apportioned pro rata to the cost (including drydock dues and general services) of all work effected at the port, other than to any damage sustained after the commencement of the removal passage and the cost of any major parts shipped to the repair port from elsewhere.

D2 FUEL AND STORES USED IN REPAIRS OF DAMAGE TO THE VESSEL

That the cost of replacing fuel and stores consumed either in the repair of damage to a vessel, in working the engines or winches to assist in the repairs of damage, or in moving her to a place of repair within the limits of the port where she is lying, shall be treated as part of the cost of repairs.

D3 (RIGGING CHAFED) - transferred to section G

D4 (SAILS SPLIT OR BLOWN AWAY) - transferred to section G

D5 DRY DOCK EXPENSES

1. That, in practice, where repairs, for the cost of which Underwriters are liable, are necessarily effected in dry dock as an immediate consequence of the casualty, or the vessel is taken out of service especially to effect such repairs in dry dock, the cost of entering and leaving the dry dock, in addition to so much of the dock dues as is necessary for the repair of the damage, shall be chargeable in full to the Underwriters, notwithstanding that the Shipowners may have taken advantage of the vessel being in dry dock to carry out survey for classification purposes or to effect repairs on their account which are not immediately necessary to make the vessel seaworthy.

2. (a) Where repairs on Owners' account which are immediately necessary to make the vessel seaworthy and which can only be effected in dry dock are executed concurrently with other repairs, for the cost of which Underwriters are liable, and which also can only be effected in dry dock, or

(b) Where the repairs, for the cost of which Underwriters are liable, are deferred until a routine dry-docking and are then executed concurrently with repairs on Owners' account which require the use of the dry dock, whether or not such Owners' repairs affect the seaworthiness of the vessel,

the cost of entering and leaving the dry dock, in addition to so much of the dock dues as is common to both repairs, shall be divided equally between the Shipowners and the Underwriters, irrespective of the fact that the repairs for which Underwriters are liable may relate to more than one accident or may be payable by more than one set of Underwriters.

3. Where necessary the sub-division between Underwriters of the proportion of dry-docking expenses chargeable to them shall be made on the basis of accidents.

D6 TANKERS – TREATMENT OF THE COST OF TANK CLEANING AND/OR GAS-FREEING

1. That, in practice, where repairs, for the cost of which Underwriters are liable, require the tanks to be rough cleaned and/or gas-freed as an immediate consequence of the casualty, or the vessel is taken out of service especially to effect such repairs, the cost of such rough cleaning and/or gas-freeing shall be chargeable in full to the Underwriters, notwithstanding that the Shipowners may have taken advantage of the vessel being rough cleaned and/or gas-freed to carry out survey for classification purposes or to effect repairs on their account which are not immediately necessary to make the vessel seaworthy.

2. (a) Where repairs on Owners' account which are immediately necessary to make the vessel seaworthy and which require the tanks being rough cleaned and/or gas-freed are executed concurrently with other repairs, for the cost of which Underwriters are liable, and which also require the tanks being rough cleaned and/or gas-freed, or

   (b) Where the repairs, for the cost of which Underwriters are liable, are deferred until a routine dry-docking or repair period, at which time repairs on Owners' account which also require the tanks being rough cleaned and/or gas-freed are effected, whether or not such Owners' repairs affect the seaworthiness of the vessel,

   the cost of such rough cleaning and/or gas-freeing as is common to both repairs shall be divided equally between the Shipowners and the Underwriters, irrespective of the fact that the repairs for which Underwriters are liable may relate to more than one accident or may be payable by more than one set of Underwriters.

3. The cost of fine cleaning specifically for a particular repair or particular repairs shall be divided in accordance with the principles set forth above.

4. Where necessary the sub-division between Underwriters of the proportion of rough tank cleaning and/or gas-freeing and/or fine cleaning chargeable to them shall be made on the basis of accidents.

D7 (PARTICULAR AVERAGE ON SHIP: DEDUCTION OF ONE THIRD) - transferred to section G

D8 SCRAPING AND PAINTING

Where the Policy includes a Clause to the effect that:

> "No claim shall in any case be allowed in respect of scraping or painting the vessel's bottom".

(a) Gritblasting and/or other surface preparation of new bottom plates ashore and supplying and applying any "shop" primer thereto

(b) Gritblasting and/or other surface preparation of:

i) the butts or area of plating immediately adjacent to any renewed or refitted plating damaged during the course of welding and/or repairs

ii) areas of plating damaged during the course of fairing, either in place or ashore

(c) Supplying and applying the first coat of primer/anticorrosive to those particular areas mentioned in (a) and (b) above

shall be allowed as part of the reasonable cost of repairs in respect of bottom plating damaged by an insured peril and shall be deemed not to be excluded by the wording of this Clause. The gritblasting and/or other surface preparation and the painting of all other areas of the bottom are excluded by the Clause.

D9 TEMPORARY GENERATOR HIRE

That in practice the hire of a temporary generator will be deemed to be analogous to a physical temporary repair and allowed in accordance with the same criteria. Any allowances are limited to the cost of installation and removal of the generator and hire charges and will not include any additional costs relating to consumption of fuel.

D10 LINER VESSELS

That, where a vessel is operating to a fixed and advertised schedule, the costs of temporary repairs and overtime that are reasonably incurred to maintain that schedule may be allowed to particular average without regard to savings to hull Underwriters.

SECTION E – PARTICULAR AVERAGE ON GOODS

E1 ADJUSTMENT ON BONDED PRICES

In claims for damage to tea, tobacco, coffee, wine, and spirits imported into the United Kingdom, it is customary to adjust particular average on a comparison of bonded instead of duty-paid prices.

E2 ADJUSTMENT OF AVERAGE ON GOODS SOLD IN BOND

That in consequence of the facilities generally offered to bond goods at their destination, on which terms they are often sold, the term "Gross Proceeds" shall, for the purpose of adjustment, be taken to mean the price at which the goods are sold to the consumer, after payment of freight and landing charges, but exclusive of customs duty, in cases where it is the custom of the port to sell or deal with the goods in bond.

E3 APPORTIONMENT OF INSURED VALUE OF GOODS

That where different qualities or descriptions of cargo are valued in the policy at a lump sum, such sum shall, for the purpose of adjusting claims, be apportioned on the invoice values where the invoice distinguishes the separate values of the said different qualities or descriptions; and over the net arrived sound values in all other cases.

E4 (ALLOWANCE FOR WATER AND/ORIMPURITIES IN PICKED COTTON) - transferred to section G

E5 (ALLOWANCE FOR WATER IN CUR TOBACCO) - transferred for section G

E6 (ALLOWANCE FOR WATER IN WOOL) - transferred to section G

SECTION F – GENERAL AVERAGE ADJUSTMENT UNDER ENGLISH LAW AND PRACTICE

F1 DECKLOAD JETTISON

The jettison, for the common safety, of a deckload carried according to the usage of trade and not in violation of the contracts of affreightment is general average.

There is an exception to this rule in the case of cargoes of cotton, tallow, acids and some other goods.

F2 DAMAGE BY WATER USED TO EXTINGUISH FIRE

That damage done by water poured down a ship's hold to extinguish a fire be treated as general average.

F3 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 or heat however caused.

F4 VOLUNTARY STRANDING

Where 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 shall be allowed as general average.

F5 EXPENSES LIGHTENING A SHIP WHEN ASHORE

When a ship is ashore in a position of peril and, in order to float her, cargo is put into lighters, and is then at once re-shipped, the whole cost of lightering, including lighter hire and re-shipping, is general average.

F6 SAILS SET TO FORCE A SHIP OFF THE GROUND

Sails damaged by being set, or kept set, to force a ship off the ground or to drive her higher up the ground for the common safety, are general average.

F7 STRANDED VESSELS: DAMAGE TO ENGINES IN GETTING OFF

That damage caused to machinery and boilers of a stranded vessel, in endeavouring to refloat for the common safety, when the interests are in peril, be allowed in general average.

F8 RESORT TO PORT OF REFUGE FOR GENERAL AVERAGE REPAIRS: TREATMENT OF THE CHARGES INCURRED

That when a ship puts into a port of refuge in consequence of damage which is itself the subject of general average, and sails thence with her original cargo, or a part of it, the outward as well as the inward port charges shall be treated as general average; and when cargo is discharged for the purpose of repairing such damage, the storage and reloading of the same shall, as well as the discharge, be treated as general average. *(See Attwood v. Sellar.)*

F9 RESORT TO PORT OF REFUGE ON ACCOUNT OF PARTICULAR AVERAGE REPAIRS: TREATMENT OF THE CHARGES INCURRED

That when a ship puts into a port of refuge in consequence of damage which is itself the subject of particular average (or not of general average) and when the cargo has been discharged in consequence of such damage, the inward port charges and the cost of discharging the cargo shall be general average, the storage of cargo shall be a particular charge on cargo, and the cost of reloading and outward port charges shall be a particular charge on freight. *(See Svendsen v. Wallace.)*

F10 TREATMENT OF COSTS OF STORAGE AND RELOADING AT PORT OF REFUGE

That when the cargo is discharged for the purpose of repairing, re-conditioning, or diminishing damage to ship or cargo which is itself the subject of general average, the cost of storage on it and of reloading it shall be treated as general average, equally with the cost of discharging it.

F11 INSURANCE ON CARGO DISCHARGED UNDER AVERAGE

That in practice, where the cost of insurance has been reasonably incurred by the Shipowners, or their agents, on cargo discharged under average, such cost shall be treated as part of the cost of storage.

F12 EXPENSES AT A PORT OF REFUGE

When a ship puts into a port of refuge on account of accident and not in consequence of damage which is itself the subject of general average, then on the assumption that the ship was seaworthy at the commencement of the voyage, the following applies:

1. All cost of towage, pilotage, harbour dues, and other extraordinary expenses incurred in order to bring the ship and cargo into a place of safety, are general average. Under the term “extraordinary expenses” are not included wages or victuals of crew, coals, or engine stores, or demurrage.

2. The cost of discharging the cargo, whether for the common safety, or to repair the ship, together with the cost of conveying it to the place of storage, is general average.

The cost of discharging the cargo on account of damage to it resulting from its own inherent vice, is chargeable to the Owners of the cargo.

3. The storage cost of the cargo when so discharged, is, except as under, a special charge on the cargo.

4. The cost of reloading the cargo, and the outward port charges incurred through leaving the port of refuge, are, when the discharge of cargo falls in general average, a special charge on freight.

5. The expenses referred to in clause (4) are charged to the party who runs the risk of freight – that is, wholly to the charterer – if the whole freight has been prepaid; and, if part only, then in the proportion which the part prepaid bears to the whole freight.

6. When the cargo, instead of being sent ashore, is placed on board hulk or lighters during the ship's stay in port, the hulk-hire is divided between general average, cargo and freight, in such proportions as may place the several contributing interests in nearly the same relative positions as if the cargo has been landed and stored.

F13 TREATMENT OF COSTS OF EXTRAORDINARY DISCHARGE

That no distinction be drawn in practice between discharging cargo for the common safety of ship and cargo, and discharging it for the purpose of effecting at an intermediate port or ports of refuge repairs necessary for the prosecution of the voyage.

F14 TOWAGE FROM A PORT OF REFUGE

That if a ship be in a port of refuge at which it is practicable to repair her, and if, in order to save expense, she be towed thence to some other port, then the extra cost of such towage shall be divided in proportion to the saving of expense thereby occasioned to the several parties to the adventure.

F15 CARGO FORWARDED FROM A PORT OF REFUGE

That if a ship be in a port of refuge at which it is practicable to repair her so as to enable her to carry on the whole cargo, but, in order to save expense, the cargo, or a portion of it, be transhipped by another vessel, or otherwise forwarded, then the cost of such transhipment (up to the amount of expense saved) shall be divided in proportion to the saving of expense thereby occasioned to the several parties to the adventure.

F16 CARGO SOLD AT A PORT OF REFUGE

That if a ship be in a port of refuge at which it is practicable to repair her so as to enable her to carry on the whole cargo, or such portion of it as is fit to be carried on, but, in order to save expense, the cargo, or a portion of it, be, with the consent of the Owners of such cargo, sold at the port of refuge, then the loss by sale including loss of freight on cargo so sold (up to the amount of expense saved)

shall be divided in proportion to the saving of expense thereby occasioned to the several parties to the adventure; provided always that the amount so divided shall in no case exceed the cost of transhipment and/or forwarding referred to in the preceding rule of the Association.

F17 INTERPRETATION OF THE RULE RESPECTING SUBSTITUTED EXPENSES

That for the purpose of avoiding any misinterpretation of the resolution relating to the apportionment of substituted expenses, it is declared that the saving of expense therein mentioned is limited to a saving or reduction of the actual outlay, including the crew's wages and provisions, if any, which would have been incurred at the port of refuge, if the vessel has been repaired there, and does not include supposed losses or expenses, such as interest, loss of market, demurrage, or assumed damage by discharging.

F18 DAMAGE TO CARGO, FUEL AND STORES 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.

F19 DEDUCTIONS FROM COST OF REPAIRS IN ADJUSTING GENERAL AVERAGE

Repairs to be allowed in general average shall not be subject to deductions in respect of "new for old" where old materials 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.

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.

Dry dock 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.

F20 FREIGHT SACRIFICED: AMOUNT TO BE MADE GOOD IN GENERAL AVERAGE

That the loss of freight to be made good in general average shall be ascertained by deducting from the amount of gross freight lost the charges which the Owners thereof would have incurred to earn such freight, but has, in consequence of the sacrifice, not incurred.

F21 BASIS OF CONTRIBUTION TO GENERAL AVERAGE

When property saved by a general average act is injured or destroyed by subsequent accident, the contributing value of that property to a general average which is less than the total contributing value, shall, when it does not reach the port of destination, be its actual net proceeds; when it does it shall be its actual net value at the port of destination on its delivery there; and in all cases any values allowed in general average shall be added to and form part of the contributing value as above.

The above rule shall not apply to adjustments made before the adventure has terminated.

F22 CONTRIBUTORY VALUE OF FREIGHT

That freight at the risk of the Shipowners shall contribute to general average upon its gross amount, deducting 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.

F23 SACRIFICE FOR THE COMMON SAFETY: DIRECT LIABILITY OF UNDERWRITERS

That in case of general average sacrifice there is, under ordinary policies of insurance, a direct liability of Underwriters on ship for loss of or damage to ship's materials, and of Underwriters on goods or freight, for loss of or damage to goods or loss of freight so sacrificed as a general average loss; that such loss not being particular average is not taken into account in computing the memorandum percentages, and that the direct liability of Underwriters for such loss is consequently unaffected by the memorandum or any other warranty respecting particular average.

SECTION G – HISTORICAL RULES

G1 (ex. A2) INTEREST AND COMMISSION FOR ADVANCING FUNDS

That, in practice, interest and commission for advancing funds are only allowable in average when, proper and necessary steps having been taken to make a collection on account, an out-of-pocket expense for interest and/or commission for advancing funds is reasonably incurred.

G2 (ex. A6) WATER CASKS

Water casks or tanks carried on a ship's deck are not paid for by Underwriters as general or particular average; nor are warps or other articles when improperly carried on deck.

G3 (ex. A9) FRANCHISE CHARGES

The expenses of protest, survey, and other proofs of loss, including the commission or other expenses of a sale by auction, are not admitted to make up the percentage of a claim; and are only paid by the Underwriters in case the loss amounts to a claim without them.

G4 (ex. D3) RIGGING CHAFED

Rigging injured by straining or chafing is not charged to Underwriters, unless such injury is caused by blows of the sea, grounding, or contact; or by displacement, through sea peril, of the spars, channels, bulwarks, or rails.

G5 (ex. D4) SAILS SPLIT OR BLOWN AWAY

Sails split by the wind, or blown away while set, unless occasioned by the ship's grounding or coming into collision, or in consequence of damage to the spars to which the sails are bent, are not charged to Underwriters.

G6 (ex. D7) PARTICULAR AVERAGE ON SHIP: DEDUCTION OF ONE THIRD

The deduction for new work in place of old is fixed by custom at one-third, with the following exceptions:

> Anchors are allowed in full. Chain cables are subject to one-sixth only.
>
> Metal sheathing is dealt with, by allowing in full the cost of a weight equal to the gross weight of metal sheathing stripped off minus the proceeds of the old metal. Nails, felt, and labour metalling are subject to one-third.

The rule applies to iron as well as to wooden ships, and to labour as well as material. It does not apply to the expense of straightening bent ironwork, and to the labour of taking out and replacing it.

It does not apply to graving dock expenses and removals, cartages, use of shears, stages, and graving dock materials.

It does not apply to a ship's first voyage.

G6 (ex. E4) ALLOWANCE FOR WATER AND/OR IMPURITIES IN PICKED COTTON

When bales of cotton are picked, and the pickings are sold wet, the allowance for water in the pickings (where there are no means of ascertaining it) is by custom fixed at one-third.

There is a similar custom to deduct one-sixth from the gross weight of pickings of country damaged cotton to take account of dirt, moisture and other impurities.

G7 (ex. E5) ALLOWANCE FOR WATER IN CUT TOBACCO

When damaged tobacco is cut off, the allowance for water in the cuttings is one-fourth if the actual increase cannot be ascertained.

G8 (ex. E6) ALLOWANCE FOR WATER IN WOOL

Damaged wool from Australia, New Zealand, and the Cape is subject to a deduction of 3 per cent for wet, if the actual increase cannot be ascertained.