

# YORK - ANTWERP RULES

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übersetzt von  
VEREIN DEUTSCHER DISPACHEURE E.V.  
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## Vorwort

Das Comité Maritime International (CMI) als Custodian, als „Hüterin“ der York-Antwerp Rules (YAR) hatte eine Neufassung zuletzt auf seiner Konferenz in Vancouver 2004 beschlossen. Diese Version erlangte jedoch kaum praktische Bedeutung. Vielmehr wurden regelmäßig die Bestimmungen der YAR 1974 (ggf. "as amended 1990") oder der YAR 1994 vereinbart. Nachdem ein Versuch zur Neuregelung im Jahre 2012 auf der Konferenz in Beijing gescheitert war, hatte das CMI eine International Working Group on General Average eingesetzt, die teils als International Sub-Committee tagte und die Arbeit zeitweise sogar auf mehrere Subgroups verteilte.

Beteiligt waren dabei neben Repräsentanten verschiedener nationaler Seerechtsvereine auch Vertreter der International Union of Marine Insurance (IUMI), der International Chamber of Shipping (ICS) und der Baltic and International Maritime Conference (BIMCO). Dazu nahmen Dispatcheure, die unter anderem die Association Mondiale de Dispatcheurs (AMD) sowie die britische Association of Average Adjusters (AAA) vertraten, an den Beratungen teil. So war gewährleistet, dass – anders als 2004 – die Ansichten und Erfahrungen eines breiten Querschnitts beteiligter Kreise wie auch der praktischen Anwender in die Vorarbeiten einfließen konnten.

Auf seiner 42. Internationalen Konferenz vom 3. - 6. Mai 2016 in New York fasste das CMI dann bei nur einer Enthaltung folgende EntschlieÙung:

The Assembly of the Comité Maritime International, duly represented by the delegates representing the National Maritime Law Associations of the states recorded as being in attendance:

**Takes due note of** the work done by the International Working Group and the International Sub-Committee on General Average in accordance with the mandate given at Beijing in 2012 to carry out a general review of the York-Antwerp Rules and to draft a new set of Rules to meet the requirements of ship and cargo owners and their respective insurers;

**RESOLVES THAT** the new set of Rules as tabled be approved and referred to hereafter as the York-Antwerp Rules 2016.

Eine aus technischen Gründen notwendig gewordene Änderung der Zinsregelung in den YAR 2016 (Regel XXI) wurde vom CMI im Oktober 2022 beschlossen.

Die vorliegende Übersetzung soll (wie in den früheren Versionen auch) lediglich dem leichteren Verständnis einer Materie dienen, welche von vielen, die nicht regelmäßig damit befasst sind, als recht komplex und schwierig empfunden wird. Rechtsverbindlich bleibt allein der englische Originaltext.

Neben den neuen York-Antwerpener Regeln verabschiedete das CMI im Rahmen der Konferenz 2016 erstmals auch

"Guidelines Relating to General Average",

die als Erläuterung von Grundprinzipien und Verfahren der Havarie-grosse konzipiert sind. Die Guidelines unterliegen der laufenden Revision durch ein Standing Committee des CMI und können leichter geändert werden als die YAR. Eine zweite, überarbeitete Auflage wurde ebenfalls im Oktober 2022 beschlossen; sie enthält nun als grundlegende Neuerung in ihrem Anhang auch Standardformulare für Havarie-grosse-Sicherheiten, die von ICS und IUMI mit empfohlen werden.

Die bei Drucklegung aktuelle, zweite Auflage der Guidelines ist im Anhang – ohne Übersetzung – wiedergegeben. Es bleibt jedoch empfehlenswert, sich auf der Website des CMI ([www.comitemaritime.org](http://www.comitemaritime.org)) über etwaige Neufassungen zu informieren.

**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.

**Rule A**

1. 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.
2. General average sacrifices and expenditures shall be borne by the different contributing interests on the basis hereinafter provided.

**Rule B**

1. 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.

2. If the vessels are in common peril and one is disconnected either to increase the disconnecting vessel's safety alone, or the safety of all vessels in the common maritime adventure, the disconnection will be a general average act.
3. Where vessels involved in a common maritime adventure resort to a port or place of refuge, allowances under these Rules may be made in relation to each of the vessels. Subject to the provisions of paragraph 3 and 4 of Rule G, allowances in general average shall cease at the time that the common maritime adventure comes to an end.

**Auslegungsregel**

Bei der Aufmachung von Havarie-grosse-Dispachen sind unter Ausschluss jeder entgegenstehenden gesetzlichen Regelung oder Praxis die folgenden Regeln anzuwenden.

Mit Ausnahme dessen, was in der Leitregel und den Ziffernregeln vorgesehen ist, ist Havarie-grosse in Übereinstimmung mit den Buchstabenregeln zu dispachieren.

**Leitregel**

In keinem Fall ist eine Vergütung für Opferschäden oder Aufwendungen zulässig, wenn diese nicht vernünftigerweise veranlasst worden oder entstanden sind.

**Regel A**

1. Eine Havarie-grosse-Maßnahme liegt dann und nur dann vor, wenn irgendein außerordentliches Opfer oder eine außerordentliche Aufwendung absichtlich und vernünftigerweise für die gemeinsame Sicherheit gemacht oder eingegangen wird, um das in einer gemeinsamen Seeunternehmung befindliche Eigentum vor Gefahr zu bewahren.
2. Havarie-grosse-Aufopferungen und -Aufwendungen sind von den verschiedenen beitragenden Interessen auf der nachstehenden Grundlage zu tragen.

**Regel B**

1. Eine gemeinsame Seeunternehmung liegt vor, wenn ein oder mehrere Schiffe ein anderes Schiff oder Schiffe schleppen oder schieben, vorausgesetzt, dass alle Schiffe zu Handels- und nicht zu Bergungszwecken eingesetzt sind.

Diese Regeln sind anzuwenden, wenn Maßnahmen getroffen werden, um die Schiffe und ihre etwaigen Ladungen vor einer gemeinsamen Gefahr zu bewahren.

2. Wenn die Schiffe sich in gemeinsamer Gefahr befinden und die Verbindung zu einem gelöst wird, um entweder die Sicherheit des lösenden Schiffes allein oder die Sicherheit aller Schiffe in der gemeinsamen Seeunternehmung zu erhöhen, ist das Lösen der Verbindung eine Havarie-grosse-Maßnahme.
3. Wenn Schiffe einer gemeinsamen Seeunternehmung sich nach einem gemeinsamen Nothafen oder Notplatz begeben, dürfen Vergütungen nach diesen Regeln in Bezug auf jedes der Schiffe gemacht werden. Vorbehaltlich der Bestimmungen der Absätze 3 und 4 der Regel G sollen die Vergütungen in Havarie-grosse mit dem Zeitpunkt enden, an dem die gemeinsame Seeunternehmung endet.

**Rule C**

1. Only such losses, damages or expenses which are the direct consequence of the general average act shall be allowed as general average.
2. 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.
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.

**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 common maritime adventure; but this shall not prejudice any remedies or defences which may be open against or to that party in respect of such fault.

**Rule E**

1. 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.
2. All parties to the common maritime adventure shall, as soon as possible, supply particulars of value in respect of their contributory interest and, if 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, and supply evidence in support thereof.
3. Failing notification, or if any party does not supply particulars in support of a notified claim, within 12 months of the termination of the common maritime adventure or payment of the expense, the average adjuster shall be at liberty to estimate the extent of the allowance on the basis of the information available to the adjuster. Particulars of value shall be provided within 12 months of the termination of the common maritime adventure, failing which the average adjuster shall be at liberty to estimate the contributory value on the same basis. Such estimates shall be communicated to the party in question in writing. Estimates may only be challenged within two months of receipt of the communication and only on the grounds that they are manifestly incorrect.

**Regel C**

1. In Havarie-grosse sind nur solche Verluste, Schäden oder Ausgaben zu vergüten, die direkte Folge einer Havarie-grosse-Maßnahme sind.
2. Verluste, Schäden oder Ausgaben im Zusammenhang mit Umweltschäden oder als Folge von Auslaufen oder Einleiten von verunreinigenden Stoffen aus dem in einer gemeinsamen Seeunternehmung befindlichen Eigentum sind in keinem Fall in Havarie-grosse zu vergüten.
3. Überliegezeit, Marktverlust und jeder Verlust, Schaden oder Ausgabe entstanden durch Verzögerung, einerlei, ob während der Reise oder im Anschluß daran, und jeder wie auch immer geartete indirekte Verlust, sind nicht in Havarie-grosse zu vergüten.

**Regel D**

Das Recht, die Zahlung von Havarie-grosse-Beiträgen zu verlangen, wird selbst dann nicht beeinträchtigt, wenn das Ereignis, das zu der Aufopferung oder Aufwendung Veranlassung gab, möglicherweise dem Verschulden einer der an dem Unternehmen beteiligten Parteien zuzuschreiben ist; dies soll jedoch eventuelle Rechtsansprüche oder deren Abwehr nicht präjudizieren, die möglicherweise gegen oder für diese Partei wegen eines solchen Verschuldens offenstehen.

**Regel E**

1. Die Beweislast obliegt der Partei, die eine Vergütung in Havarie-grosse reklamiert. Sie hat darzulegen, dass der geforderte Verlust oder die geforderte Aufwendung tatsächlich in Havarie-grosse vergütungsberechtigt ist.
2. Alle Parteien der gemeinsamen Seeunternehmung haben so bald wie möglich Einzelheiten über den Wert ihres beitragenden Interesses beizubringen und, sofern sie Ansprüche in Havarie-grosse stellen, den Dispatcheur schriftlich über den Verlust oder die Aufwendung, für den oder die sie einen Beitrag fordern, zu benachrichtigen sowie Nachweise darüber zu erbringen.
3. Fehlt eine Anzeige, oder versäumt es eine Partei, innerhalb von 12 Monaten nach Beendigung der gemeinsamen Seeunternehmung oder nach Zahlung der Aufwendung Einzelheiten über einen angezeigten Anspruch beizubringen, dann steht es dem Dispatcheur frei, den Umfang der Vergütung auf Grundlage der ihm zur Verfügung stehenden Informationen zu schätzen. Einzelheiten über den Wert sind innerhalb von 12 Monaten nach Beendigung der gemeinsamen Seeunternehmung beizubringen; anderenfalls steht es dem Dispatcheur frei, den Beitragswert auf gleicher Grundlage zu schätzen. Solche Schätzungen sind der betreffenden Partei schriftlich mitzuteilen. Schätzungen können nur binnen zwei Monaten nach Erhalt der Mitteilung und nur mit der Begründung bestritten werden, dass sie offenbar unrichtig sind.

4. Any party to the common maritime adventure pursuing a recovery from a third party in respect of sacrifice or expenditure claimed in general average, shall so advise the average adjuster and, in the event that a recovery is achieved, shall supply to the average adjuster full particulars of the recovery within two months of receipt of the recovery.

#### **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.

#### **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 adjustment is to be prepared.
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 common maritime adventure had continued in the original ship for so long as justifiable under the contract of carriage 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 be limited to the cost which would have been borne by the owners of cargo if the cargo had been forwarded at their expense. This limit shall not apply to any allowances made under Rule F.

4. Jede Partei der gemeinsamen Seeunternehmung, die eine Erstattung von einer dritten Partei hinsichtlich einer in Havarie-grosse geforderten Aufopferung oder Aufwendung anstrebt, ist verpflichtet, dies dem Dispacheur anzuzeigen und, falls eine Erstattung erlangt wird, dem Dispacheur die Einzelheiten der Erstattung binnen zwei Monaten nach Erhalt derselben beizubringen.

#### **Regel F**

Jede zusätzliche Ausgabe, die an Stelle einer anderen Ausgabe gemacht wird, die in Havarie-grosse vergütungsberechtigt gewesen wäre, soll ohne Berücksichtigung eventueller Ersparnisse anderer Interessen als Havarie-grosse angesehen und vergütet werden, aber nur bis zur Höhe des Betrages der vermiedenen Havarie-grosse-Kosten.

#### **Regel G**

1. Havarie-grosse ist bezüglich Verlust und Beitrag auf Grundlage der Werte zu dispachieren, die zu der Zeit und an dem Ort gelten, zu der und an dem die Unternehmung endet.
2. Diese Regel beeinträchtigt nicht die Bestimmung des Ortes, an dem die Havarie-grosse-Dispache aufzumachen ist.
3. Befindet sich ein Schiff in irgendeinem Hafen oder Platz unter Umständen, die eine Vergütung in Havarie-grosse nach den Regeln X und XI begründen würden, und wird die Ladung oder Teile der Ladung auf andere Weise zum Bestimmungshafen weitertransportiert, haben die Rechte und Pflichten in Havarie-grosse, unter der Voraussetzung, dass die Ladungsbeteiligten, soweit möglich, benachrichtigt worden sind, weitestgehend denen zu entsprechen, die bestehen würden, wenn ein derartiger Weitertransport nicht durchgeführt worden wäre und die gemeinsame Seeunternehmung in dem ursprünglichen Schiff so lange fortgesetzt worden wäre, wie dies unter dem Frachtvertrag und dem anwendbaren Recht vertretbar gewesen wäre.
4. Der Anteil, der auf die Ladung für Havarie-grosse-Vergütungen nach Absatz 3 dieser Regel entfällt, darf diejenigen Kosten nicht übersteigen, die von den Ladungseigentümern zu tragen gewesen wären, falls die Ladung auf ihre eigenen Kosten weitertransportiert worden wäre. Diese Beschränkung findet keine Anwendung auf unter Regel F gewährte Vergütungen.

**Rule I - Jettison of Cargo**

No jettison of cargo shall be allowed 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 allowed 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 allowed as general average; except that no allowance shall be made for damage by smoke however caused or by heat of the fire.

**Rule IV - Cutting away Wreck**

Loss or damage sustained by cutting away wreck or parts of the ship which have 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) Expenditure incurred by the parties to the common maritime 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 and subject to the provisions of paragraphs (b), (c) and (d).

**Regel I - Seewurf von Ladung**

Seewurf von Ladung ist nicht in Havarie-grosse zu vergüten, wenn solche Ladung nicht in Übereinstimmung mit den anerkannten Schifffahrtsusancen befördert wurde.

**Regel II - Verlust oder Schaden durch Aufopferung für die gemeinsame Sicherheit**

Verlust von oder Schaden an dem in einer gemeinsamen Seeunternehmung befindlichen Eigentum durch eine oder infolge einer für die gemeinsame Sicherheit gemachten Aufopferung, und Schaden durch Wasser, das durch die geöffneten Schiffsluken oder eine andere Öffnung eindringt, die zum Zwecke des Überbordwerfens zur gemeinsamen Sicherheit gemacht wurde, ist in Havarie-grosse zu vergüten.

**Regel III - Feuerlöschen an Bord des Schiffes**

Schaden, der, um ein Feuer an Bord eines Schiffes zu löschen, Schiff und Ladung oder einem von beiden zugefügt wird, sei es durch Wasser oder auf andere Weise, einschließlich des Schadens durch Aufstrandsetzen oder Versenken eines brennenden Schiffes, ist in Havarie-grosse zu vergüten; mit der Ausnahme jedoch, dass keine Vergütung erfolgt für Schäden durch Rauch, wie auch immer verursacht, oder durch die Hitze des Feuers.

**Regel IV - Kappen von Wrackteilen**

Schaden, der durch das Kappen von Wrackteilen oder Teilen des Schiffes entsteht, die vorher beschädigt wurden oder die tatsächlich zufällig verloren gehen, ist nicht in Havarie-grosse zu vergüten.

**Regel V - Freiwillige Strandung**

Wird ein Schiff zur gemeinsamen Sicherheit absichtlich auf Strand gesetzt, gleichgültig, ob es auf Strand getrieben wäre oder nicht, ist der daraus folgende Verlust oder Schaden an dem in einer gemeinsamen Seeunternehmung befindlichen Eigentum in Havarie-grosse zu vergüten.

**Regel VI - Bergelohn**

(a) Aufwendungen, die von den Beteiligten einer gemeinsamen Seeunternehmung wegen einer Bergung gemacht werden, sei es auf Grund eines Vertrages oder auf andere Weise, sind nach Maßgabe der Absätze (b) bis (d) und nur dann in Havarie-grosse zu vergüten, wenn die Bergungsmaßnahmen unternommen wurden, um das in der gemeinsamen Seeunternehmung befindliche Eigentum vor Gefahr zu bewahren.

- (b) Notwithstanding (a) above, where the parties to the common maritime adventure have separate contractual or legal liability to salvors, salvage shall only be allowed should any of the following arise:
- (i) there is a subsequent accident or other circumstances resulting in loss or damage to property during the voyage that results in significant differences between salvaged and contributory values,
  - (ii) there are significant general average sacrifices,
  - (iii) salvaged values are manifestly incorrect and there is a significantly incorrect apportionment of salvage expenses,
  - (iv) any of the parties to the salvage has paid a significant proportion of salvage due from another party,
  - (v) a significant proportion of the parties have satisfied the salvage claim on substantially different terms, no regard being had to interest, currency correction or legal costs of either the salvor or the contributing interest.
- (c) Salvage expenditures 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 Article 13 paragraph 1(b) of the International Convention on Salvage, 1989 have been taken into account.
- (d) Special compensation payable to a salvor by the shipowner under Article 14 of the International Convention on Salvage, 1989 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 expenditure 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.

- (b) Bergungsaufwendungen sind auch dann zu vergüten, wenn die Parteien der gemeinsamen Seeunternehmung dem Berger gegenüber aus Gesetz oder Vertrag separate Verbindlichkeiten haben, aber nur dann, wenn wenigstens eine der folgenden Voraussetzungen vorliegt:
- (i) es gibt während der Reise einen nachfolgenden Unfall oder andere Umstände, welche zu Verlust von oder Schaden an Vermögenswerten führen, wodurch sich erhebliche Differenzen zwischen geretteten Werten und Beitragswerten ergeben,
  - (ii) es gibt erhebliche Havarie-grosse-Aufopferungen,
  - (iii) die geretteten Werte sind offenkundig unrichtig und Bergungskosten sind in erheblichem Maße unrichtig aufgeteilt,
  - (iv) eine der Parteien der Bergung hat einen erheblichen Anteil der Bergungskosten bezahlt, der von einer anderen Partei zu zahlen gewesen wäre,
  - (v) ein erheblicher Teil der Parteien hat den Anspruch auf Bergung zu stark unterschiedlichen Konditionen abgemacht; dabei sollen Zinsen, Währungskorrekturen oder Rechtsverfolgungskosten des Bergers wie auch der beitragenden Partei unberücksichtigt bleiben.
- (c) Bergungsaufwendungen gemäß Absatz (a) schließen jeden Bergelohn ein, der das fachliche Können und die Anstrengungen des Bergers zur Verhütung oder Minderung von Umweltschäden entsprechend Artikel 13, Absatz 1(b) des Internationalen Übereinkommens von 1989 über Bergung berücksichtigt.
- (d) Die an den Berger durch den Schiffseigner zu zahlende besondere Entschädigung gemäß Artikel 14 des in (c) genannten Übereinkommens, wie in dessen Absatz 4 oder in anderen Bestimmungen ähnlicher Art (wie etwa SCOPIC) festgelegt, ist nicht in Havarie-grosse zu vergüten und nicht als Bergungsaufwand gemäß Absatz (a) dieser Regel zu betrachten.

#### **Regel VII - Maschinen - und Kesselschaden**

Schaden, der an maschinellen Einrichtungen und Kesseln eines auf Grund sitzenden und sich in gefährlicher Lage befindenden Schiffes bei dem Bemühen verursacht wird, das Schiff wieder flottzumachen, ist in Havarie-grosse zu vergüten, wenn nachgewiesen wird, dass dieser infolge der tatsächlichen Absicht entstanden ist, das Schiff für die gemeinsame Sicherheit auf das Risiko solchen Schadens hin flottzubringen. Wenn aber ein Schiff flott ist, ist kein durch Arbeiten der Antriebsmaschinen und Kessel verursachter Verlust oder Schaden, unter welchen Umständen auch immer, in Havarie-grosse zu vergüten.

**Rule VIII - Expenses Lightening a Ship when Ashore, and Consequent 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 allowed as general average.

**Rule IX - Cargo, Ship's Material 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 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 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 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.

**Regel VIII - Leichterungskosten eines auf Grund sitzenden Schiffes und Folgeschäden**

Wenn ein Schiff auf Grund sitzt und Ladung, Brennstoff, Ausrüstung oder Teile davon als Havarie-grosse-Maßnahme entlöst werden, sind die Extrakosten der Leichterung, Leichterrente und Wiederverladung (falls angefallen) und jeder dadurch verursachte Verlust oder Schaden an dem in einer gemeinsamen Seeunternehmung befindlichen Eigentum in Havarie-grosse zu vergüten.

**Regel IX - Als Brennstoff verbrauchte Ladung, Schiffsmaterial und Ausrüstung**

Ladung, Schiffsmaterial, Ausrüstung oder Teile davon, die notwendigerweise in der Zeit der Gefahr für die gemeinsame Sicherheit verbraucht werden, sind in Havarie-grosse zu vergüten. Wenn aber eine solche Vergütung für die Kosten von Schiffsmaterial und Ausrüstung gemacht wird, sind der Havarie-grosse diejenigen geschätzten Kosten des Brennstoffes gutzuschreiben, die sonst in Durchführung der beabsichtigten Reise verbraucht worden wären.

**Regel X - Kosten im Nothafen etc.**

(a) (i) Wenn ein Schiff infolge eines Unfalls, einer Aufopferung oder anderer außergewöhnlicher Umstände für die gemeinsame Sicherheit einen Nothafen oder Notplatz angelaufen hat oder an seinen Ladehafen oder Ladeplatz zurückgekehrt ist, dann sind die Kosten des Anlaufens dieses Hafens oder Platzes in Havarie-grosse zu vergüten; und wenn das Schiff von dort mit seiner ursprünglichen Ladung oder einem Teil derselben wieder abgefahren ist, dann sind die entsprechenden Kosten des Auslaufens aus diesem Hafen oder von diesem Platz als Folge des Anlaufens oder der Rückkehr ebenfalls in Havarie-grosse zu vergüten.

(ii) Liegt ein Schiff in einem Nothafen oder an einem Notplatz und wird es notwendigerweise nach einem anderen Hafen oder Platz überführt, weil in dem ersten Hafen oder an dem ersten Platz Reparaturen nicht ausgeführt werden können, dann sind die Bestimmungen dieser Regel auf den zweiten Hafen oder Platz so anzuwenden, als wenn er Nothafen oder Notplatz wäre, und die Kosten dieser Überführung einschließlich vorläufiger Reparaturen und Verschleppung sind in Havarie-grosse zu vergüten. Die Bestimmungen der Regel XI sind auf die durch die Überführung verursachte Reiseverlängerung anzuwenden.

(b) (i) Die Kosten des Umstauens an Bord oder Entlöschens von Ladung, Brennstoff oder Ausrüstung im Lade-, Zwischen- oder Nothafen oder -platz sind in Havarie-grosse zu vergüten, wenn das Umstauen oder Entlöschens für die gemeinsame Sicherheit notwendig war oder dafür, durch Zufall oder Aufopferung entstandenen Schaden am Schiff zu reparieren, sofern die Reparaturen für die sichere Fortsetzung der Reise erforderlich waren, mit Ausnahme derjenigen Fälle, bei denen der Schiffsschaden am Ladehafen oder -platz oder im Zwischenhafen oder -platz festgestellt wird, ohne dass auf der Reise irgendein Unfall oder andere außergewöhnliche Umstände im Zusammenhang mit diesem Schaden aufgetreten sind.



- (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 cost 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.
- (d) 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.

**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) (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 entry or detention 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 allowed in general average.
- (ii) Fuel and stores consumed during the extra period of detention shall be allowed as general average, except such fuel and stores as are consumed in effecting repairs not allowable in general average.
- (iii) 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.
- (iv) 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

(ii) Die Kosten des Umstauens an Bord oder Entlöschens von Ladung, Brennstoff oder Ausrüstung sind nicht in Havarie-grosse vergütungsberechtigt, wenn sie nur zum Neustauen infolge Verrutschens auf der Reise entstanden sind, es sei denn, dass das Neustauen für die gemeinsame Sicherheit notwendig ist.

- (c) Wenn die Kosten des Umstauens an Bord oder Entlöschens von Ladung, Brennstoff oder Ausrüstung in Havarie-grosse vergütungsberechtigt sind, dann sind die Kosten der Lagerung einschließlich vernünftiger Versicherung, der Rückladung und Stauung dieser Ladung, des Brennstoffes oder der Ausrüstung ebenfalls in Havarie-grosse zu vergüten. Regel XI soll auf den Zeitraum der Reiseverlängerung, die durch diese Rückladung oder Stauung verursacht wurde, angewendet werden.
- (d) Wird das Schiff aber aufgegeben oder setzt es seine ursprüngliche Reise nicht fort, dann sind Lagerkosten nur bis zum Datum der Aufgabe des Schiffes oder der Reise zu vergüten, oder aber bis zur Beendigung des Entlöschens, falls die Aufgabe vor diesem Datum erfolgt.

**Regel XI - Heuern und Unterhalt der Besatzung und andere Ausgaben beim Abweichen nach und in einem Nothafen etc.**

- (a) Heuern und Unterhalt für Kapitän, Offiziere und Mannschaft, welche vernünftigerweise aufgewendet werden, sowie Verbrauch von Brennstoff und Ausrüstung während der Reiseverlängerung infolge des Anlaufens eines Nothafens oder -platzes oder der Rückkehr nach dem Ladehafen oder -platz sind in Havarie-grosse zu vergüten, wenn die Kosten des Anlaufens eines solchen Hafens oder Platzes nach Regel X (a) in Havarie-grosse vergütungsberechtigt sind.
- (b) (i) Hat ein Schiff einen Hafen oder einen Platz angelaufen oder wird es dort aufgehalten infolge eines Unfalls, einer Aufopferung oder anderer außergewöhnlicher Umstände, entweder für die gemeinsame Sicherheit oder um die Reparatur eines durch Aufopferung oder Zufall entstandenen Schadens am Schiff zur sicheren Fortsetzung der Reise zu ermöglichen, dann sind Heuern und Unterhalt für Kapitän, Offiziere und Mannschaft, welche während der Extrazeit in einem solchen Hafen oder an einem solchen Platz vernünftigerweise entstehen, in Havarie-grosse zu vergüten, bis das Schiff wieder bereit ist oder hätte sein können, seine Reise fortzusetzen.
- (ii) Brennstoff und Ausrüstung, die während der Reiseverlängerung verbraucht werden, sind in Havarie-grosse zu vergüten, jedoch mit Ausnahme desjenigen Brennstoffes und derjenigen Ausrüstung, die bei Durchführung von Reparaturen, die nicht in Havarie-grosse zu vergüten sind, verbraucht werden.
- (iii) Hafenkosten, die während der Reiseverlängerung entstehen, sind gleichermaßen in Havarie-grosse zu vergüten, jedoch mit Ausnahme derjenigen Kosten, die nur durch Reparaturen verursacht werden, die nicht in Havarie-grosse zu vergüten sind.
- (iv) Wird aber ein Schiffsschaden im Ladehafen oder -platz oder Zwischenhafen oder -platz festgestellt, ohne dass auf der Reise irgendein Unfall oder andere außergewöhnliche Umstände im Zusammenhang mit diesem Schaden aufgetreten sind, dann sind Heuern und Unterhalt für Kapitän, Offiziere und Mannschaft sowie der

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.

(v) 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 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.

(c) (i) For the purpose of these 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.

(ii) For the purpose of these Rules, port charges shall include all customary or additional expenses incurred for the common safety or to enable a vessel to enter or remain at a port of refuge or call in the circumstances outlined in Rule XI (b) (i).

(d) The cost of measures undertaken to prevent or minimize 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 minimize pollution or environmental damage shall not be allowed as general average;

(iv) necessarily in connection with the handling on board, discharging, storing or reloading of cargo, fuel or stores 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.

Verbrauch von Brennstoff und Ausrüstung und entstandene Hafenkosten während der Verzögerung infolge Reparatur der Schäden, die unter diesen Umständen festgestellt werden, nicht in Havarie-grosse vergütungsberechtigt, selbst dann nicht, wenn die Reparaturen für die sichere Fortsetzung der Reise notwendig sind.

(v) Wird das Schiff aufgegeben oder setzt es seine ursprüngliche Reise nicht fort, dann sind Heuern und Unterhalt für Kapitän, Offiziere und Mannschaft sowie der Verbrauch von Brennstoff und Ausrüstung und Hafenkosten nur bis zum Datum der Aufgabe des Schiffes oder der Reise oder aber bis zur Beendigung der Entlöschung, falls die Aufgabe vor diesem Datum erfolgt, zu vergüten.

(c) (i) Im Rahmen dieser Regeln schließt die Heuer alle Zahlungen an den Kapitän, die Offiziere und die Mannschaft ein, die dem Reeder durch Gesetz oder Arbeitsvertrag auferlegt sind.

(ii) Im Rahmen dieser Regeln schließen Hafenkosten alle üblichen oder zusätzlichen Ausgaben ein, die für die gemeinsame Sicherheit oder dafür gemacht werden, um einem Schiff das Einlaufen oder den Verbleib in einem Not- oder Anlaufhafen unter den in Regel XI (b) (i) beschriebenen Umständen zu ermöglichen.

(d) Kosten zur Verhütung oder Minderung von Umweltschäden sind in folgenden Fällen in Havarie-grosse zu vergüten:

(i) als Teil einer Tätigkeit für die gemeinsame Sicherheit, die, falls sie von einer Partei außerhalb der gemeinsamen Seeunternehmung durchgeführt worden wäre, diese zu einem Bergelohn berechtigt hätte.

(ii) als eine Bedingung für das Anlaufen oder Verlassen irgendeines Hafens oder Platzes unter den in Regel X (a) genannten Voraussetzungen.

(iii) als eine Bedingung für den Verbleib in irgendeinem Hafen oder Platz unter den in Regel XI (b) genannten Voraussetzungen, jedoch mit der Maßgabe, dass, falls tatsächlich verunreinigende Stoffe auslaufen oder eingeleitet werden, die Aufwendungen für zusätzlichen Maßnahmen, die erforderlich sind, um Verunreinigung oder Umweltschäden zu verhüten oder zu vermindern, nicht in Havarie-grosse zu vergüten sind.

(iv) wenn sie notwendigerweise in Verbindung mit dem Löschen, Lagern oder Wiedereinladen von Ladung stehen, sofern die Kosten dieser Maßnahmen in Havarie-grosse vergütungsberechtigt sind.

#### **Regel XII - Schaden an Ladung beim Entlöschen etc.**

Schaden an oder Verlust von Ladung, Brennstoff oder Ausrüstung, der als Folge der Handhabung, beim Löschen, Einlagern, Wiedereinladen und Stauen entstanden ist, ist in Havarie-grosse zu vergüten, wenn die entsprechenden Kosten dieser Maßnahmen in Havarie-grosse vergütet werden.

**Rule XIII - Deduction 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.
- (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 deductions 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 24 months preceding the date of the general average act in which case one half of such costs shall be allowed.

**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 common maritime 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.
- (c) No deductions „new for old“ shall be made from the cost of temporary repairs allowable as general average.

**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.

**Regel XIII - Abzüge von Reparaturkosten**

- (a) Reparaturkosten, die in Havarie-grosse zu vergüten sind, unterliegen keinem Abzug „neu für alt“, soweit Altmaterial oder -teile neu ersetzt werden. Wenn ein Schiff allerdings über fünfzehn Jahre alt ist, erfolgt ein Abzug von einem Drittel. Die Abzüge sind zu errechnen nach dem Alter des Schiffes vom 31. Dezember des Jahres, in dem es fertiggestellt wurde, bis zum Datum der Havarie-grosse-Maßnahme. Hiervon ausgenommen sind Isolierung, Rettungs- oder ähnliche Boote, Kommunikations- und Navigationsinstrumente und -ausrüstung, Maschinen und Kessel, für welche die Abzüge nach dem Alter der betreffenden Teile zu regulieren sind.
- (b) Die Abzüge sind lediglich von den Kosten für Neumaterial oder -teile vorzunehmen, wenn diese fertiggestellt und für den Einbau in das Schiff vorbereitet sind. Keinem Abzug unterliegen Proviant, Ausrüstung, Anker und Ankerketten. Trockendock- und Slipmieten sowie Verholkosten des Schiffes sind voll zu vergüten.
- (c) Kosten für das Reinigen und den Bodenanstrich sind nicht in Havarie-grosse zu vergüten, falls der Schiffsboden nicht innerhalb von 24 Monaten vor dem Datum der Havarie-grosse-Maßnahme gemalt worden ist; in diesem Fall ist die Hälfte dieser Kosten zu vergüten.

**Regel XIV - Vorläufige Reparaturen**

- (a) Wenn vorläufige Reparaturen an einem Schiff in einem Lade-, Order- oder Nothafen für die gemeinsame Sicherheit oder für einen durch ein Havarie-grosse-Opfer verursachten Schaden ausgeführt werden, dann sind die Kosten solcher Reparaturen in Havarie-grosse zu vergüten.
- (b) Wenn vorläufige Reparaturen eines zufälligen Schadens ausgeführt werden, damit die gemeinsame Seeunternehmung beendet werden kann, dann sind die Kosten solcher Reparaturen in Havarie-grosse zu vergüten ohne Rücksicht auf eventuelle Einsparungen für andere Interessen, jedoch nur bis zur Höhe derjenigen Kosten, die entstanden und in Havarie-grosse vergütet worden wären, wenn solche Reparaturen dort nicht durchgeführt worden wären.
- (c) Vorläufige Reparaturkosten, die in Havarie-grosse vergütungsberechtigt sind, unterliegen keinem Abzug „neu für alt“.

**Regel XV - Frachtverlust**

Frachtverlust infolge Schadens an oder Verlust von Ladung ist in Havarie-grosse zu vergüten, wenn dieser durch eine Havarie-grosse-Maßnahme verursacht worden ist oder wenn der Schaden an oder Verlust der Ladung in Havarie-grosse vergütet wird.

Vom Betrag der verlorenen Bruttofracht sind Abzüge in Höhe derjenigen Kosten zu machen, die der Reeder hätte aufwenden müssen, um diese Fracht zu verdienen, aber infolge des Opfers nicht aufgewandt hat.

**Rule XVI - Amount to be Allowed for Cargo Lost or Damaged by Sacrifice**

- (a) (i) 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. Such commercial invoice may be deemed by the average adjuster to reflect the value at the time of discharge irrespective of the place of final delivery under the contract of carriage.
- (ii) 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.

**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 common maritime 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. Such commercial invoice may be deemed by the average adjuster to reflect the value at the time of discharge irrespective of the place of final delivery under the contract of carriage.
- (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. Any cargo may be excluded from contributing to general average should the average adjuster consider that the cost of including it in the adjustment would be likely to be disproportionate to its eventual contribution.
- (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 made from the value of the property of all extra charges incurred in respect

**Regel XVI - Vergütung der durch Aufopferung verlorenen oder beschädigten Ladung**

- (a) (i) Der in Havarie-grosse zu vergütende Betrag für Schaden an oder Verlust von Ladung durch Aufopferung ist der erlittene Verlust, der auf dem Wert zum Zeitpunkt des Entlöschens basiert; dieser wird aus der dem Empfänger übersandten Handelsrechnung ermittelt oder, falls eine solche Handelsrechnung nicht ausgestellt ist, aufgrund des Wertes im Ladehafen. Die Handelsrechnung kann vom Dispacheur so betrachtet werden, dass sie – unabhängig vom Ort der endgültigen Auslieferung unter dem Frachtvertrag – den Wert der Ladung zum Zeitpunkt des Entlöschens wiedergibt.
- (ii) Der Wert zum Zeitpunkt des Entlöschens schließt Versicherungs- und Frachtkosten ein, sofern die Fracht nicht im Risiko anderer als der Ladungsinteressenten ist.
- (b) Falls so beschädigte Ladung verkauft wird und der Schadenbetrag nicht anders vereinbart wurde, ist der in Havarie-grosse zu vergütende Verlust der Unterschied zwischen dem Netto-Verkaufserlös und dem Netto-Gesundwert gemäß Absatz (a) dieser Regel.

**Regel XVII - Beitragswerte**

- (a) (i) Der Havarie-grosse-Beitrag ist auf die tatsächlichen Nettowerte am Ende der gemeinsamen Seeunternehmung zu leisten; ausgenommen davon ist der Ladungswert, der auf dem Wert zum Zeitpunkt des Entlöschens basiert; dieser wird aus der dem Empfänger übersandten Handelsrechnung ermittelt oder, falls eine solche Handelsrechnung nicht ausgestellt ist, aufgrund des Wertes im Ladehafen. Die Handelsrechnung kann vom Dispacheur so betrachtet werden, dass sie – unabhängig vom Ort der endgültigen Auslieferung unter dem Frachtvertrag – den Wert der Ladung zum Zeitpunkt des Entlöschens wiedergibt.
- (ii) Der Wert der Ladung schließt Versicherungs- und Frachtkosten ein, sofern die Fracht nicht im Risiko anderer als der Ladungsinteressenten ist. Von diesem Wert ist jeder Verlust oder Schaden abzuziehen, den die Ladung vor oder zum Zeitpunkt des Entlöschens erlitten hat. Ladung kann von der Beitragspflicht zur Havarie-grosse ausgenommen werden, wenn der Dispacheur annimmt, dass die Kosten der Einbeziehung dieser Ladung in die Dispache wahrscheinlich unverhältnismäßig im Hinblick auf ihren zu erwartenden Beitrag wären.
- (iii) Der Schiffswert ist ohne Berücksichtigung von Vor- oder Nachteilen eines Demise- oder eines Zeitfrachtvertrages zu ermitteln, dem das Schiff möglicherweise unterliegt.
- (b) Zu diesen Werten ist der in Havarie-grosse vergütete Opferschaden hinzuzurechnen, falls nicht bereits eingeschlossen. Von der Fracht und den Passagegeldern im Risiko sind Abzüge für Kosten und Heuern zu machen, die nicht entstanden wären, wenn Schiff und Ladung zum Zeitpunkt der Havarie-grosse-Maßnahme total verlorengegangen wären, und die nicht in Havarie-grosse vergütet werden. Von den Werten sind ferner alle Extrakosten abzuziehen, die nach der Havarie-grosse-Maßnahme

thereof subsequently to the general average act, except such charges as are allowed in general average or fall upon the ship by virtue of an award for special compensation under Article 14 of the International Convention on Salvage, 1989 or under any other provision similar in substance. Where payment for salvage services has not been allowed as general average by reason of paragraph (b) of Rule VI, deductions in respect of payment for salvage services shall be limited to the amount paid to the salvors including interest and salvors' costs.

- (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 and accompanied 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;

- (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 the time of shipment shall not be allowed as general average, but such goods shall remain liable to contribute, if saved.

aufgewendet wurden, soweit solche Kosten nicht in Havarie-grosse vergütet werden oder vom Schiff als besondere Entschädigung gemäß Artikel 14 des Internationalen Übereinkommens von 1989 über Bergung oder nach einer anderen Vorschrift vergleichbaren Inhalts zu tragen sind. Wenn Zahlungen für Bergung auf Grund von Regel VI (b) nicht vergütet werden, sind Abzüge für Bergungskosten auf die Zahlungen an den Berger, inklusive Zinsen und Kosten des Bergers, zu beschränken.

- (c) Unter den in Regel G Absatz 3 genannten Voraussetzungen tragen die Ladung und anderes Eigentum auf Grundlage der Werte bei Ablieferung am ursprünglichen Bestimmungsort bei, falls nicht vor Erreichen des Bestimmungsortes verkauft oder anderweitig verfügt. Das Schiff trägt mit seinem tatsächlichen Nettowert zu dem Zeitpunkt bei, zu dem die Ladung vollständig gelöscht war.
- (d) Wird Ladung vor Erreichen des Bestimmungsortes verkauft, trägt sie mit dem Netto-Verkaufserlös zuzüglich einer etwaigen Vergütung in Havarie-grosse bei.
- (e) Post, Reisegepäck, begleitete persönliche Effekten und begleitete private Kraftfahrzeuge tragen nicht zur Havarie-grosse bei.

#### **Regel XVIII - Schaden am Schiff**

Der Betrag der Havarie-grosse-Vergütung für Schaden oder Verlust am Schiff, seiner Maschinenanlage und/oder seinem Zubehör, der durch eine Havarie-grosse-Maßnahme verursacht ist, ist wie folgt zu ermitteln:

- (a) Wenn repariert wird oder Teile ersetzt werden,

die tatsächlichen, angemessenen Reparaturkosten oder die Kosten der verlorenen Teile unter Berücksichtigung der Abzüge gemäß Regel XIII;

- (b) Wenn nicht repariert wird oder Teile ersetzt werden,

die durch solchen Schaden oder Verlust entstandene Wertminderung, die jedoch die geschätzten Reparaturkosten nicht übersteigen darf. Wenn aber ein tatsächlicher Totalverlust des Schiffes vorliegt oder wenn die Kosten für die Reparatur des Schadens den Wert des reparierten Schiffes übersteigen würden, ist der in Havarie-grosse zu vergütende Betrag der Unterschied zwischen dem geschätzten Gesamtwert des Schiffes nach Abzug der geschätzten Reparaturkosten, die nicht in Havarie-grosse vergütet werden, und dem Wert des Schiffes im beschädigten Zustand, der mit einem möglicherweise erzielten Netto-Verkaufserlös angesetzt werden kann.

#### **Regel XIX - Nicht deklarierte oder falsch deklarierte Ladung**

- (a) Wurden Güter ohne Wissen des Reeders oder seines Agenten verladen oder waren sie zum Zeitpunkt der Verladung absichtlich falsch bezeichnet, so ist Schaden oder Verlust daran nicht in Havarie-grosse zu vergüten, doch bleiben solche Güter, soweit gerettet, beitragspflichtig.

- (b) Where goods have been wrongfully declared at the time of shipment at a value which is lower than their real value, any general average loss or damage shall be allowed on the basis of their declared value, but such goods shall contribute on the basis of their actual value.

#### **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 general average disbursements shall 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) The rate for calculating interest accruing during each calendar year shall be 2 per cent per annum added to the USD Prime Rate, as published in the Wall Street Journal for the first banking day of that calendar year.<sup>1</sup>

#### **Rule XXII - Treatment of Cash Deposits**

- (a) Where cash deposits have been collected in respect of general average, salvage or special charges, such sums shall be remitted forthwith to the average adjuster who shall deposit the sums into a special account, earning interest where possible, in the name of the average adjuster.
- (b) The special account shall be constituted in accordance with the law regarding client or third party funds applicable in the domicile of the average adjuster. The account shall be held separately from the average adjuster's own funds, in trust or in compliance with similar rules of law providing for the administration of the funds of third parties.
- (c) The sums 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 in respect of which the deposits have been collected. Payments on account or refunds of deposits may only be made when such payments are certified in writing by the average adjuster and notified to the depositor requesting their approval. Upon the receipt of the depositor's approval, or in the absence of such approval within a period of 90 days, the average adjuster may deduct the amount of the payment on account or the final contribution from the deposit.

<sup>1</sup> This paragraph was amended, due to technical reasons, by the CMI Assembly in Antwerp in October 2022.

- (b) Waren Güter zum Zeitpunkt der Verladung fälschlicherweise mit einem niedrigeren als ihrem tatsächlichen Wert deklariert, so ist Havarie-grosse-Verlust oder -Schaden auf Basis des deklarierten Wertes zu vergüten, doch haben solche Güter mit ihrem tatsächlichen Wert beizutragen.

#### **Regel XX - Provision auf Auslagen**

- (a) Wird Ladung verkauft, um Mittel zur Bezahlung von Havarie-grosse-Aufwendungen zu beschaffen, ist der dadurch entstandene Vermögensverlust dem Ladungseigentümer in Havarie-grosse zu vergüten.
- (b) Die Kosten der Versicherung des zur Bezahlung von Havarie-grosse-Aufwendungen vorgeschossenen Geldes sind ebenfalls zu vergüten.

#### **Regel XXI - Zinsen auf in Havarie-grosse vergütete Verluste**

- (a) Zinsen sind auf Aufwendungen, Opfer und Vergütungen der Havarie-grosse bis drei Monate nach dem Datum der Havarie-grosse-Dispache zu vergüten, wobei für jede zwischenzeitliche Abschlagszahlung durch beitragspflichtige Interessenten oder vom Havarie-grosse-Treuhandkonto eine entsprechende Verrechnung vorzunehmen ist.
- (b) Der Zinssatz für das jeweilige Kalenderjahr beträgt zwei Prozent p.a. über der vom Wall Street Journal für den ersten Bankarbeitstag des betreffenden Kalenderjahres veröffentlichten USD Prime Rate.<sup>1</sup>

#### **Regel XXII - Behandlung von Barsicherheiten**

- (a) Sind Barsicherheiten für Havarie-grosse, Bergung oder Spezialkosten eingezogen worden, sind solche Sicherheiten unverzüglich an den Dispacheur zu überweisen, der diese auf ein gesondertes, auf ihn lautendes und nach Möglichkeit zinsbringendes Konto einzuzahlen hat.
- (b) Das gesonderte Konto ist entsprechend den am Sitz des Dispacheurs geltenden gesetzlichen Bestimmungen für die Einrichtung von Anderkonten zu eröffnen. Das Konto ist getrennt von Eigenmitteln des Dispacheurs zu führen, entweder als Anderkonto oder in Übereinstimmung mit vergleichbaren Regelungen für die Verwaltung von Fremdgeldern.
- (c) Die deponierten Summen dienen, gegebenenfalls zusammen mit den aufgelaufenen Zinsen, als Sicherheit für die an die dazu berechtigten Parteien zu zahlenden Havarie-grosse-, Bergungs- oder Spezialkosten, für welche die Barsicherheiten eingezogen wurden. Vorschusszahlungen aus oder Rückzahlungen von Barsicherheiten sind nur statthaft, wenn diese vom Dispacheur schriftlich bescheinigt sind und dem Einzahler mit der Aufforderung zur Genehmigung bekannt gegeben wurden. Mit Erhalt der Genehmigung des Einzahlers oder wenn eine solche Genehmigung innerhalb von 90 Tagen nicht vorliegt, darf der Dispacheur den Vorschuss oder den gesamten Beitrag von der Barsicherheit abziehen.

<sup>1</sup> Dieser Absatz wurde aus technischen Gründen von der CMI-Versammlung im Oktober 2022 geändert.

- (d) All deposits and payments or refunds shall be without prejudice to the ultimate liability of the parties.

**Rule XXIII - Time Bar for Contributing 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 is 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.

- (d) Alle Sicherheitsleistungen, Zahlungen oder Rückzahlungen erfolgen ohne Präjudiz für die endgültige Verantwortlichkeit der Parteien.

**Regel XXIII - Fristen für die Geltendmachung von Havarie-grosse-Beiträgen**

- (a) Vorbehaltlich dessen, was im jeweils anwendbaren Recht in Bezug auf Verjährungsfristen zwingend geregelt ist, gilt:
- (i) Sämtliche Ansprüche auf Havarie-grosse-Beiträge, einschließlich aller Ansprüche aus Havarie-grosse-Verpflichtungsscheinen (Bonds) oder -Garantien, erlöschen nach Ablauf eines Jahres ab dem Datum der Havarie-grosse-Dispache, es sei denn, dass die Partei, die einen solchen Beitrag reklamiert, zwischenzeitlich Klage einreicht. In keinem Fall jedoch kann nach dem Ablauf von sechs Jahren ab dem Datum, an dem die gemeinsame Seeunternehmung endete, Klage eingereicht werden.
- (ii) Diese Fristen können verlängert werden, wenn die Parteien dies nach Beendigung der gemeinsamen Seeunternehmung vereinbaren.
- (b) Diese Regel gilt nicht zwischen den an der Havarie-grosse beteiligten Parteien und ihren jeweiligen Versicherern.

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In Zweifelsfällen ist der englische Originaltext der Regeln ausschlaggebend.

CMI GUIDELINES  
RELATING TO  
GENERAL AVERAGE

(2ND ED. / OCTOBER 2022)



## CMI GUIDELINES RELATING TO GENERAL AVERAGE

(2<sup>nd</sup> ed., October 2022)



Approved by Comité Maritime International,  
International Union of Marine Insurance & International Chamber of Shipping

### INTRODUCTION

General average is an internationally recognised maritime system for sharing certain types of loss and expense between ship and cargo interests in the event of a casualty during a voyage. The assessment of allowable expenses is carried out by an independent professional called an average adjuster, who then divides the total general average amount in proportion to the value of all property that has been saved and reaches destination, in a final adjustment report.

The preparation of the final adjustment usually takes some time after the voyage is completed. Therefore, it is necessary for the concerned in cargo to provide written security in which they undertake to ultimately pay whatever contribution is legally and properly due from them, subject to any contractual provisions.

This process is referred to as a general average security collection. It should be noted that where a professional salvor has been engaged to place a ship and her cargo in safety, additional security may be requested in relation to the value of their services.

### Effect of the CMI Guidelines

These guidelines are prepared for commercial parties to assist their understanding of the practice and basic principles of general average. They do not form part of the York-Antwerp Rules; they are not binding and are not intended to over-ride or alter in any way the provisions of the York-Antwerp Rules, the contracts of carriage or any governing law.

### Review and amendment

The first edition of the CMI Guidelines was adopted by the plenary session of the 42nd International Conference of CMI in New York, May 2016, and ultimately approved by the Assembly of CMI.

In order to monitor the working and effectiveness of the CMI Guidelines, and to recommend changes to the Guidelines as circumstances dictate (which shall be submitted to the Assembly of CMI for approval), a Standing Committee was constituted to consist of:

- A chairman nominated by the Assembly of CMI
- A representative nominated by the International Chamber of Shipping
- A representative nominated by the International Union of Marine Insurance
- Five additional members nominated by the Assembly of CMI

The Standing Committee was later extended by the CMI Executive Committee and currently comprises twelve members.

The Standing Committee reviewed the Guidelines and drafted wordings for general average security forms. Approval of the drafts was obtained from ICS, and IUMI. The present, second edition of the guidelines was adopted at the Assembly of CMI in Antwerp, October 2022.

**CONTENTS**

These guidelines are divided into the following sections:

**1 AN OVERVIEW OF GENERAL AVERAGE**

This section provides more information to provide a better understanding of the principles and processes involved in general average cases.

1. Background
2. York-Antwerp Rules
3. General average events
4. Adjustment of general average
5. Example adjustment
6. Contract of carriage

**2 GENERAL AVERAGE SECURITY COLLECTIONS**

This section contains the basic information regarding actions that need to be taken by cargo interests and their insurers. Specimens of the documents referred to can be found in the Appendix.

1. Introduction
2. Actions for cargo owners/receivers
3. Actions for cargo insurers
4. Salvage security
5. Claim documentation

**3 ROLE OF THE AVERAGE ADJUSTER**

Cargo interests will receive detailed communications from the appointed average adjuster that need to be reviewed carefully and followed up promptly. This section includes a brief summary of the average adjusters' role following a casualty involving general average and/or salvage.

1. Appointment of adjusters
2. Best practice of adjusters

**4 ROLE OF THE GENERAL INTEREST SURVEYOR**

In many major casualties a "general interest surveyor" may be appointed. This section explains this role in terms of:

1. Instructions
2. Role
3. Reporting

**CONTENTS (continued)****5 THE YORK-ANTWERP RULES 2016**

This section relates to specific provisions in the latest 2016 version of the York-Antwerp Rules where they apply.

1. Rule VI – Salvage
2. Rule XXII – Treatment of Cash Deposits

**6 AN OVERVIEW OF SALVAGE (INCLUDING LLOYDS OPEN FORM)**

Marine casualties may involve the engagement of salvors to assist ship and cargo and a variety of types of contract may be used. With the more serious casualties Lloyd's Open Form (LOF) of salvage agreement is often used and this section provides a brief overview of LOF.

**APPENDIX**

Recommended general average security forms:

1. General Average Bond for Cargo
2. General Average Guarantee for Cargo
3. General Average Bond for Bunkers and/or Freight (if separately at Risk)
4. General Average Guarantee for Bunkers and/or Freight (if separately at Risk)

## 1 AN OVERVIEW OF GENERAL AVERAGE

### 1.1 Background

The principle of general average has its origin in the earliest days of maritime trade, and is based on simple equity. For example, if one merchant's cargo is jettisoned to save the ship and the rest of the cargo, the shipowner and other cargo interests would all contribute to make good the value of the jettisoned cargo to its owner. The word "average" is a medieval term meaning a "loss". Thus a "general" average involves all the interests on a voyage, whereas a "particular" average affects only one interest. As the doctrine developed various types of losses were added to that of jettison; perhaps the most important step was the recognition that expenditure of money was in principle no different from the sacrifice of property, if it was incurred in similar circumstances and for the same purpose.

General average varied in its development in the different leading maritime countries, so that by the latter part of the 19th century substantial differences existed in law and practice throughout the world. In view of the international character of shipping the disadvantages of this were obvious, and there began a series of attempts to obtain international uniformity. An International Conference held in York in 1864 produced the York Rules, which were revised at Antwerp in 1877 to become the first set of York-Antwerp Rules.

In a modern context, as well as continuing to provide an equitable remedy when property is sacrificed for the common good, the principles of general average, as now embodied in the York-Antwerp Rules, also continue to perform a useful function in helping to define important borders that lie between:

- Matters that form part of the shipowners' reasonable obligations to carry out the contracted voyage and those losses and expenses that arise in exceptional circumstances.
- Property and liability insurers as their differing responsibilities meet and sometimes merge, in the context of a serious casualty.

Both of these difficult areas benefit from the reservoir of established law and practice that general average provides, helping to secure a degree of certainty that is always the objective of commercial interests.

It is important to appreciate that the York-Antwerp Rules do not have the status of an international convention. They take effect only by being incorporated into contracts of carriage. The Rules are updated periodically under the auspices of Comité Maritime International, which is made up of national Maritime Law Associations.

Rule A of the York-Antwerp Rules defines a general average act as follows:

*"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."*

## AN OVERVIEW OF GENERAL AVERAGE (continued)

### 1.2 York-Antwerp Rules

The York-Antwerp Rules consist of lettered rules (A-G) and 23 numbered rules. The lettered rules set out various broad principles as to what constitutes general average; the numbered rules deal with specific instances of sacrifice and expenditure and set out detailed guidelines concerning allowances etc.

Broadly speaking, the York-Antwerp Rules have recognised two main types of allowance:

- "Common safety" allowances: sacrifice of property (such as flooding a cargo hold to fight a fire) or expenditure (such as salvage or lightening a ship) that is made or incurred while the ship and cargo were actually in the grip of peril.
- "Common benefit" allowances: once a ship is at a port of refuge, expenses necessary to enable the ship to resume the voyage safely (but not the cost of repairing accidental damage to the ship) for example, the cost of discharging, storing and reloading cargo as necessary to carry out repairs, port charges, and wages etc. during detention for repairs and outward port charges.

The York-Antwerp Rules are prefaced by a Rule of Interpretation which gives priority to the numbered rules when there is a conflict with the lettered rules. For example, Rule C excludes losses due to delay but Rule XI says that certain detention expenses at a port of refuge (e.g. port charges, wages and maintenance) can be allowed; Rule XI takes priority over the lettered Rule C and such expenses can therefore be allowed.

Since 1994, the York-Antwerp Rules have included a Rule Paramount after the Rule of Interpretation, which states as follows:

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

The burden of proof lies on the party claiming in general average to prove that both the general average act and the amount of any allowance are reasonable. It is suggested that in applying this rule there can be no absolute standard of "reasonableness" and that a situation must be judged on the particular facts prevailing at the time and place of the incident.

## AN OVERVIEW OF GENERAL AVERAGE (continued)

## 1.3 General Average events

The following are simple examples of potential general average situations:

Casualty	Type of sacrifice or expenditure
<i>Grounding:</i>	<ul style="list-style-type: none"> <li>• Damage to ship and machinery through efforts to refloat.</li> <li>• Loss of or damage to cargo through jettison or lightening of the ship.</li> <li>• Cost of storing and reloading any cargo so discharged.</li> <li>• Port of refuge expenses.</li> </ul>
<i>Fire:</i>	<ul style="list-style-type: none"> <li>• Expenses incurred to extinguish the fire.</li> <li>• Damage to ship or cargo due to efforts to extinguish the fire.</li> <li>• Port of refuge expenses.</li> </ul>
<i>Shifting of cargo in heavy weather:</i>	<ul style="list-style-type: none"> <li>• Jettison of cargo.</li> <li>• Port of refuge expenses.</li> </ul>
<i>Heavy weather, collision, machinery breakdown, or other accident involving damage to ship and resort to or detention at a port.</i>	<ul style="list-style-type: none"> <li>• Port of refuge expenses.</li> <li>• Towage</li> </ul>
<i>General</i>	<ul style="list-style-type: none"> <li>• Payments relating to salvage may also be allowed as general average in any of the above circumstances.</li> </ul>

## AN OVERVIEW OF GENERAL AVERAGE (continued)

## 1.4 Adjustment of General Average

The basic principles are:

## 1.4.1 Property at risk

Generally, all the property that is involved in the voyage (or “common maritime adventure”) and is at risk at the time of the general average act is required to contribute to the general average losses and expenses. The contribution is based on a pro rata division according to the value of that property at the port where the voyage ends.

## 1.4.2 Contributory values

The sharing of general average sacrifices and expenses is achieved by a pro rata division over what the York-Antwerp Rules refer to as “Contributory Values”.

The basis for calculation of contributory values and general average losses is the value of the property to its owner at the termination of the voyage. However, in relation to cargo this value is based on the commercial invoices.

Expenses incurred in respect of the property after the general average act (other than those which are allowed in general average) must be deducted in arriving at the contributory value. This ensures that property contributes according to the actual net benefit it has received, by deducting the expenses it has had to bear to realise the benefit of getting the property at destination.

Since values are assessed as at the end of the voyage, it also follows that the amount of contribution may be varied by further loss or damage to the property between the time of the general average act and the arrival at destination. For example, if the property is totally lost due to a subsequent accident it will have no contributory value and will not contribute to the general average.

## 1.4.3 Termination of the voyage

Normally, the “common maritime adventure” is considered to be terminated on completion of discharge of cargo at the port of destination. If there is an abandonment of the voyage at an intermediate port then the adventure terminates at that port. If, because of a casualty, the whole cargo is forwarded from an intermediate port by another ship the cost of forwarding may be allowable as general average, subject to criteria set out in Rules F and G of the York-Antwerp Rules.

**AN OVERVIEW OF GENERAL AVERAGE (continued)**

**1.4.4 Equality of contribution**

Equality of contribution must be maintained between the owner of the property sacrificed and the owner of the property saved. In practice this is achieved by the device of adding to the contributory values of property lost or damaged by general average sacrifice the amount allowed (or “made good”) in general average in respect of that sacrifice. If this were not done the owner of jettisoned cargo would receive benefit in the form of money from the general average for loss of his goods without participating in or contributing to the general average losses, as can be seen from the following example:

Assume that cargo B worth 1,000 is sacrificed for the common safety. A general average of 1,000 is apportioned over the values of ship and arrived cargo (which are all 1,000). If this were between only those parties arrived, the figures would be:

Ship value of	1,000	Pays	334
Cargo A value of	1,000	Pays	333
Cargo B sacrificed	0	Pays	0
Cargo C value of	1,000	Pays	333
	3,000	Pays	1,000

The result of this apportionment is that, after paying their contributions to B, the shipowner and merchants A and C would have property with an effective value of 667, whereas merchant B would receive cash amounting to 1,000. This is clearly unfair, so merchant B also makes a notional contribution to the general average on the amount of the loss made good to him in general average, that is:

Ship value of	1,000	Pays	250
Cargo A value of	1,000	Pays	250
Cargo B made good	1,000	Bears	250
Cargo C value of	1,000	Pays	250
	4,000	Pays	1,000

By making Cargo B “contribute” on the basis of the amount made good he will receive 1,000 less 250 = 750, and everyone is now in the same position.

**AN OVERVIEW OF GENERAL AVERAGE (continued)**

**1.4.5 Example adjustment**

**Shipowners’ losses and expenses**

		<b>General Average</b>
Cost of repairing damage to ship’s machinery sustained in refloating operations -	USD 250,000	
Cost of discharging, storing in lighters, and reloading cargo discharged to lighten ship -	100,000	
Salvage paid to tugs for refloating ship -	1,150,000	

**Cargo owners’ losses**

Value of cargo jettisoned in efforts to refloat -	USD 500,000	
Damage to cargo caused by forced discharge, storage and reloading -	100,000	600,000
	USD 2,100,000	

**Apportioned**

**Ship:**

Arrived value at destination in damaged condition.	USD 6,750,000	
Add allowance in general average for refloating damage.	250,000	
	USD 7,000,000	pays in USD 700,000

**Cargo:**

Invoice value after deduction of loss and damage.	USD 13,400,000	
Add allowance in general average in respect of jettison and damage due to forced discharge.	600,000	
	14,000,000	“ 1,400,000 pays in USD 21,000,000 ppn. USD 2,100,000
	USD 21,000,000	USD 2,100,000

(General Average equals 10% of the contributory values.)

## AN OVERVIEW OF GENERAL AVERAGE (continued)

**Balance under the adjustment****The Shipowner:**

Receives credit for general average losses and expenses -	USD 1,500,000
Pays general average contribution -	700,000
	<b>Balance to receive - USD 800,000</b>

**The cargo owner:**

Pays general average contribution -	USD 1,400,000
Receives credit for general average losses -	600,000
	<b>Balance to pay - USD 800,000</b>

**1.4.6 Contract of carriage**

The parties to the adventure usually make special provision in the contract of carriage regarding general average, the most common being a clause to the effect that general average is to be adjusted in accordance with the York-Antwerp Rules. Such stipulations may be contained in the charter party, if any, or the bills of lading, or in both documents, thereby giving contractual effect to the Rules.

Rule D of the York-Antwerp Rules gives explicit recognition to the fact that general average exists irrespective of fault or breach of contract by any of the parties. It follows that normally the procedures for protecting the rights of the parties in general average must be observed even when it is suspected that such a fault or breach has taken place. Equally, the existence of a general average situation does not prejudice any rights or defences that are open to parties, for example with regard to cargo damage or alleging a breach of contract as grounds for not paying a general average contribution.

The giving of general average security in the customary terms is a promise to pay any general average contribution that is found to be properly and legally due. Generally, if there has been a causative breach of contract the contribution cannot be so described, and cargo interests may have grounds for declining to pay their contribution to general average. Thus, the provision of proper general average security does not prevent a party from disputing its liability to contribute.

**2 GENERAL AVERAGE SECURITY COLLECTIONS****2.1 Introduction**

Most jurisdictions recognise that the shipowner can exercise a lien (i.e. refuse to allow delivery) on cargo at destination in respect of general average losses sustained by any of the parties to the adventure. The preparation of an adjustment will usually take some time, so that the shipowner will lift his lien in return for satisfactory security. Generally, the shipowner or appointed average adjuster will send notices to cargo interests setting out what is required by way of security (the exact procedure may vary slightly according to the jurisdiction(s) involved). The usual security requirements will be as follows:

- a. Signature by the owner or receiver of the cargo to a General Average Bond (an undertaking that they will pay the contribution legally and properly due in respect of their cargo), and
- b. either a cash deposit for an amount estimated by the adjuster to cover likely general average liabilities, usually expressed as a percentage of the invoice value of cargo,

or, if the cargo is insured, it is usual for a General Average Guarantee signed by a reputable insurer to be accepted by the shipowner in place of the cash deposit; the insurer will then take over the handling of the general average aspects of the case through their normal claims procedures.

Both the General Average Bond and General Average Guarantee are distinct contracts in their own right, and may, like any contract, be altered by agreement between the parties. However, recommended standard wordings are shown in the Appendix which have been developed by the Comité Maritime International and approved by International Union of Marine Insurance and International Chamber of Shipping.

As already mentioned, any remedies and defences from the contracts of carriage remain unaffected by the provision of security under the CMI approved forms (see Appendix).

**2.2 Actions for cargo owners/receivers**

As noted above, in each case cargo interests will receive a GA notice from the average adjuster describing the security requirements in a particular case, but generally cargo interests will need to take the following steps:

- a. Complete, sign and return the General Average Bond to the adjuster.
- b. Attach the invoice for the goods to the signed bond.
- c. If the cargo is insured, pass the notice to the insurers who will complete the General Average Guarantee and take over further handling of the matter.
- d. If the cargo is not insured, advise the average adjuster and follow their instructions to provide a cash deposit as security.

On completion of these steps the cargo should be released in respect of general average for delivery in the usual way.

**GENERAL AVERAGE SECURITY COLLECTIONS (continued)**

It is important that the GA notice is read carefully because in some cases a General Average Bond may not be necessary; but separate security to salvors may be required (see section 6 below). Also specific clauses in the contract of carriage (e.g. the BIMCO Average Bond Clause) may make the provision of a General Average Bond unnecessary, but all other requirements remain unaffected by such provisions.

Details of any loss or damage to the cargo should be sent to the insurer and the average adjuster as soon as possible; this may reduce the amount to be paid towards general average.

If a cash deposit has been provided for general average and/or salvage, it is likely that part of the deposit will be returned once the adjustment is finished. Cargo interests should keep a careful record of the deposit so that the refund can be processed in due course.

It is a responsibility of cargo interests to notify the average adjuster of any changes in their contact details.

**2.3 Actions for cargo insurers**

Cargo insurers may receive the GA notice from their assureds or direct from the average adjuster and the contents need to be read carefully so that procedures can be followed promptly, avoiding any delay in the release of the cargo at destination.

The GA Guarantee should be completed, signed and returned to the adjuster as set out in the GA Notice.

A standard General Average Guarantee wording is shown in the Appendix. This wording has been approved by the industry bodies representing property insurers (IUMI) and shipowning interests (ICS). Some of the boxes need to be prefilled by the average adjuster, but if there is a need to depart from the standard wording of the clauses due to the circumstances of a particular case any change should be highlighted and explained by the average adjuster.

Details of any loss or damage to the cargo should be sent to the average adjuster as soon as possible; this may reduce the amount to be paid towards general average. It is a responsibility of cargo insurers to notify the average adjuster of any changes in their contact details.

**2.4 Salvage security**

In some circumstances and jurisdictions, and under salvage contracts such as Lloyd's Open Form (LOF), the salvor will have a separate right to action against each individual piece of property that is salvaged, once that property is brought into a place of safety. The salvor may therefore exercise a lien on all the cargo at that place and the cargo interests will have to provide two sets of security:

- a. salvage security to salvors at the place where the salvage services end, and
- b. general average security to the shipowner, at destination.

See section 6 for more details regarding LOF salvage.

**GENERAL AVERAGE SECURITY COLLECTIONS (continued)****2.5 Claim documentation**

The burden of proof lies with any party wishing to claim general average sacrifices and expenses, and York-Antwerp Rule E includes time limits for submitting claims.

After collecting security the average adjuster will need information from cargo interests in order to:

- calculate the contributory value of the cargo.
- make any allowances in general average that are due to cargo.

Cargo interests will generally need to submit the following information to the adjuster:

- a. A copy of the commercial (CIF) invoice. If cargo has been sold on terms other than CIF the freight invoice and insurance premium details may be required.
- b. Details of any damage that has occurred to cargo during the voyage, including:
  - i. survey reports stating the cause and extent of damage
  - ii. the cargo insurers' settlement.

The damage to cargo will be deducted from the sound value to reach the contributory value; this will determine how much the cargo's general average contribution will be. If any of the damage is allowable as general average (e.g. water damage during fire-fighting operations) credit will be given in the adjustment.

### 3 ROLE OF THE AVERAGE ADJUSTER

#### 3.1 Appointment of adjusters

It is usually the responsibility of the shipowner to appoint an average adjuster to prepare a general average adjustment. In the majority of jurisdictions the findings of the average adjuster regarding amounts payable by the parties to a maritime adventure are not legally binding, unlike with an arbitration award. The majority of adjustments are accepted by the parties (subject to any contractual defences) on the basis of the professional qualifications and expertise of the adjuster.

#### 3.2 Best practice of average adjusters

Average adjusters work under different regulatory and professional regimes, however the following elements of best practice appear to be universal and are endorsed by the leading professional associations.

Irrespective of the identity of the instructing party, the average adjuster is expected to act in an impartial and independent manner in order to act fairly to all parties involved in a common maritime adventure.

In all cases the average adjuster should:

- a. 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. Where conflicting provisions exist, the adjuster should explain in appropriate detail the reason for the basis of adjustment chosen.
- b. Set out the facts that give rise to the general average.
- c. Where the York-Antwerp Rules apply, identify the lettered and/or numbered Rules that are relied upon in making the allowances in the adjustment.
- d. Explain in appropriate detail the choice of currency in which the adjustment is based.
- e. Make appropriate enquiries as to whether any recovery relating to the casualty is being undertaken, and set out the results of those enquiries in the adjustment.

On request, and when practicable, the adjuster should make available copies of reports and invoices relied upon in the preparation of the adjustment.

### 4 ROLE OF THE GENERAL INTEREST SURVEYOR

The “General Interest” or “GA” surveyor may be appointed by the shipowners on behalf of all parties involved in the common maritime adventure, usually only in the larger casualties or where cargo sacrifices are likely to be involved. In the event of a major casualty numerous surveyors may be in attendance on behalf of hull insurers, charterers, salvors, P&I liability insurers and cargo interests. The GA surveyor is there to provide an independent overview to help ensure that the interests of all parties are considered. The shipowner is usually responsible for settlement of the GA surveyor’s charges, which are allowed as general average, but the GA surveyor is expected to act in an independent and impartial manner when recording the facts and making recommendations.

The GA surveyor’s role is not to investigate the circumstances leading up to a general average situation (e.g. the cause of a fire) but once the situation exists, his role is generally as follows:

- a. To advise all parties on the steps necessary to ensure the common safety of ship and cargo.
- b. To monitor the steps actually taken by the parties to ensure that proper regard is taken of the General Interest.
- c. To review general average expenditure incurred and advise the adjuster as to whether the costs are fair and reasonable.
- d. To identify and quantify any general average sacrifice of ship or cargo.
- e. To ensure that general average damage is minimized wherever possible i.e. by reconditioning or sale of damaged cargo. Except in cases of extreme urgency or where communications are difficult, any significant action with regard to cargo (e.g. arranging for its sale at a Port of Refuge) must be taken in consultation with the concerned in cargo.

The authority and funds to make disbursements will generally come from the shipowner, usually via the master or the local agents. The GA surveyor therefore has no authority to order any particular course of action and his role is an advisory one. However, the GA surveyor’s impartial position and his influence on the eventual treatment of the expenditure will give his advice considerable weight with the other parties involved.

The GA surveyor should also be aware that several other surveyors may be in attendance on behalf of particular interests and that, for reasons of economy, duplication of reporting should be avoided. In the event of any doubt arising as to the depth of investigation required from the GA surveyor, the adjuster should be contacted for guidance. The GA surveyor is effectively appointed to act on behalf of the whole general average community, any of whom are generally entitled to view all his exchanges of correspondence and reports.



## 5 THE YORK-ANTWERP RULES 2016

### 5.1 Rule VI – Salvage

The wording of Rule VI paragraph (b) is new to the York Antwerp 2016. It arises from concerns that, if the ship and cargo have already paid salvage separately (for example under Lloyd's Open Form) based on salvaged values (at termination of the salvors' services), allowing salvage as general average and re-apportioning it over contributory values (at destination) may give rise to additional cost and delays, while making no significant difference to the proportion payable by each party.

A variety of measures to meet these concerns have been considered ranging from complete exclusion of salvage to using a fixed percentage mechanism. Such measures were found, during extensive CMI discussions, to produce inequitable results or were impossible to apply across the range of cases encountered in practice.

It was pointed out that many leading adjusters will, when appropriate, propose to the parties that if re-apportionment of salvage as general average will not produce a meaningful change in the figures or will be disproportionately costly, the salvage should be omitted from the adjustment; it is then up to the parties to decide whether it should be included or not. However, it was considered that a means should be found to make this practice more universal and to set out express criteria that would help to ensure that the allowance and re-apportionment of salvage as general average (where already paid separately by ship and cargo etc.) would only occur in cases where there was a sound equitable or financial basis for doing so.

The average adjusters will still be required to exercise their professional judgement in applying paragraph (b) because several of the criteria (i-v) that are listed require a view to be taken as to what should be deemed to be "significant" in the context of a particular case. Because of the wide range of cases that the York-Antwerp Rules apply to, it was not considered desirable to offer a fixed definition of how "significant" should be construed, other than to note that the objective of the new clause was to reduce the time and cost of the adjustment process where it is possible to do so.

When assessing whether there is a significant difference between settlements and awards for the purposes of Rule VI(b)(v) the adjuster should have regard only to the basic award or settlement against all salvaged interests before currency adjustment, interest, cost of collecting security and all parties' legal costs.

### 5.2 Rule XXII – Treatment of Cash Deposits

Under Rule XXII(b) the adjuster is required to hold deposits in a special account constituted in accordance with the law regarding holding client or third party funds that applies in the domicile of the appointed average adjuster.

Unless otherwise provided for by the applicable law, CMI recommends that any special account should have the following features:

- Funds should be held separately from the normal operating accounts of the adjuster.
- Funds should be protected in the event of liquidation or the cessation of the average adjuster's business.
- The holding bank should provide regular statements that show all transactions clearly.

## 6 AN OVERVIEW OF SALVAGE (INCLUDING LLOYD'S OPEN FORM)

In a situation of acute danger for ship and cargo it is essential that salvage services are rendered promptly and efficiently. Debating the legal and/or contractual basis of such services can lead to serious delay. Thus, tried and tested standard forms of salvage contracts are often resorted to, in order to:

- Clarify the terms on which salvage services are given.
- Define the duties of each party.
- Set up agreed procedures for the provision of security and the settlement and payment of the salvage award.

Lloyd's Open Form (LOF) is the form of salvage contract most widely encountered in practice; it reflects the provisions of the International Convention on Salvage 1989. It is a "No Cure No Pay" contract. If there is a successful outcome and a payment is due, it will reflect whether the operation turned out to be easy or difficult. Once property is safe, the owners of the property have to provide appropriate security but no payment is due until an award has been made or agreed. Shipowners must use their best endeavours to ensure that none of the property is released until security has been provided. Under general maritime law salvors have a maritime lien over the salvaged property for their remuneration until satisfactory security is provided. The property should therefore not be removed or delivered without the consent of salvors.

By getting security, it means the salvors are ensuring their claim is met in full regardless of the property owners' unwillingness or inability to pay.

Security can be provided in a number of ways:

- Lloyd's – security can be lodged with the Salvage Arbitration Branch at Lloyd's.
- ISU1 – salvors will often accept security by way of an ISU1 Guarantee. Salvors may require that insurers who wish to provide security in this format meet specific minimum standards in terms of recognised credit ratings etc.
- Cash deposit – usually held on account by the adjuster until the award is made or agreed. Any balance remaining after settlement of the salvage contribution is returned to the depositing party.

Once the salvage operation has been completed, the matter is referred to an independent arbitrator, appointed to make a fair award. However, many LOF and other salvage cases are settled commercially between the interested parties in order to avoid the time and costs of a full arbitration.

The LOF contract is subject to the International Convention on Salvage 1989 which also contains two articles (13 & 14) specifically dealing with remuneration paid to the salvors in respect of efforts taken to prevent or minimise damage to the environment. Awards made under Article 13 are paid by property insurers covering ship and cargo. Article 14 concerns an additional compensation to be paid by the shipowner or its P&I insurer in circumstances where the Article 13 award is deemed inadequate – for example when ship and/or cargo are a total loss. Article 14 claims are usually governed by the "Special Compensation P&I Clause" (SCOPIC).

**APPENDIX – GA SECURITY FORMS**

1. General Average Bond for Cargo
2. General Average Guarantee for Cargo
3. General Average Bond for Bunkers and/or Freight (if separately at Risk)
4. General Average Guarantee for Bunkers and/or Freight (if separately at Risk)

### GENERAL AVERAGE BOND - CARGO

(Wording approved by Comité Maritime International, International Union of Marine Insurance & International Chamber of Shipping)

This bond will not be accepted if any additions, deletions or amendments are made to it.

This bond is addressed to the owners of the ship named in box 1 and other parties to the common maritime adventure as their interests may appear.

#### PART 1 A – to be completed by or on behalf of the owners of the ship

1. Ship:	2. Casualty & Date:
3. Average Adjuster(s):  <div style="text-align: right;">(hereafter: "the Adjuster")</div>	
4. Law and Jurisdiction:	

#### PART 1 B – to be completed by or on behalf of the concerned in the cargo

5. Port of Shipment:	6. Port of Discharge:
7.(a) Bill of Lading Number(s):	7.(b) Container Number(s):
8. Quantity and Description of Property:  <div style="text-align: right;">(hereafter: "the Secured Property")</div>	
9. (Company) Name:	10. Address:
11. Telephone No.:	12. Email:
13. Name of Signatory:	14. Position of Signatory:
15. Signature:	16. Date:

(For conditions see Part 2.)

### PART 2

### CMI General Average Bond – Cargo

1. In consideration of the delivery in due course of the Secured Property to us or to our order, on payment of the freight due, I/we, the party named in box 9, hereby agree to pay to the owners of the ship named in box 1 or to the Adjuster on behalf of the various parties to the common maritime adventure, as their interests may appear, any contribution to General Average and/or Salvage and/or Special Charges which may hereafter be ascertained to be properly and legally due in respect of the Secured Property.
2. This bond will not take effect before arrival of all or part of the Secured Property at the port of discharge named in box 6 or other place where the common maritime adventure for the Secured Property ends.
3. The amount of this bond is limited in respect of general average contributions to the total contributory value of the Secured Property, as calculated by the Adjuster in accordance with the applicable York-Antwerp Rules.
4. This bond is without prejudice to any remedies or defences arising under the contract of carriage or otherwise. Without prejudice to the time available to rely upon any such remedies or defences these should be notified to the Adjuster within three months of the date of issue of the adjustment.
5. I/We further agree:
  - a) to make prompt payment(s) on account of such contribution as may be properly and legally due in respect of the Secured Property, as soon as the same may be recommended by the Adjuster. Any payment on account made is without prejudice to my/our liability under clause 1 in respect of the final adjustment. In respect of any payment on account I/we may require reasonable counter-security in like amount prior to payment;
  - b) to furnish promptly to the Adjuster particulars of the value and condition of the Secured Property, supported by a copy of the commercial invoice or, if there is no such invoice, details of the shipped value;
  - c) (i) that any dispute arising out of or in connection with this bond shall be governed by the law and subject to the exclusive jurisdiction specified in box 4. If nothing is stated in box 4 then English law shall apply and any dispute arising out of or in connection with this bond shall be referred to the High Court of Justice of England and Wales; and  
  
(ii) to nominate an address for service of proceedings in accordance with (i) within 21 days of a request to do so by any party to the common maritime adventure who may wish to pursue a claim under this bond;
  - d) that any period of prescription/limitation, whether provided by statute law, contract or otherwise, shall commence to run from the date upon which the general average adjustment is issued, unless otherwise provided in the applicable York-Antwerp Rules;
  - e) that the third and fourth paragraph of Rule G of the York-Antwerp Rules 2016 shall be deemed incorporated where the applicable York-Antwerp Rules do not contain a "non-separation agreement".
6. This bond is intended to create a legally binding obligation notwithstanding that it may be transmitted and stored solely in electronic form. It is hereby agreed that transmission of this bond to the Adjuster electronically constitutes good delivery to the owners of the ship named in box 1 and other parties to the common maritime adventure who wish to enforce this bond.

## GENERAL AVERAGE GUARANTEE - CARGO

(Wording approved by Comité Maritime International, International Union of Marine Insurance & International Chamber of Shipping)

This guarantee will not be accepted if any additions, deletions or amendments are made to it.

This guarantee is addressed to the owners of the ship named in box 1 and other parties to the common maritime adventure as their interests may appear.

This guarantee shall be valid and enforceable irrespective of the existence or terms of any separate undertakings given by the property owner and any provisions in the insurance on the property.

### PART 1 A – to be completed by or on behalf of the owners of the ship

1. Ship:	2. Casualty & Date:
3. Average Adjuster(s):  (hereafter: "the Adjuster")	
4. Law and Jurisdiction:	

### PART 1 B – to be completed by or on behalf of the insurers of the cargo

5. Port of Shipment:	6. Port of Discharge:
7.(a) Bill of Lading Number(s):	7.(b) Container Number(s):
8. Quantity and Description of Property:  (hereafter: "the Secured Property")	
9. Insured Value of Property:	10. Policy/Certificate No:
11. Insurance Company Name:	12. Address:
13. Telephone No.:	14. Email:
15. Name of Signatory:	16. Position of Signatory:
17. Signature:	18. Date:

(For conditions see Part 2.)

## PART 2

## CMI General Average Guarantee – Cargo

1. In consideration of the delivery in due course of the Secured Property to the consignees thereof without collection of a cash deposit, we, the insurers shown in box 11, hereby guarantee to pay to the owners of the ship named in box 1 or to the Adjuster on behalf of the various parties to the common maritime adventure, as their interests may appear, any contribution to General Average and/or Salvage and/or Special Charges which may hereafter be ascertained to be properly and legally due in respect of the Secured Property and payable without violating applicable economic or trade sanctions laws.
2. This guarantee will not take effect before arrival of all or part of the Secured Property at the port of discharge named in box 6 or other place where the common maritime adventure for the Secured Property ends.
3. The amount of this guarantee is limited in respect of general average contributions to the total contributory value of the Secured Property, as calculated by the Adjuster in accordance with the applicable York-Antwerp Rules.
4. This guarantee is without prejudice to any remedies or defences of the parties to the common maritime adventure arising under the contract of carriage or otherwise. Without prejudice to the time available to rely upon any such remedies or defences these should be notified to the Adjuster within three months of the date of issue of the adjustment.
5. We further agree:
  - a) to make prompt payment(s) on account of such contribution as may be properly and legally due in respect of the Secured Property, as soon as the same may be recommended by the Adjuster. Any payment on account made is without prejudice to our liability under clause 1 in respect of the final adjustment. In respect of any payment on account we may require reasonable counter-security in like amount prior to payment;
  - b) to furnish promptly to the Adjuster all information which is or may become available to us relative to the value and condition of the Secured Property;
  - c) (i) that any dispute arising out of or in connection with this guarantee shall be governed by the law and subject to the exclusive jurisdiction specified in box 4. If nothing is stated in box 4 then English law shall apply and any dispute arising out of or in connection with this guarantee shall be referred to the High Court of Justice of England and Wales; and  
(ii) to nominate an address for service of proceedings in accordance with (i) within 21 days of a request to do so by any party to the common maritime adventure who may wish to pursue a claim under this guarantee;
  - d) that any period of prescription/limitation, whether provided by statute law, contract or otherwise, shall commence to run from the date upon which the general average adjustment is issued, unless otherwise provided in the applicable York-Antwerp Rules;
  - e) that the third and fourth paragraph of Rule G of the York-Antwerp Rules 2016 shall be deemed incorporated where the applicable York-Antwerp Rules do not contain a "non-separation agreement".
6. This guarantee is intended to create a legally binding obligation notwithstanding that it may be transmitted and stored solely in electronic form. It is hereby agreed that transmission of this guarantee to the Adjuster electronically constitutes good delivery to the owners of the ship named in box 1 and other parties to the common maritime adventure who wish to enforce this guarantee.

**GENERAL AVERAGE BOND – BUNKERS / FREIGHT AT RISK**

*(Wording approved by Comité Maritime International, International Union of Marine Insurance & International Chamber of Shipping)*

This bond will not be accepted if any additions, deletions or amendments are made to it.

This bond is addressed to the owners of the ship named in box 1 and other parties to the common maritime adventure as their interests may appear.

**PART 1 A – to be completed by or on behalf of the owners of the ship**

1. Ship:	2. Casualty & Date:
3. Voyage	
4. Average Adjuster(s):  <p style="text-align: right;">(hereafter: "the Adjuster")</p>	
5. Law and Jurisdiction:	

**PART 1 B – to be completed by or on behalf of the concerned in the bunkers/freight**

6. Description of Interest(s):  <p style="text-align: right;">(hereafter: "the Secured Interest")</p>	
7. (Company) Name:	8. Address:
9. Telephone No.:	10. Email:
11. Name of Signatory:	12. Position of Signatory:
13. Signature:	14. Date:

**(For conditions see Part 2.)**

**PART 2**

**CMI General Average Bond – Bunkers / Freight**

1. In consideration of the owners of the ship not exercising a lien for general average contribution in respect of the Secured Interest, I/we, the party named in box 7, hereby agree to pay to the owners of the ship named in box 1 or to the Adjuster on behalf of the various parties to the common maritime adventure, as their interests may appear, any contribution to General Average and/or Salvage and/or Special Charges which may hereafter be ascertained to be properly and legally due in respect of the Secured Interest.
2. This bond will not take effect before the common maritime adventure ends.
3. The amount of this bond is limited in respect of general average contributions to the total contributory value of the Secured Interest, as calculated by the Adjuster in accordance with the applicable York-Antwerp Rules.
4. This bond is without prejudice to any remedies or defences arising under the contract of carriage or otherwise. Without prejudice to the time available to rely upon any such remedies or defences these should be notified to the Adjuster within three months of the date of issue of the adjustment.
5. I/We further agree:
  - a) to make prompt payment(s) on account of such contribution as may be properly and legally due in respect of the Secured Interest, as soon as the same may be recommended by the Adjuster. Any payment on account made is without prejudice to my/our liability under clause 1 in respect of the final adjustment. In respect of any payment on account I/we may require reasonable counter-security in like amount prior to payment;
  - b) to furnish promptly to the Adjuster particulars of the value and condition of the Secured Interest, supported by such documentation as may reasonably be requested by the Adjuster;
  - c) (i) that any dispute arising out of or in connection with this bond shall be governed by the law and subject to the exclusive jurisdiction specified in box 4. If nothing is stated in box 4 then English law shall apply and any dispute arising out of or in connection with this bond shall be referred to the High Court of Justice of England and Wales; and  
  
(ii) to nominate an address for service of proceedings in accordance with (i) within 21 days of a request to do so by any party to the common maritime adventure who may wish to pursue a claim under this bond;
  - d) that any period of prescription/limitation, whether provided by statute law, contract or otherwise, shall commence to run from the date upon which the general average adjustment is issued, unless otherwise provided in the applicable York-Antwerp Rules;
  - e) that the third and fourth paragraph of Rule G of the York-Antwerp Rules 2016 shall be deemed incorporated where the applicable York-Antwerp Rules do not contain a "non-separation agreement".
6. This bond is intended to create a legally binding obligation notwithstanding that it may be transmitted and stored solely in electronic form. It is hereby agreed that transmission of this bond to the Adjuster electronically constitutes good delivery to the owners of the ship named in box 1 and other parties to the common maritime adventure who wish to enforce this bond.

**GENERAL AVERAGE GUARANTEE - BUNKERS / FREIGHT AT RISK**

*(Wording approved by Comité Maritime International, International Union of Marine Insurance & International Chamber of Shipping)*

This guarantee will not be accepted if any additions, deletions or amendments are made to it.

This guarantee is addressed to the owners of the ship named in box 1 and other parties to the common maritime adventure as their interests may appear.

This guarantee shall be valid and enforceable irrespective of the existence or terms of any separate undertakings given by the property owner and any provisions in the insurance on the property.

**PART 1 A – to be completed by or on behalf of the owners of the ship**

1. Ship:	2. Casualty & Date:
3. Voyage:	
4. Average Adjuster(s):  <div style="text-align: right;"><small>(hereafter: "the Adjuster")</small></div>	
5. Law and Jurisdiction:	

**PART 1 B – to be completed by or on behalf of the insurers of the bunkers/freight**

6. Description of Interest(s)  <div style="text-align: right;"><small>(hereafter: "the Secured Interest")</small></div>	
7. Insured Value of the Interest(s):	8. Policy/Certificate No:
9. Insurance Company Name:	10. Address:
11. Telephone No.:	12. Email:
13. Name of Signatory:	14. Position of Signatory:
15. Signature:	16. Date:

**(For conditions see Part 2.)**

**PART 2**

**CMI General Average Guarantee – Bunkers / Freight**

1. In consideration of your refraining from requiring a cash deposit for general average contribution in respect of the Secured Interest, we, the insurers shown in box 9, hereby guarantee to pay to the owners of the ship named in box 1 or to the Adjuster on behalf of the various parties to the common maritime adventure, as their interests may appear, any contribution to General Average and/or Salvage and/or Special Charges which may hereafter be ascertained to be properly and legally due in respect of the Secured Interest and payable without violating applicable economic or trade sanctions laws.
2. This guarantee will not take effect before the common maritime adventure ends.
3. The amount of this guarantee is limited in respect of general average contributions to the total contributory value of the Secured Interest, as calculated by the Adjuster in accordance with the applicable York-Antwerp Rules.
4. This guarantee is without prejudice to any remedies or defences of the parties to the common maritime adventure arising under the contract of carriage or otherwise. Without prejudice to the time available to rely upon any such remedies or defences these should be notified to the Adjuster within three months of the date of issue of the adjustment.
5. We further agree:
  - a) to make prompt payment(s) on account of such contribution as may be properly and legally due in respect of the Secured Interest, as soon as the same may be recommended by the Adjuster. Any payment on account made is without prejudice to our liability under clause 1 in respect of the final adjustment. In respect of any payment on account we may require reasonable counter-security in like amount prior to payment;
  - b) to furnish promptly to the Adjuster all information which is or may become available to us relative to the value and condition of the Secured Interest;
  - c) (i) that any dispute arising out of or in connection with this guarantee shall be governed by the law and subject to the exclusive jurisdiction specified in box 4. If nothing is stated in box 4 then English law shall apply and any dispute arising out of or in connection with this guarantee shall be referred to the High Court of Justice of England and Wales; and  
  
(ii) to nominate an address for service of proceedings in accordance with (i) within 21 days of a request to do so by any party to the common maritime adventure who may wish to pursue a claim under this guarantee;
  - d) that any period of prescription/limitation, whether provided by statute law, contract or otherwise, shall commence to run from the date upon which the general average adjustment is issued, unless otherwise provided in the applicable York-Antwerp Rules;
  - e) that the third and fourth paragraph of Rule G of the York-Antwerp Rules 2016 shall be deemed incorporated where the applicable York-Antwerp Rules do not contain a "non-separation agreement".
6. This guarantee is intended to create a legally binding obligation notwithstanding that it may be transmitted and stored solely in electronic form. It is hereby agreed that transmission of this guarantee to the Adjuster electronically constitutes good delivery to the owners of the ship named in box 1 and other parties to the common maritime adventure who wish to enforce this guarantee.