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INTRODUCTION

**INTO THE CHANGES TO THE YORK-ANTWERP RULES 2016
IN COMPARISON TO
THE YORK-ANTWERP RULES 1994 AND 2004**

YORK-ANTWERP RULES 1994

RULE B

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

YORK-ANTWERP RULES 2016

RULE B

2. A vessel is not in common peril with another vessel or vessels if she disconnects from the other vessel or vessels and thereby places herself in safety; 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 all **each** of the vessels. Allowances in general average shall cease at the time that the common maritime adventure comes to an end.

YORK-ANTWERP RULES 2004

RULE B

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

YORK-ANTWERP RULES 1994

RULE E

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

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

YORK-ANTWERP RULES 2016

RULE E

2. All parties to the 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 - of such notified claim **thereof**.

3. Failing such notification, or if any party does not supply particulars in support of a notified claim or evidence of value in respect of a contributory interest within 12 months of the loss or payment of the expense, the average adjusters shall be at liberty to estimate the extent of the allowance or the contributory value on the basis of the information available to the adjuster. This estimate shall be communicated to the party in question in writing. This estimate may only be challenged within **2 two** months of receipt of the communication and only on the grounds that it is manifestly incorrect.

YORK-ANTWERP RULES 2004

RULE E

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

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

YORK-ANTWERP RULES 1994

RULE E

YORK-ANTWERP RULES 2016

RULE E

4. Any party to the 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 ~~2~~ **two** months of receipt of the recovery.

YORK-ANTWERP RULES 2004

RULE E

RULE G

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

RULE G

4. The proportion attaching to cargo of the allowances made in general average by reason of applying the third paragraph of this Rule shall not exceed the cost which would have been borne by the owners of cargo if the cargo had been forwarded at their expense.
This limit shall not ~~apply to~~ **include** any allowance made under Rule F.

RULE G

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

YORK-ANTWERP RULES 1994

RULE VI: SALVAGE REMUNERATION

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

YORK-ANTWERP RULES 2016

RULE VI: SALVAGE REMUNERATION

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

(b) Notwithstanding (a) above, where the parties to the 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 involving salvaged property.

YORK-ANTWERP RULES 2004

RULE VI: SALVAGE REMUNERATION

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

YORK-ANTWERP RULES 1994

RULE VI: SALVAGE REMUNERATION

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

YORK-ANTWERP RULES 2016

RULE VI: SALVAGE REMUNERATION

(iii) salvaged values are manifestly incorrect and there is a significantly incorrect apportionment of salvage expenses,

(iv) any of the parties to the salvage shall have paid all or any of the **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 cost of either the salvor or the contribution interest.}

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

YORK-ANTWERP RULES 2004

RULE VI: SALVAGE REMUNERATION

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

YORK-ANTWERP RULES 1994

RULE VI: SALVAGE REMUNERATION

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

YORK-ANTWERP RULES 2016

RULE VI: SALVAGE REMUNERATION

(d) Special compensation payable to a salvor by the shipowner under **Article** 14 of the ~~said~~ 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 payment as referred to in paragraph (a) of this Rule.

YORK-ANTWERP RULES 2004

RULE VI: SALVAGE REMUNERATION

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

YORK-ANTWERP RULES 1994

RULE X: EXPENSES AT PORT OF REFUGE, ETC.

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

YORK-ANTWERP RULES 2016

RULE X: EXPENSES AT PORT OF REFUGE, ETC.

(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., ***in which case*** ~~the provisions of Rule XI shall apply to the extra period of detention occasioned by such restowage.~~

YORK-ANTWERP RULES 2004

RULE X: EXPENSES AT PORT OF REFUGE, ETC.

(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.

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

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

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

(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.

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

YORK-ANTWERP RULES 1994

**RULE XI: WAGES AND MAINTENANCE
OF CREW AND OTHER EXPENSES
BEARING UP FOR AND IN A PORT
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YORK-ANTWERP RULES 2016

**RULE XI: WAGES AND MAINTENANCE
OF CREW AND OTHER EXPENSES
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OF REFUGE, ETC.**

YORK-ANTWERP RULES 2004

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

(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).

YORK-ANTWERP RULES 1994

RULE XIV: TEMPORARY REPAIRS

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

YORK-ANTWERP RULES 2016

RULE XIV: TEMPORARY REPAIRS

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

YORK-ANTWERP RULES 2004

RULE XIV: TEMPORARY REPAIRS

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

YORK-ANTWERP RULES 1994

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

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

YORK-ANTWERP RULES 2016

RULE XVI: AMOUNT TO BE MADE GOOD 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 inland delivery under the Contract of Carriage.

(ii) The value of the time of discharge shall include the cost of insurance and freight except insofar as such freight is at risk of interests other than the cargo.

YORK-ANTWERP RULES 2004

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

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

YORK-ANTWERP RULES 1994

RULE XVII: CONTRIBUTORY VALUES

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

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

YORK-ANTWERP RULES 2016

RULE XVII: CONTRIBUTORY VALUES

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

YORK-ANTWERP RULES 2004

RULE XVII: CONTRIBUTORY VALUES

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

(ii) The value of the 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.

YORK-ANTWERP RULES 1994

RULE XVII: CONTRIBUTORY VALUES

To these values shall be added the amount made good as general average for property sacrificed, if not already included, deduction being made from the freight and passage money at risk of such charges and crew's wages as would not have been incurred in earning the freight had the ship and cargo been totally lost at the date of the general average act and have not been allowed as general average; deduction being also made from the value of the property of all extra charges incurred in respect thereof subsequently to the general average act, except such charges as are allowed in general average or fall upon the ship by virtue of an award for special compensation under Art. 14 of the International Convention on Salvage, 1989 or under any other provision similar in substance.

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

YORK-ANTWERP RULES 2016

RULE XVII: CONTRIBUTORY VALUES

(b) To these values shall be added the amount allowed as general average for property sacrificed, if not already included, deduction being made from the freight and passage money at risk of such charges and crew's wages as would not have been incurred in earning the freight had the ship and cargo been totally lost at the date of the general average act and have not been allowed as general average; deduction being also made from the value of the property of all extra charges incurred in respect thereof subsequently to the general average act, except such charges as are allowed in general average. Where payment for salvage services has not been allowed as General Average by reason of Rule VI sub-paragraph b, deductions shall be limited to the amount paid to the salvors including interest and salvors' costs.

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

YORK-ANTWERP RULES 2004

RULE XVII: CONTRIBUTORY VALUES

b. To these values shall be added the amount allowed as general average for property sacrificed, if not already included, deduction being made from the freight and passage money at risk of such charges and crew's wages as would not have been incurred in earning the freight had the ship and cargo been totally lost at the date of the general average act and have not been allowed as general average; deduction being also made from the value of the property of all extra charges incurred in respect thereof subsequently to the general average act, except such charges as are allowed in general average or fall upon the ship by virtue of an award for special compensation under Art. 14 of the International Convention on Salvage, 1989 or under any other provision similar in substance.

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

YORK-ANTWERP RULES 1994

RULE XX: PROVISION OF FUNDS

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

YORK-ANTWERP RULES 2016

RULE XX: PROVISION OF FUNDS

DISALLOWED

YORK-ANTWERP RULES 2004

RULE XX: PROVISION OF FUNDS

RULE XXI: INTEREST ON LOSSES MADE GOOD IN GENERAL AVERAGE

RULE XXI: INTEREST ON LOSSES ALLOWED IN GENERAL AVERAGE

(b) The rate used for calculating interest accruing during each calendar year shall be the 12-month ICE LIBOR for the currency in which the adjustment is prepared as announced on 1 January of that calendar year, increased by 4%. If the adjustment is prepared in a currency for which no ICE LIBOR rate is announced, the rate shall be the 12-month US Dollar ICE LIBOR.

RULE XXI: INTEREST ON LOSSES ALLOWED IN GENERAL AVERAGE

b. Each year the Assembly of the Comité Maritime International shall decide the rate of interest which shall apply. This rate shall be used for calculating interest accruing during the following calendar year.

YORK-ANTWERP RULES 1994

RULE XXII: TREATMENT OF CASH DEPOSITS

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

YORK-ANTWERP RULES 2016

RULE XXII: TREATMENT OF CASH DEPOSITS

Where cash deposits have been collected by the average adjuster in respect of cargo's liability for general average, salvage or special charges, such deposits shall be paid without any delay into a special account, earning interest where possible, in the name of the average adjuster. The average adjuster shall issue a deposit receipt in respect of all deposits.

2. 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 with similar compliance with similar rules of law providing for the administration of the funds of third parties.

YORK-ANTWERP RULES 2004

RULE XXII: TREATMENT OF CASH DEPOSITS

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

YORK-ANTWERP RULES 1994

RULE XXII: TREATMENT OF CASH DEPOSITS

YORK-ANTWERP RULES 2016

RULE XXII: TREATMENT OF CASH DEPOSITS

YORK-ANTWERP RULES 2004

RULE XXII: TREATMENT OF CASH DEPOSITS

3. 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 payable by cargo 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 to in writing by the average adjuster and ~~advised~~ **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. Where refunds are due to the depositor, these may only be made upon surrender of the original deposit receipt.

