

ASSOCIATION OF  
**Average Adjusters**

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**Rules of Practice**

1997

(Amended 2008)

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## INTRODUCTION

In the middle of the 19th Century, when average adjusting as a separate profession was in its infancy, there was very little in the way of established law to guide the practising adjuster, and consequently many points of practice had to be decided in accordance with custom. Some of these customs were subsequently ratified by legal decisions, but others were disapproved, and it became evident that unless steps were taken to establish a reasonable measure of uniformity among average adjusters, the profession would fall into disrepute. Those wishing to read further on this topic are recommended to the addresses delivered from the Chair of the Association by Mr. Richard Lowndes (1873), Mr. Charles McArthur (1883) and the Right Hon. Lord Merrivale (1927), re-printed in "From the Chair", published by the Association in 1976.

It was to remedy this situation that the Association of Average Adjusters was founded in 1869, with the object, among others, of "the promotion of correct principles in the adjustment of Averages and uniformity of practice amongst average adjusters".

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

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

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

Since 1890, when the Customs of Lloyd's were reviewed and assimilated into the Rules of Practice, various new Rules and amendments to existing Rules have been adopted from time to time in order to regulate the practice of average adjusters in areas where the law is silent.

The procedure for establishing a Rule of Practice is as follows:

By the Rules of the Association, Representatives (who are appointed by Underwriting bodies as well as by Shipowners, Merchants and similar institutions) are entitled, equally with Members, on giving appropriate notice, to move resolutions intended to become Rules of Practice at any General Meeting of the Association. After discussion such resolution will be voted upon by Members, and if carried by the votes of a simple majority of the Members voting, it becomes a probationary Rule until the next following General Meeting. During the intervening period the probationary Rule is considered by the

Advisory Committee (or a Special Committee) of the Association, who may recommend its acceptance, rejection or amendment. At the next following General Meeting the probationary Rule, in the form approved by the Advisory Committee (or Special Committee), is again discussed, and if it is confirmed by a two-thirds majority, it becomes a Rule of Practice.

The Rules of Practice as printed herein are divided into six sections according to the subjects dealt with. The Rules relating to General Average appear in two sections:

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SECTION B

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Rules which affect the adjustment of general average or the duties of adjusters in all cases, whatever may be the basis of adjustment.

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SECTION F

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

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

The Rules which have been rescinded in the past are not printed herein, but the Index to the Reports of the Association shows where the text of any rescinded Rule may be found. Readers who are not in possession of the Association's printed Reports may obtain photocopies of the appropriate pages, on payment of a small fee, by application to the Secretary.

December, 1980 (amended 1997) N.G.H.

## RULES OF PRACTICE

### SECTION A – GENERAL RULES

#### A1 ADJUSTMENTS FOR THE CONSIDERATION OF UNDERWRITERS

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

*An earlier Rule of Practice dealing with this subject was accepted in 1875, confirmed in 1876, and rescinded in 1894/95. The text of the earlier Rule is printed in the report for 1876, p.12.*

#### A2 INTEREST AND COMMISSION FOR ADVANCING FUNDS

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

*See note under Rule A3.*

#### A3 AGENCY COMMISSION AND AGENCY

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

*An earlier Rule of Practice dealing with the subject of Agency fees chargeable by shipowners was accepted in 1879, confirmed in 1880, and rescinded in 1906/07, following the report of a Special Committee. The text of the earlier Rule is incorporated in the Committee's report, printed at 1906, p.21.*

#### A4 DUTY OF ADJUSTERS IN RESPECT OF COST OF REPAIRS

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

#### A5 CLAIMS ON SHIP'S MACHINERY

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That in all claims on ship's machinery for repairs, no claim for a new propeller or new shaft shall be admitted into an adjustment, unless the adjuster shall obtain and insert into his statement evidence showing what has become of the old propeller or shaft.

#### A6 WATER CASKS

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

#### A7 ADJUSTMENT: POLICIES OF INSURANCE AND NAMES OF UNDERWRITERS

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That no adjustment shall be drawn up showing the amount of payments by or to the underwriters, unless the policies or copies of the policies of insurance or certificates of insurance, for which the statement is required, be produced to the average adjusters. Such statement shall set out sufficient details of the underwriters interested and the amounts due on the respective policies produced.

*An earlier Rule of Practice dealing with this subject was accepted in 1889, confirmed in 1890, and rescinded in 1968/69. The text of the earlier Rule is printed in the report for 1890, p.33.*

#### A8 APPORTIONMENT OF COSTS IN COLLISION CASES

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

#### A9 FRANCHISE CHARGES

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

## SECTION B – GENERAL AVERAGE

### Rules of General Application

*Note: In this edition, the Rules relating to the adjustment of general average under English law and practice have been transferred to Section F.*

#### B1 BASIS OF ADJUSTMENT

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That in any adjustment of general average not made in accordance with British law it shall be prefaced on what principle or according to what law the adjustment has been made, and the reason for so adjusting the claim shall be set forth.

In all cases the adjuster shall give particulars in a prominent position in the average statement of the clause or clauses contained in the charter-party and/or bills of lading with reference to the adjustment of general average.

B2-B8 inclusive – transferred to section F.

#### B9 CLAIMS ARISING OUT OF DEFICIENCY OF FUEL

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

B10-B23 inclusive – transferred to section F.

#### B24 CONTRIBUTORY VALUE OF SHIP

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That in any adjustment of general average there shall be set forth the certificate on which the contributory value of the ship is based or, if there be no such certificate, the information adopted in lieu thereof, and any amount made good shall be specified.

#### B25 CONTRIBUTORY VALUE OF FREIGHT

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

*The first paragraph of Rule B25, dealing with the basis of adjustment under English law and practice, has been transferred to Section F and re-numbered F22.*

## B26 VESSEL IN BALLAST AND UNDER CHARTER: CONTRIBUTING INTERESTS

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For the purpose of ascertaining the liability of Underwriters on British policies of insurance, the following provisions shall apply:-

When a vessel is proceeding in ballast to load under a voyage charter entered into by the shipowner before the general average act, the interests contributing to the general average shall be the vessel, such items of stores and equipment as belong to parties other than the owners of the vessel (e.g. bunkers, wireless installation and navigational instruments) and the freight earned under the voyage charter computed in the usual way after deduction of contingent expenses subsequent to the general average act. Failing a prior termination of the adventure, the place where the adventure shall be deemed to end and at which the values for contribution to general average shall be calculated is the final port of discharge of the cargo carried under the charter but in the event of the prior loss of the vessel and freight, or either of them, the general average shall attach to any surviving interest or interests including freight advanced at the loading port deducting therefrom contingent expenses subsequent to the general average act.

When a vessel is proceeding in ballast under a time charter alone or a time charter and a voyage charter entered into by the time charterer, the general average shall attach to the vessel and such items of stores and equipment as are indicated above. Failing a prior termination of the adventure, the adventure shall be deemed to end and the values for contribution to general average calculated at the first loading port upon the commencement of loading cargo.

When the charter to which the shipowner is a party provides for York-Antwerp Rules, the general average shall be adjusted in accordance with those Rules and British law and practice and without regard to the law and practice of any foreign port at which the adventure may terminate; and in the interpretation of Rule XI it shall be immaterial whether the extra period of detention takes place at a port of loading, call or refuge, provided that the detention is in consequence of accident, sacrifice or other extraordinary circumstance occurring whilst the vessel is in ballast.

In practice neither time charter hire, as such, nor time charterer's voyage freight shall contribute to general average.

*The earliest Rule of Practice dealing with this subject was accepted in 1896, confirmed in 1897 and rescinded in 1926, when after reference to a Special Committee it was replaced by a new Rule, which was in its turn referred to a Special Committee in 1944 and rescinded in 1945/46. The text of the original Rule is printed in the report for 1897, pp.34/35 and the subsequent Rule in the report for November 1926, p.9.*

## B27 ULTERIOR CHARTERED FREIGHT: CONTRIBUTION TO GENERAL AVERAGE

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

#### B28 DEDUCTIONS FROM FREIGHT AT CHARTERER'S RISK

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

#### B29 FORWARDING CHARGES ON ADVANCED FREIGHT

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

#### B30 SACRIFICE FOR THE COMMON SAFETY: DIRECT LIABILITY OF UNDERWRITERS

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

*An earlier Rule of Practice dealing with this subject was accepted in 1874, confirmed in 1875 and rescinded in 1889. The text of this earlier Rule is printed in the report for 1875, p.18.*

#### B31 SACRIFICE OF SHIP'S STORES: DIRECT LIABILITY OF UNDERWRITERS

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That underwriters insuring ship's stores, bunker coal or fuel, destroyed or used as part of a general average operation, shall only be liable for those articles as a direct claim on the policy when they formed part of the property at risk at the time of the peril giving rise to the general average act.

#### B32 ENFORCEMENT OF GENERAL AVERAGE: LIEN BY SHIPOWNERS

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

### B33 UNDERWRITER'S LIABILITY

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If the ship or cargo be insured for more than its contributory value, the underwriter pays what is assessed on the contributory value. But where insured for less than the contributory value, the underwriter pays on the insured value; and when there has been a particular average for damage which forms a deduction from the contributory value of the ship that must be deducted from the insured value to find upon what the underwriter contributes.

This rule does not apply to foreign adjustments, when the basis of contribution is something other than the net value of the thing insured.

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

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

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

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

That in cases where the names of any underwriters are not to be ascertained on completion of the adjustment, notice be sent to the Secretary of Lloyd's, to the Institute of London Underwriters, to the Liverpool Underwriters' Association, and to the Association of Underwriters of Glasgow, notifying such interests as have not been appropriated to underwriters.

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

### B35 MEMORANDUM TO STATEMENTS SHOWING REFUNDS IN RESPECT OF GENERAL AVERAGE DEPOSITS

That the following memorandum shall appear at the end of statements which show refunds to be due in respect of General Average Deposits, viz:

Memorandum – Refunds of general average deposits shown in this statement should only be paid on production of the original deposit receipts.

### B36 INTEREST ON DEPOSITS

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

### B37 APPORTIONMENT OF INTEREST ON AMOUNTS MADE GOOD

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

## SECTION C – YORK-ANTWERP RULES

### C1 SALVAGE SERVICES RENDERED UNDER AN AGREEMENT

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Expenses for salvage services rendered by or accepted under agreement shall in practice be treated as general average provided that such expenses were incurred for the common safety within the meaning of Rule “A” of the York-Antwerp Rules 1924 or York-Antwerp Rules 1950.

*An earlier Rule of Practice dealing with this subject was accepted in 1927, confirmed in 1928, and rescinded in 1942/43. The text of the earlier Rule is printed in the report for 1928, p.32.*

### C2 COMMISSION ALLOWED UNDER YORK-ANTWERP RULES

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

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

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

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

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

## SECTION D – DAMAGE AND REPAIRS TO SHIP

### D1 EXPENSES OF REMOVING A VESSEL FOR REPAIR

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1. For the purpose of ascertaining the reasonable cost of repairs, and subject to any express provisions in the policy, where a vessel is at any port place or location (hereinafter referred to as ‘port’) and is necessarily or reasonably removed to some other port for the purpose of repairs, either because the repairs cannot be effected at the first port, or cannot be effected prudently, the additional expenses reasonably incurred by the shipowner in removing the vessel (other than any expenses allowable in general average) shall be treated as part of the reasonable cost of repairs.
2. (a) Where the vessel after repairing forthwith returns to the port from which she was removed, the expenses incurred both in removing the vessel to the port of repair and in returning shall be treated as part of the expenses of removal.  
(b) Where the vessel loads a new cargo at the port of repair or proceeds thence to some other port for the same purpose, the expenses shall be calculated as though, but for the repairs, the vessel had previously been engaged to proceed direct from the port from which she was removed to the loading port.  
(c) Where, immediately following a casualty, or upon completion of the voyage on which the casualty occurred, the vessel is removed solely to enable repairs to be effected which are essential for continued trading, the expenses may, at the owners’ option, be calculated only for the single passage to the repair port.
3. (a) The expenses of removal shall include, inter alia, the cost of any necessary temporary repairs, wages and provisions of crew and/or runners, pilotage, towage, extra marine insurance, port charges, bunkers and stores.  
(b) Where by moving the vessel to or from the port of repair any new freight or hire is earned, such net earnings shall be deducted from the expenses of removal.
4. The expenses of removing the vessel for repair shall be charged as follows:
  - (a) Where the vessel is removed to the port of repair as an immediate consequence of damage for the repair of which underwriters are liable, or the vessel is necessarily taken out of service especially to effect repairs arising from that damage, the whole cost of removal shall be treated as part of the cost of repairing that damage, notwithstanding that the shipowner may have taken advantage of the removal to carry out survey for classification purposes or to effect other average repairs or repairs on his own account.

However, where the vessel is removed for owners’ purposes, other than a routine overhaul as in 4(b) below, or as an immediate consequence of damage for which underwriters are not liable, no part of the cost of removal shall be charged to underwriters, notwithstanding that repairs for which they are liable may be carried out at the port of repair.

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

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

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

#### D3 RIGGING CHAFED

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

#### D4 SAILS SPLIT OR BLOWN AWAY

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

#### D5 DRY DOCK EXPENSES

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1. That, in practice, where repairs, for the cost of which underwriters are liable, are necessarily effected in dry dock as an immediate consequence of the casualty, or the vessel is taken out of service especially to effect such repairs in dry dock, the cost of entering and leaving the dry dock, in addition to so much of the dock dues as is necessary for the repair of the damage, shall be chargeable in full to the underwriters, notwithstanding that the shipowner may have taken advantage of the vessel being in dry dock to carry out survey for classification purposes or to effect repairs on his account which are not immediately necessary to make the vessel seaworthy.
- 2.(a) Where repairs on Owners' account which are immediately necessary to make the vessel seaworthy and which can only be effected in dry dock are executed concurrently with other repairs, for the cost of which underwriters are liable, and which also can only be effected in dry dock,
  - (b) Where the repairs, for the cost of which underwriters are liable, are deferred until a routine dry-docking and are then executed concurrently with repairs on Owners' account which require the use of the dry dock, whether or not such Owners' repairs affect the seaworthiness of the vessel,

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

3. Sub-division between underwriters of the proportion of dry-docking expenses chargeable to them shall be made on the basis of voyages, and/or such other franchise units as are specified in the policies.
4. In determining whether the franchise is reached the whole cost of dry-docking necessary for the repair of the damage, less the proportion (if any) chargeable to Owners when Section (a) of paragraph 2 applies, shall be taken into consideration, notwithstanding that there are other damages to which a portion of the cost of dry-docking has to be apportioned in ascertaining the amount actually recoverable.

*An earlier Rule of Practice dealing with this subject was accepted in 1891, confirmed in 1892, and amended in 1903/4 after reference to a Special Committee. It was again referred to a Special Committee in November 1926, further amended in 1927/28, and rescinded in 1970/71. The texts are printed in the reports for 1892, p.28; 1904, p.42 and 1928, p.31.*

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

1. That, in practice, where repairs, for the cost of which underwriters are liable, require the tanks to be rough cleaned and/or gas-freed as an immediate consequence of the casualty, or the vessel is taken out of service especially to effect such repairs, the cost of such rough cleaning and/or gas-freeing shall be chargeable in full to the underwriters, notwithstanding that the shipowner may have taken advantage of the vessel being rough cleaned and/or gas-freed to carry out survey for classification purposes or to effect repairs on his account which are not immediately necessary to make the vessel seaworthy.
2. (a) Where repairs on Owners' account which are immediately necessary to make the vessel seaworthy and which require the tanks being rough cleaned and/or gas-freed are executed concurrently with other repairs, for the cost of which underwriters are liable, and which also require the tanks being rough cleaned and/or gas-freed,  
  
(b) Where the repairs, for the cost of which underwriters are liable, are deferred until a routine dry-docking or repair period, at which time repairs on Owners' account which also require the tanks being rough cleaned and/or gas-freed are effected, whether or not such Owners' repairs affect the seaworthiness of the vessel,

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

3. The cost of fine cleaning specifically for a particular repair or particular repairs shall be divided in accordance with the principles set forth above.
4. Sub-division between underwriters of the proportion of rough tank cleaning and/or gas-freeing and/or fine cleaning chargeable to them shall be made on the basis of voyages, and/or such other franchise units as are specified in the policies.
5. In determining whether the franchise is reached the whole cost of rough cleaning and/or gas-freeing and/or fine cleaning necessary for the repair of the damage, less the proportion (if any) chargeable to Owners when Section (a) of paragraph 2 applies, shall be taken into consideration, notwithstanding that there are other damages to which a portion of the cost of rough tank cleaning and/or gas-freeing and/or fine cleaning has to be apportioned in ascertaining the amount actually recoverable.

#### D7 PARTICULAR AVERAGE ON SHIP: DEDUCTION OF ONE THIRD

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

Anchors are allowed in full. Chain cables are subject to one-sixth only.

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

The rule applies to iron as well as to wooden ships, and to labour as well as material. It does not apply to the expense of straightening bent ironwork, and to the labour of taking out and replacing it. It does not apply to graving dock expenses and removals, cartages, use of shears, stages, and graving dock materials.

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

#### D8 SCRAPING AND PAINTING

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Where the Policy includes a Clause to the effect that:

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

- (a) Gritblasting and/or other surface preparation of new bottom plates ashore and supplying and applying any “shop” primer thereto
- (b) Gritblasting and/or other surface preparation of:
  - (i) the butts or area of plating immediately adjacent to any renewed or refitted plating damaged during the course of welding and/or repairs

- (ii) areas of plating damaged during the course of fairing, either in place or ashore
- (c) Supplying and applying the first coat of primer/anticorrosive to those particular areas mentioned in (a) and (b) above

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

## SECTION E – PARTICULAR AVERAGE ON GOODS

### E1 ADJUSTMENT ON BONDED PRICES

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In the following cases it is customary to adjust particular average on a comparison of bonded, instead of duty-paid prices:

In claims for damage to tea, tobacco, coffee, wine, and spirits imported into this country.

### E2 ADJUSTMENT OF AVERAGE ON GOODS SOLD IN BOND

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

### E3 APPORTIONMENT OF INSURED VALUE OF GOODS

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

### E4 ALLOWANCE FOR WATER AND/OR IMPURITIES IN PICKED COTTON

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When bales of cotton are picked, and the pickings are sold wet, the allowance for water in the pickings (where there are no means of ascertaining it) is by custom fixed at one-third. There is a similar custom to deduct one-sixth from the gross weight of pickings of country damaged cotton to take account of dirt, moisture and other impurities.

### E5 ALLOWANCE FOR WATER IN CUT TOBACCO

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

### E6 ALLOWANCE FOR WATER IN WOOL

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

## SECTION F – GENERAL AVERAGE ADJUSTMENT UNDER ENGLISH LAW AND PRACTICE

### F1 DECKLOAD JETTISON

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

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

### F2 DAMAGE BY WATER USED TO EXTINGUISH FIRE

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

### F3 EXTINGUISHING FIRE ON SHIPBOARD

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

*The earliest Rule of Practice dealing with this subject entitled "Damage caused by water thrown upon burning goods" was accepted in 1874, confirmed in 1875, and rescinded in 1968/69.*

*It was then replaced by a Rule under the present title which was in its turn rescinded in 1974/75. The text of the original Rule is printed in the report for 1875, p.22 and the subsequent Rule in the report for 1968, pp.18/19.*

### F4 VOLUNTARY STRANDING

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Where a ship is intentionally run on shore for the common safety, whether or not she might have been driven on shore, the consequent loss or damage shall be allowed as general average.

*The original Custom of Lloyd's under this heading, amended in 1876, was rescinded in 1968/69. The text of the Custom is printed, as confirmed as a Rule of Practice, in the report for 1891, p.69.*

### F5 EXPENSES LIGHTENING A SHIP WHEN ASHORE

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

F6 SAILS SET TO FORCE A SHIP OFF THE GROUND

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

F7 STRANDED VESSELS: DAMAGE TO ENGINES IN GETTING OFF

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

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

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

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

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

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

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

F11 INSURANCE ON CARGO DISCHARGED UNDER AVERAGE

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

## F12 EXPENSES AT A PORT OF REFUGE

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

- (a) All cost of towage, pilotage, harbour dues, and other extraordinary expenses incurred in order to bring the ship and cargo into a place of safety, are general average. Under the term "extraordinary expenses" are not included wages or victuals of crew, coals, or engine stores, or demurrage.
- (b) The cost of discharging the cargo, whether for the common safety, or to repair the ship, together with the cost of conveying it to the warehouse, is general average.

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

- (c) The warehouse rent, or other expenses which take the place of warehouse rent, of the cargo when so discharged, is, except as under, a special charge on the cargo.
- (d) The cost of reloading the cargo, and the outward port charges incurred through leaving the port of refuge, are, when the discharge of cargo falls in general average, a special charge on freight.
- (e) The expenses referred to in clause (d) are charged to the party who runs the risk of freight – that is, wholly to the charterer – if the whole freight has been prepaid; and, if part only, then in the proportion which the part prepaid bears to the whole freight.
- (f) When the cargo, instead of being sent ashore, is placed on board hulk or lighters during the ship's stay in port, the hulk-hire is divided between general average, cargo, and freight, in such proportions as may place the several contributing interests in nearly the same relative positions as if the cargo has been landed and stored.

## F13 TREATMENT OF COSTS OF EXTRAORDINARY DISCHARGE

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

## F14 TOWAGE FROM A PORT OF REFUGE

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

#### F15 CARGO FORWARDED FROM A PORT OF REFUGE

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

#### F16 CARGO SOLD AT A PORT OF REFUGE

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That if a ship be in a port of refuge at which it is practicable to repair her so as to enable her to carry on the whole cargo, or such portion of it as is fit to be carried on, but, in order to save expense, the cargo, or a portion of it, be, with the consent of the owners of such cargo, sold at the port of refuge, then the loss by sale including loss of freight on cargo so sold (up to the amount of expense saved) shall be divided in proportion to the saving of expense thereby occasioned to the several parties to the adventure; provided always that the amount so divided shall in no case exceed the cost of transhipment and/or forwarding referred to in the preceding rule of the Association.

#### F17 INTERPRETATION OF THE RULE RESPECTING SUBSTITUTED EXPENSES

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

#### F18 DAMAGE TO CARGO, FUEL AND STORES IN DISCHARGING ETC.

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

*A Custom of Lloyd's concerning cargo discharged at a port of refuge was rescinded in 1890/91, and an earlier Rule of Practice adopted in 1883 and confirmed in 1884 was rescinded in 1968/69. The text of the earlier Rule is printed in the report for 1884, p.37.*

#### F19 DEDUCTIONS FROM COST OF REPAIRS IN ADJUSTING GENERAL AVERAGE

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

apparatus and equipment, machinery and boilers for which the deductions shall be regulated by the age of the particular parts to which they apply.

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

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

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

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

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

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

#### F21 BASIS OF CONTRIBUTION TO GENERAL AVERAGE

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

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

#### F22 CONTRIBUTORY VALUE OF FREIGHT

That freight at the risk of the shipowner shall contribute to general average upon its gross amount, deducting such charges and crew's wages as would not have been incurred in earning the freight had the ship and cargo been totally lost at the date of the general average act and have not been allowed as general average.

## UNIFORMITY RESOLUTION

### YORK-ANTWERP RULES 1924: APPLICATION OF RULE XIV

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

## PROBATIONARY RULE OF PRACTICE

### SALVAGE PAYMENTS – RULE VI OF THE YORK-ANTWERP RULES 2004

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For the purpose of applying Rule VI of the York-Antwerp Rules 2004 the term ‘salvage payments’ shall be interpreted to mean payments made in respect of salvage services and for which there is contractual and/or legal provision for apportionment and payment between the salvaged interests upon termination of the salvaged services independent of the York-Antwerp Rules 2004.

*Following the publication of the York Antwerp Rules 2004, concerns were expressed regarding a possible ambiguity in the wording of the new Rule VI regarding Salvage. A Probationary Rule of Practice was proposed in May 2005 based on the findings of a Working Party and this has been reviewed annually. However, Fellows have not yet encountered sufficient cases involving Rule VI of York Antwerp Rules 2004 to enable them to determine whether this should be confirmed as a full Rule of Practice.*