

# 2004 年約克安特衛普規則

## THE YORK-ANTWERP RULES 2004

### Y.A. Rules 2004

#### 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.

#### 序言規則

於理算共同海損時，下列規則適用任何與之不一致之法律及習慣。

除至上規則及數字規則另有規定外，共同海損理算應依文字規則理算之。

#### Rule Paramount

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

#### 至上規則

除非為合理所為或發生之犧牲或費用，無論如何均不得有任何補償。

#### 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.

#### 規則 A

1. 於或僅於共同海事冒險中遭遇海難，為共同安全及保存之目的，故意及合理所為或所發生任何非常犧牲或費用為共同海損行為。
2. 共同海損之犧牲及費用，應由各利害關係人，依後開規定之基準負擔之。

#### 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.
2. When measures are taken to preserve the vessels and their cargoes, if any, from a common peril, these Rules shall apply.
3. 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.

#### 規則 B

1. 一艘或多艘船拖帶或推頂另一船舶或數船舶為共同海事冒險，然這些船舶均應涉及商業活動而非救助作業。
2. 於共同危險中，任何保存船舶及其貨物(如有)之措施被採取時，適用本規則。
3. 當一船與其他處於安全情況之另一船舶或數船舶完全脫離時，該船舶即不在與該另一船舶或數船舶處於共同危險之中。但如脫離本身本為共同海損行為者，則共同海事冒險繼續之。

#### Rule C

#### 規則 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 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 claiming in general average shall give notice in writing to the average adjuster of the loss or expense in respect of which they claim contribution within 12 months of the date of the termination of the common maritime adventure.  
Failing such notification, or if within 12 months of a request for the same any of the parties shall fail to supply evidence in support of a notified claim, or particulars of value in respect of a contributory interest, the average adjuster shall be at liberty to estimate the extent of the allowance or the contributory value on the basis of the information available to him, which estimate may be challenged only on the ground that it is manifestly incorrect.

#### Rule F

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

#### Rule G

1. General average shall be adjusted as regards both loss and contribution upon the basis of values at the time and place

1. 僅限於共同海損行為所直接發生之滅失、毀損或費用，得認為共同海損。
2. 對於從涉及共同海事冒險之財產上所洩漏或排出污染性物質而對環境損害或因其所發生損失、損害或費用均不得認為共同海損。
3. 因遲延，無論於航程中或其後航程，所遭受之延滯費、市場損失、及任何損失或損害或所發生之費用，及任何間接之損失，均不得被認定為共同海損。

#### 規則 D

共同海損之犧牲或費用，即使其發生原因係為共同冒險中某方過失所致，其在共同海損中應受分攤之權利並不受影響；但任何對其有關該項過失之索償或抗辯之行使，並不因之有所妨礙。

#### 規則 E

1. 請求共同海損之人應負舉證之責，以證明其所索償之損失或費用可被認定為共同海損。
2. 所有請求共同海損之人應於共同海事冒險終止日起十二個月內將其所請求分攤之損失或費用，以書面通知海損理算師。

疏於通知、或被要求提供證明以證其已通知之請求或有關分攤利益之價值細目之人，未於被請求提供該同樣資料之十二個月內者，海損理算師可以其可運用之資料自行估算可補償之範圍或分攤價值，而該估算僅於有重大錯誤時始得異議。

#### 規則 F

任何可替代得認為共同海損費用所發生之附加費用，應視為共同海損，而不論其對其他利害關係人是否有所減省，但僅以所避免之共同海損費用數額為限。

#### 規則 G

1. 有關共同海損損失及分攤之理算，均應以冒險終了地/時之價值為基準理算之。

when and where the adventure ends.

2. This rule shall not affect the determination of the place at which the average statement is to be made up.
  3. When a ship is at any port or place in circumstances which would give rise to an allowance in general average under the provisions of Rules X and XI, and the cargo or part thereof is forwarded to destination by other means, rights and liabilities in general average shall, subject to cargo interests being notified if practicable, remain as nearly as possible the same as they would have been in the absence of such forwarding, as if the adventure had continued in the original ship for so long as justifiable under the contract of affreightment and the applicable law.
  4. The proportion attaching to cargo of the allowances made in general average by reason of applying the third paragraph of this Rule shall not exceed the cost which would have been borne by the owners of cargo if the cargo had been forwarded at their expense.
2. 本原則不影響海損理算書製作地點之決定。
  3. 當某船於任何港口或地點依規則 X 及 XI 之規定可受共同海損補償，而其上貨物或部份以其他方式轉運至目的地時，於儘能夠地通知貨物利害關係人之情況下，其於共同海損之權利及責任應儘量地維持如同貨物未被轉運般之同樣情況，即只要依運送契約及可適用之法律認為有理由，就如同冒險於原本船舶繼續。
  4. 因適用本規則第 3 項而被認定為貨方共同海損之部份，不應超過貨物所有人以其自己之費用轉運般所應負擔之成本。

### 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.

### 規則 I 貨物之投棄

經投棄之貨物，不應**被認定**為共同海損，但係依照已承認之貿易習慣裝運者除外。

### 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.

### 規則 II 為共同安全之犧牲所致之損失或毀損

為共同安全所為之犧牲或其後果所致及為共同安全之投棄目的所為之開艙或其他開口，而使水侵入致涉及共同海事冒險之財產之損失或毀損，均得**被認定**為共同海損。

### 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.

### 規則 III 熄滅船火

為熄滅船上火災，而由於水或其他情況，包括將著火船隻駛上淺灘或鑿沉所致船舶及貨物或其一之毀損，均得**被認定**為共同海損；但因任何煙燻所致或該火之熱度所致之毀損，不得受**補償**。

### Rule IV Cutting away wreck

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

### 規則 IV 割斷殘餘物

凡前經意外被沖走或實際已滅失之殘餘物或船舶部份，其割棄所蒙受之滅失或毀損，均不得**被認定**為共同海損。

### Rule V Voluntary stranding

When a ship is intentionally run on shore for the common

### 規則 V 自願擱淺

船舶為共同安全而故意駛上岸灘所致對

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

## Rule VI Salvage remuneration

- a. Salvage payments, including interest thereon and legal fees associated with such payments, shall lie where they fall and shall not be allowed in General Average, save only that if one party to the salvage shall have paid all or any of the proportion of salvage (including interest and legal fees) due from another party (calculated on the basis of salvaged values and not General Average contributory values), the unpaid contribution to salvage due from that other party shall be credited in the adjustment to the party that has paid it, and debited to the party on whose behalf the payment was made.
- b. Salvage payments referred to in paragraph (a) above shall include any salvage remuneration in which the skill and efforts of the salvors in preventing or minimising damage to the environment such as is referred to in Art.13 paragraph 1(b) of the International Convention on Salvage 1989 have been taken into account.
- c. Special compensation payable to a salvor by the ship owner under Art. 14 of the said Convention to the extent specified in paragraph 4 of that Article or under any other provision similar in substance (such as **Scopic**) shall not be allowed in General Average and shall not be considered a salvage payment as referred to in paragraph (a) of this Rule.

## Rule VII Damage to machinery and boilers

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

## 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 materials and stores used for fuel

於涉及共同海事冒險財產之毀損滅失，無論船舶是否可能被迫上岸，得認為共同海損。

## 規則 VI 救助報酬

- a. 救助費用，包括其所生之利息及與該費用有關之法律費用，應由其所應負擔之人支付之，而不被認定為共同海損；惟如救助之一方已支付其他人(依救助價值基礎，而非共同海損分擔價值，加以計算)到期應支付救助分擔之全部或一部(包括利息及法律費用)時，於理算書中應將該款項記貸與支付該款項之一方，並記借與其所被代替其支付之各他方。
- b. 前述(a)項所述及之救助費用，應包括任何救助人以其技術或努力為防止或減輕對環境損害之救助報酬，例如應將1989年國際救助公約第13條第1(b)項加以考慮。
- c. 船舶所有人依該公約第14條第4項或任何其他實質上之類似條款之規定(例如特別補償金防護及補償協會條款)而應支付給救助人之特別補償金，不得被認定為共同海損且不應被認定為本規則前述a項所述及之救助費用。

## 規則 VII 機器及鍋爐之毀損

船舶擱淺於岸上並處於危難時，為共同安全而冒任何機器鍋爐將受毀損之危險試圖重行浮起船舶，而於試圖浮起時造成任何機器鍋爐毀損，得認為共同海損；但當船舶漂浮，使用推動機器及鍋爐所致之滅失或毀損，在任何情況下均不得被認定為共同海損。

## 規則 VIII 減輕擱淺船舶載重之費用及附隨之損害

船舶擱淺於岸灘，其貨物及船舶之燃料、供應或其一，以共同海損行為起卸時，減輕積載、租用駁船、重裝(如有發生)等額外費用，及因其所附隨對於涉及該共同海事冒險之財產之任何滅失或毀損，均得被認定為共同海損。

## 規則 IX 貨物、船舶物料或供應被用為燃料

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 refuse, 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 or 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 of refuge because repairs cannot be carried out in the first port or place, the provisions of this Rule shall be applied to the second port or **place of refuge** as if it were a port or place of refuge and the cost of such removal including temporary repairs and towage shall be **allowed** as general average. The provisions of Rule XI shall be applied to the prolongation of the voyage occasioned by such removal.
- b.
- (i) The cost of handling on board or discharging cargo, fuel or stores whether at a port or place of loading, call or refuge, shall be **allowed** as general average, when the handling or discharge was necessary for the common safety or to enable damage to the ship caused by sacrifice or accident to be repaired, if the repairs were necessary for the safe prosecution of the voyage, except in cases where the damage to the ship is discovered at a port or place of loading or call without any accident or other extraordinary circumstances connected with such damage having taken place during the voyage.
  - (ii) The cost of handling on board or discharging cargo, fuel or stores shall not be **allowable** as general average when incurred solely for the purpose of restowage due to shifting during the voyage, unless such restowage is necessary for the common safety.
- c. Whenever the cost of handling or discharging cargo, fuel or stores is **allowable** as general average, the costs of storage, including insurance if reasonably incurred, reloading and stowing of such cargo, fuel or stores shall likewise be **allowed** as general average. The provisions of Rule XI

於海難中為共同安全，必須被使用為燃料之貨物、船舶之物料及供應或其一，**得被認定為**共同海損，然於補償該船舶物料或供應之成本時，共同海損應扣抵為進行預定航程所應消耗之估計燃油成本。

#### 規則 X 避難港之費用等項

- a.
- (i) 因意外、犧牲或其他非常情況，為共同安全所必需，而使船舶駛入避難港或地點或折返其裝貨港或地點時，其駛入是項港口或地點之費用得**被認定為**共同海損；是項駛入或折返之後，如船舶自彼處載運原貨或原貨之一部航行，則其駛離該港口或地點之相對費用，亦得同樣**被認定為**共同海損。
  - (ii) 當船舶在其他**避難港**或地點，由於在該第一港口或地點無法進行修理而必須移往其他港口或地區時，本條之規定得適用此第二港口或地點，一如其為**避難港**或地區，此項移動費用，包括臨時修理及拖帶在內，均可**被認定為**共同海損。規則 XI 規定得適用此項移動而致之延長航程。
- b.
- (i) 無論在裝貨港、靠泊港或避難港或地點之船上搬移或卸下貨物、燃料及供應之費用，均得**被認定為**共同海損；但以是項整理或卸下，為共同安全所必需，或使船舶因犧牲或意外所致損害得能安全繼續其航程而為必要之修理者為限，但如在裝貨港或靠泊港或地點發現船舶毀損，然於航程中並未發生任何與此損害有關連之意外或其他非常情況者除外。
  - (ii) 如於航程中因貨物移動而為重新堆載者，船上所發生之搬移或卸下貨物、燃料及供應之費用，不得**被認定為**共同海損。但如該重新堆載係為共同安全所必需者除外。
- c. 貨物、燃料及供應之搬移或卸下費用得**被認定為**共同海損時，是項貨物、燃料及供應之存倉、重裝及堆放費用，包括合理發生之保險費在內，亦得同樣**被認定為**共同海損。規則 XI 規定適用於該

shall be applied to the extra period of detention occasioned by such reloading or restowing.

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

#### **Rule XI. Wages and maintenance of crew and other expenses putting in to a port of refuge, etc.**

- a. Wages and maintenance of master, officers and crew reasonably incurred and fuel and stores consumed during the prolongation of the voyage occasioned by a ship entering a port or place of refuge or returning to her port or place of loading shall be **allowed** as general average when the expenses of entering such port or place are allowable in general average in accordance with Rule X(a).
- b. **For the purpose of this and the other Rules wages shall include all payments made to or for the benefit of the master, officers and crew whether such payments be imposed by law upon the shipowners or be made under the terms of articles of employment.**
- c.
- (i) When a ship shall have entered or been detained in any port or place in consequence of accident, sacrifice or other extraordinary circumstances which render that necessary for the common safety, or to enable damage to the ship caused by sacrifice or accident to be re-paired, if the repairs were necessary for the safe prosecution of the voyage, fuel and stores consumed during the extra period of detention **in such port or place until the ship shall or should have been made ready to proceed upon her voyage**, shall be **allowed** as general average, except such fuel and stores as are consumed in effecting repairs not allowable in general average.
  - (ii) Port charges incurred during the extra period of detention shall likewise be **allowed** as general average except such charges as are incurred solely by reason of repairs not allowable in general average.
  - (iii) Provided that when damage to the ship is discovered at a port or place of loading or call without any accident or other extraordinary circumstance connected with such damage having taken place during the voyage, then fuel and stores consumed and port charges incurred during the extra detention for repairs to damages so discovered shall not be admissible as general average, even if the repairs are necessary for the safe-prosecution of the voyage.
  - (iv) When the ship is condemned or does not proceed on her original voyage, fuel and stores consumed and port charges shall be admitted as general average only up to the date of the ship's condemnation or of the abandonment of the voyage or up to the date of

重裝或重新堆放所生之額外之滯留期間。

但當船舶無法或不行駛原航程時，則以無法或放棄原航程之日為止，或至貨物完全卸載之日(該無法或放棄發生在該日之前)為止之存倉費用得**被認定為**共同海損。

#### **規則 XI 駛往及於避難港等船員之薪金給養及其他費用**

- a. 如船舶駛入避難港或地點或折返其裝貨港或地點之費用，依規則 X 第(a)項可認為共同海損時，則因此項駛入避難港或地點或折返其裝貨港或地點所生航程延長期間所合理發生之船長、船員及水手之薪金及給養、以及所消耗之燃料及供應，均得**被認定為**共同海損。
- b. **本條或其他各條所謂之薪金，包括船舶所有人依法或於雇用條件或條款規定，所有給付船長、船員及水手及為彼等利益而支付之款項。**
- c.
- (i) 因意外、犧牲或其他為共同安全所必需之非常情況，或為對犧牲或意外所致船舶之毀損得能安全繼續航程所為必要修理，而使船舶駛入或被阻留於任何港口或地點時，**於該港或地點以迄船舶準備或應準備繼續其航程之額外滯留期間所消耗之燃料及供應，可被認定為**共同海損，但進行修理期間之燃料及供應消耗，不應認為共同海損。
  - (ii) 於該額外滯留期間所發生之港埠費用亦可認為共同海損，但該項港埠費用完全修理所生者，不應認為共同海損。
  - (iii) 於裝貨港或停泊港或地點發現船舶毀損，然於航程中並未發生任何與此損害有關連之意外或其他非常情況者，則為修理該發現毀損之額外滯留時間之船長、船員及水手之薪金及給養、所消耗之燃料及供應、及所發生之港口費用，均不得認為共同海損，即使該修理為安全繼續航程所必要者亦同。
  - (iv) 但當船舶無法或不行駛原航程時，則以無法或放棄原航程之日為止，或至貨物完全卸載之日(該無法或放棄發生在該日之前)為止之船長、船員及水手之該薪

completion of discharge of cargo if the condemnation or abandonment takes place before that date.

- d. The cost of measures undertaken to prevent or minimise damage to the environment shall be allowed in general average when incurred in any or all of the following circumstances:
- (i) as part of an operation performed for the common safety which, had it been undertaken by a party outside the common maritime adventure, would have entitled such party to a salvage reward;
  - (ii) as a condition of entry into or departure from any port or place in the circumstances pre-scribed in Rule X(a);
  - (iii) as a condition of remaining at any port or place in the circumstances prescribed in **Rule XI(b)**, provided that when there is an actual escape or release of pollutant substances the cost of any additional measures required on that account to prevent or minimise pollution or environmental damage shall not be allowed as general average;
  - (iv) necessarily in connection with the discharging, storing or reloading of cargo whenever the cost of those operations is **allowable** as general average.

### Rule XII Damage to cargo in discharging, etc.

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

### Rule XIII. Deductions from cost of repairs

- a. Repairs to be allowed in general average shall not be subject to deductions in respect of "new for old" where old material or parts are replaced by new unless the ship is over fifteen years old in which case there shall be a deduction of one third. The deductions shall be regulated by the age of the ship from the 31st December of the year of completion of construction to the date of the general 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 deduction shall be made in respect of provisions, stores, anchors and chain cables. Drydock and slipway dues and costs of shifting the ship shall be allowed in full.
- c. The costs of cleaning, painting or coating of bottom shall not be allowed in general average unless the bottom has been painted or coated within the twelve months preceding the date of the general average act in which case one half

金及給養、所消耗之燃料料及供應、及港口費用，均可認為共同海損。

- d. 為預防或減輕對環境損害所採行措施之成本，為下列之一或全部所發生者，可認為共同海損：
- (i) 為共同海事冒險以外之人所進行，而為共同安全作業進行之部份而該人享有救助報酬者；
  - (ii) 於規則 X 第(a)項規定之情況，作為進入或離開任何港口或地點之條件者；
  - (iii) 於規則 X 第(b)項規定之情況，作為停留於任何港口或地點之條件者，然當有實際洩漏或排出污染性物質時，任何被要求去預防或減輕污染或環境損害之額外措施之成本，不應認為共同海損；
  - (iv) 與貨物卸載、堆存或重裝有必要關連者，而無論該作業成本是否可被認定為共同海損。

### 規則 XII 卸貨所致毀損

貨物、燃料或供由於其搬移、卸載、入棧、重裝及堆存所遭受之毀損及滅失，得被認定為共同海損，但以或僅以前述各項措施之費用被認定為共同海損者為限。

### 規則 XIII 修理費用之扣減

- a. 凡認為共同海損之修理，以新材料或零件更換舊有者，對此「新換舊」均不予扣減，但如船舶已逾十五年者，應按三分之一扣減。此項扣減船齡依據，以船舶建造完成當年之十二月三十一日起，至共同海損行為日計算之。但如為獨立個體、救生艇或類似小艇、通訊及航行儀器及設備、機器及鍋爐等之扣減，則以其個別零件使用之年數為準。
- b. 此項扣減僅以已完成並準備裝於船上之新材料或零件成本為之。凡糧食、供應、錨鏈等均得不予扣減。乾塢及船架費及移船費用，均全部認為共同海損。
- c. 船底清除、上漆或護漆之成本，不認為共同海損。但如船底於共同海損行為之日前十二個月內，曾經油漆或護漆者，則上述費用之一半，得認為共同海損。

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 adventure to be completed, the cost of such repairs shall be **allowed** as general average without regard to the saving, if any, to other interests, but only up to the saving in expense which would have been incurred and allowed in general average if such repairs had not been effected there. **Provided that, for the purposes of this paragraph only, the cost of temporary repairs falling for consideration shall be limited to the extent that the cost of temporary repairs effected at the port of loading, call or refuge, together with either the cost of permanent repairs eventually effected or, if unrepaired at the time of the adjustment, the reasonable depreciation in the value of the vessel at the completion of the voyage, exceeds the cost of permanent repairs had they been effected at the port of loading, call or refuge.**
- c. No deductions "new for old" shall be made from the cost of temporary repairs allowable as general average.

#### Rule XV Loss of freight

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

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

#### Rule XVI Amount to be allowed for cargo lost or damaged by sacrifice

- a. The amount to be **allowed** as general average for damage to or loss of cargo sacrificed shall be the loss which has been sustained thereby based on the value at the time of discharge, ascertained from the commercial invoice rendered to the receiver or if there is no such invoice from the shipped-value. The value at the time of discharge shall include the cost of insurance and freight except insofar as such freight is at the risk of interests other than the cargo.
- b. When cargo so damaged is sold and the amount of the damage has not been otherwise agreed, the loss to be **allowed** in general average shall be the difference between the net proceeds of sale and the net sound value as computed in the first paragraph of this Rule.

#### 規則 XIV 臨時修理

- a. 為共同安全或為共同海損犧牲所致之毀損，船舶在裝貨港、靠泊港或避難港進行臨時修理時，該項修理費用得**被認定為共同海損**。
- b. 如意外毀損臨時修理之進行僅為使冒險得以完成者，則不問是否對其他關係人可能有所節省(如有)，其臨時修理費用得**被認定為共同海損**；但只以如不在該處進行是項修理，即會發生及被認為共同海損所節省之費用為限。然僅為本項規定之目的，應納入考量之臨時修理成本，應限於裝載港、停靠港或避難港所實施之臨時修理成本，以及最終所進行之永久修理成本，或如於理算當時尚未修理，則為航程完成前船舶價值之合理折舊，超過於裝載港、停靠港或避難港所實施之永久修理成本之部分。
- c. 認為共同海損之臨時修理費用將不為「新換舊」之扣減。

#### 規則 XV 運費損失

貨物毀損或滅失所致之運費損失，得**被認定為共同海損**，無論是項貨物之毀損或滅失係因共同海損行為所致或可**被認定為共同海損**。

運費損失總額內，應扣減船舶所有人為賺取此項運費必須支付，但因犧牲之結果而無須支付之費用。

#### 規則 XVI 犧牲而致或滅失或毀損之受償額

- a. 貨物因犧牲而蒙受毀損或滅失，得**被認定為共同海損**之數額，應以貨物卸貨時之價值為基礎，並以送交受貨人之商業發票，或如無該發票時，則以裝船價值確定之。卸貨時價值，包括保險費及運費，但如運費係由貨物以外之其他關係人承擔風險者除外。
- b. 如受損貨物被出售，且受損金額未有其他約定時，則以出售淨所得與按本條前項規定計算之完好淨值之差額，為可**被認定為共同海損**之損失。



## Rule XVII. Contributory values

- a.
- (i) The contribution to a general average shall be made upon the actual net values of the property at the termination of the adventure except that the value of cargo shall be the value at the time of discharge, ascertained from the commercial invoice rendered to the receiver or if there is no such invoice from the shipped value.
  - (ii) The value of the cargo shall include the cost of insurance and freight unless and insofar as such freight is at the risk of interests other than the cargo, deducting therefrom any loss or damage suffered by the cargo prior to or at the time of discharge.
  - (iii) The value of the ship shall be assessed without taking into account the beneficial or detrimental effect of any demise or time charterparty to which the ship may be committed.
- b. To these values shall be added the amount **allowed** as general average for property sacrificed, if not already included, deduction being made from the freight and passage money at risk of such charges and crew's wages as would not have been incurred in earning the freight had the ship and cargo been totally lost at the date of the general average act and have not been allowed as general average; deduction being also made from the value of the property of all extra charges incurred in respect thereof subsequently to the general average act, except such charges as are allowed in general average or fall upon the ship by virtue of an award for special compensation under Art.14 of the International Convention on Salvage, 1989 or under any other provision similar in substance.
- c. In the circumstances envisaged in the third paragraph of Rule G, the cargo and other property shall contribute on the basis of its value upon delivery at original destination unless sold or otherwise disposed of short of that destination, and the ship shall contribute upon its actual net value at the time of completion of discharge of cargo.
- d. Where cargo is sold short of destination, however, it shall contribute upon the actual net proceeds of sale, with the addition of any amount **allowed** as general average.
- e. Mails, passengers' luggage, personal effects and accompanied private motor vehicles shall not contribute to general average.

## Rule XVIII Damage to ship

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

- a. When repaired or replaced,  
The actual reasonable cost of repairing or replacing such damage or loss, subject to deductions in accordance with Rule XIII;
- b. When not repaired or replaced,  
The reasonable depreciation arising from such damage or

## 規則 XVII 分攤價值

- a.
- (i) 除貨物之價值為卸貨時，以送交受貨人之商業發票所確定之價值，或如無該發票時，則為裝船價值外，共同海損所應分攤之價值，應為冒險終止時財物之實際淨價值。
  - (ii) 卸貨時之價值，包括保險費及運費，並扣除貨物於卸貨前或當時所遭受任何之滅失或毀損，但如運費係由貨物以外之其他關係人承擔風險者除外。
  - (iii) 評估船舶之價值時，對船舶已有之光船租船或論時傭船契約所有之利益或損害，均不予考慮。
- b. 前項所述之價值，應加上因財物犧牲可**被認定為**共同海損之數額；如其補償額尚未包括在內，則於共同海損行為之日，如船貨全部滅失，無須支付為賺取運費之費用及船員薪金，應由危險中之運費或客票中扣減，且不得認為共同海損。共同海損行為後發生之額外費用，亦應自有關財物價值中扣減，但得認為共同海損之部份或由於依 1989 年國際救助公約第 14 條特別補償金之判斷或任何其他本質之類似規定加諸該船舶者除外。
- c. 規則 G 第 3 項所設想之情況，貨物及其他財產應以原目的地之交貨價值基礎分攤之，除非未抵達該目的地時被售出或為其他處置，船舶應以其完成卸貨時之實際淨價值分攤之。
- d. 貨物於目的地前出售，則以出售淨所得加上任何自**被認定為**共同海損之數額為分攤。
- e. 郵件、旅客行李、私人物品及其伴隨之機動交通工具，均不分攤共同海損。

## 規則 XVIII 船舶之毀損

因共同海損行為所致船舶、其機器及/或索具毀損或滅失，得認為共同海損之數額如下：

- a. 已修理或更換者  
應為該毀損或滅失之實際合理修理或更換之成本，並依規則 XIII 之規定予以扣減。
- b. 未經修理或更換者  
因該毀損或滅失所造成之合理折舊，但

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

#### **Rule XIX Undeclared or wrongfully declared cargo**

- a. Damage or loss caused to goods loaded without the knowledge of the Shipowner or his agent or to goods wilfully misdescribed at time of shipment shall not be allowed as general average, but such goods shall remain liable to contribute, if saved.
- b. Damage or loss caused to goods which have been wrongfully declared on shipment at a value which is lower than their real value shall be contributed for at the declared value, but such goods shall contribute upon their actual value.

#### **Rule XX Provision of funds**

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

#### **Rule XXI. Interest on losses allowed in general average**

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.

**Each year the Assembly of the Comite Maritime International shall decide the rate of interest which shall apply. This rate shall be used for calculating interest accruing into the following calendar year.**

#### **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

不得超過所估計之修理費用。如船舶實際全損，或毀損修理成本將超過修理後船舶之價值時，得認為共同海損之金額應為扣減不屬共同海損毀損之估計費用後之船舶估計完好價值，與船舶毀損情況下之價值之差額，船舶毀損情況下之價值，可以其出售之淨所得為準(如有)。

#### **規則 XIX 未申報或不實申報之貨物**

- a. 所裝載之貨物未為船舶所有人或其代理人所知悉，或於裝運時故意謊報者，其毀損或滅失不得認為共同海損；但是項貨物如被保全時，仍應分攤共同海損。
- b. 貨物於裝運時為不實價值之聲明，致申明價值低於其實際價值者，其毀損或滅失之受補償額應以其申報價值計算，但其應負分攤責任則應照其實際價值計算。

#### **規則 XX 基金款項之供給**

- a. 為募集支付共同海損費用之基金而變賣貨物之所有人所蒙受之主要損失，可得認為共同海損。
- b. 投保共同海損費用之成本，亦得被認定為共同海損。

#### **規則 XXI 得被認定為共同海損之損失利息**

共同海損之費用、犧牲及補償，可補償利息，計至海損理算書發行日後三個月為止，但已由分攤關係人或自海損保證金中之任何暫付款應予扣減。

**國際海事委員會大會每年應決定應適用之利息利率。該利率應用於計算下一年度之利息。**

#### **規則 XXII 現金保證金之處理**

貨物為共同海損、救助費用或特別費用所負擔之責任，所繳納之現金保證金，是項保證金應毫不遲延地以船舶所有人所指定之代表及繳付保證金之人所指定之代表之聯合名義，支付並存入雙方認可銀行之特別帳戶內。此項保證金及其可能獲得之利息(如有)，即係該繳付保證金之貨物對共同海損、救助費用或特別費用負擔部份支付之保證。暫付款或保證金之退還悉

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.

憑海損理算師書面證明為之、但此項保證金及其支付或退還應不損及與各關係人之最終責任。

**Rule XXIII Time-bar for contributions to general average**

**規則 XXIII 共同海損分攤之時效期間**

a. subject always to any mandatory rule on time limitation contained in any applicable law:

a. 於適用任何可適用法律所規定有關時效期間之任何強制規定情況下：

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

(i) 主張共同海損分攤之人如未於共同海損理算書刊行後一年期間內提起訴訟者，共同海損分攤之任何權利，包括共同海損擔保及保證書之任何權利主張，均應消滅。且在任何情況下，共同海事冒險終了日之六年後，即不得再行提起訴訟請求。

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

(ii) 該期間於共同海事冒險終了後，得經當事人同意而延長。

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

b. 於共同海損當事人與其保險人間，本規則不適用之。