

# “New Rules and Regulations with a Marine Insurance Impact” York-Antwerp Rules 2016 – Jonathan Spencer

- Comité Maritime International is custodian; YAR was a central topic of the CMI’s May 2016 New York conference
- YAR 2016 adopted after extensive consultative process
  - Questionnaire to stakeholders
  - Record number of responses
  - No support for abolition
- Consensus from industry – BIMCO, ICS, IUMI

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- Principal changes—
  - Streamlining
  - Modernizing
  - Financial issues
  - Clarifications
  - Salvage
- Guidelines

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- Streamlining the process
  - Average adjusters are now empowered to estimate values and allowances – estimates may only be challenged if they are ‘manifestly incorrect’ (RULE E.2)
  - Parties pursuing and/or achieving recoveries must advise the average adjuster (RULE E.4)
  - Low-value cargo may be excluded (RULE XVII(a)(ii))

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- Modernizing
  - deduction “new for old” which is made from the cost of repairs to sacrificial damage to the vessel, has been amended to allow half the costs of bottom painting if the ship had been painted within the 24 months preceding the date of the general average act – previously 12 months (RULE XIII)

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- Financial issues
  - Advancing commission no longer allowable – previously 2% (RULE XX)
  - General average interest, fixed at 7% under YAR 1994, now ICE LIBOR plus 4 percentage points – for 2016 = 5.16925% (RULE XXI)
  - GA deposit funds now held by average adjuster (RULE XXII)

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- Clarifications

- Tug and tow – when is disconnection a GA act (RULE B)
- Under non-separation agreement, Bigham cap only applies to reforwarding expenses (RULE G.4)
- Meaning of ‘port charges’ clarified following “Trade Green” decision - 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 (RULE XI(c)(ii))

*Trade Green* [2000] 2 Lloyd’s Rep. 451, 456

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- Salvage (RULE VI) – now GA where
  - i. subsequent accident results in loss or damage to property that results in significant difference between salvaged and contributory values
  - ii. there are significant general average sacrifices
  - iii. salvaged values are manifestly incorrect and there is a significantly incorrect apportionment of salvage expenses

(cont.)

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- Salvage (RULE VI) (cont.) – now GA where
  - iv. any of the parties to the salvage has paid a significant proportion of salvage due from another party
  - v. a significant proportion of the parties have satisfied the salvage claim on substantially different terms, no regard being had to interest, currency correction or legal costs of either the salvor or the contributing interest.



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- Guidelines; not part of the Rules but a supplement giving the target audience – insurer’s claims handler, cargo receiver’s logistics manager – general background information including
  - Explanation of GA
  - Specimen adjustment
  - GA security procedures
  - Documentation required by the adjuster

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- Guidelines will be continuously reviewed by a Standing Committee comprising—
  - A Chairman nominated by the Assembly of CMI
  - A representative nominated by the International Chamber of Shipping
  - A representative nominated by the International Union of Marine Insurance
  - Five additional members nominated by the Assembly of CMI
- Currently working on recommended General Average security wordings
- Next CMI conference – September 2017 in Genoa

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**QUESTIONS?**

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