Demystifying general average and collision liability claims

Heather Robinson & Andrew Slade
Fellows of the Association of Average Adjusters
Workshop agenda

• General average, and summary of facts
• Adjustment of general average
• Adjustment of collision liabilities & recoveries
General average
General average: basic concept

“That which has been sacrificed for the benefit of all shall be made good by the contribution of all.”

• Whether or not there is a GA is a question of fact.

• Pre-dates, and exists independently of insurance.
General average: Rule A criteria

1. Extraordinary sacrifice or expenditure
2. Reasonably made or incurred
3. Intentional / voluntary
4. Common safety
5. Peril
6. Common maritime adventure
"Capricorn": voyage with bulk coal, India to China

Collision in Malaysian waters, after passing Singapore

Damage to hull of "Capricorn"

Is there a general average?

What is the basis of adjustment?
“Capricorn” towed into Singapore

Oil boom required by port as a condition of entry

Temporary repairs necessary for the common safety were carried out

Completes voyage to China, then proceeds for repairs.
Selected Rules

- Rule Paramount

- Lettered Rules (general provisions)
  - Rule A: definition of general average
  - Rule C: direct consequences and exclusions

- Numbered Rules (specific examples & exclusions)
  - Rule 6: salvage remuneration
  - Rule 10: expenses at port of refuge, etc.
  - Rule 11: expenses bearing up for & in a port of refuge etc.
  - Rule 14: temporary repairs
Adjustment

Task: prepare an adjustment of general average and particular average
Adjustment

Task:

• Apportion the general average,

• apply the claim to the H&M policy, and

• show the balance in general average
Collision liabilities & recoveries
Contents

• Introduction (security, jurisdiction, limitation)
• Cl.8 ITC-Hulls 1/10/83
• Single liability settlements
• Cross liability / recovery
• Example collision liability / recovery adjustment
• Treatment of costs
Introduction

- Security
- Jurisdiction
- Limitation
**Agreed claims & single liability**

- Settlement at law.
- Owner with greater liability makes a single payment to the other side.

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<tbody>
<tr>
<td><strong>Taurus pays</strong></td>
<td></td>
<td></td>
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<tr>
<td>Agreed claim of Capricorn</td>
<td>1,694,464.03</td>
<td></td>
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<tr>
<td>at Taurus's ppn of blame</td>
<td>30%</td>
<td>508,339.21</td>
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<tr>
<td><strong>Capricorn pays</strong></td>
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<tr>
<td>Agreed claim of Taurus</td>
<td>440,000.00</td>
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<tr>
<td>at Capricorn's ppn of blame</td>
<td>70%</td>
<td>308,000.00</td>
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<tr>
<td>Taurus pays on balance single liability settlement of</td>
<td></td>
<td>200,339.21</td>
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Clause 8 ITCH 1/10/83

Covers 3/4ths of:

- Loss or damage
- Delay
- GA and Salvage of any other vessel or property thereon
- Legal costs in contesting liability, or taking proceedings to limit liability (up to the full insured value).

Excludes:

- Removal of wrecks, obstructions etc
- Real / personal property except other vessels or property thereon.
- Cargo on / engagements of insured vessel.
- Loss of life, injury, illness.
- Pollution, contamination (except other vessels with which the insured vessel is in collision).
Cross liabilities

- Where neither side has limited their liability at law, then the policy provides that the claim is adjusted on a cross liabilities basis.

- For the purposes of the policy claim therefore the reality of the cash settlement between shipowners is ignored.

- Assumes that two separate ‘notional’ payments are made by the owners of each vessel.
Adjustment

Task: prepare a schedule of the “Capricorn” recovery against “Taurus”
Task: prepare an adjustment of recovery and collision liabilities
Treatment of costs

- Divided between:
  1) General
  2) Defence
  3) Recovery

- General costs: AAA Rule of Practice A8 on treatment
- Defence costs: form a claim on underwriters under clause 8
- Recovery costs: attach to different categories of recovery made from the other side.
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