

Richards Hogg Lindley

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

Richards Hogg Lindley

General average



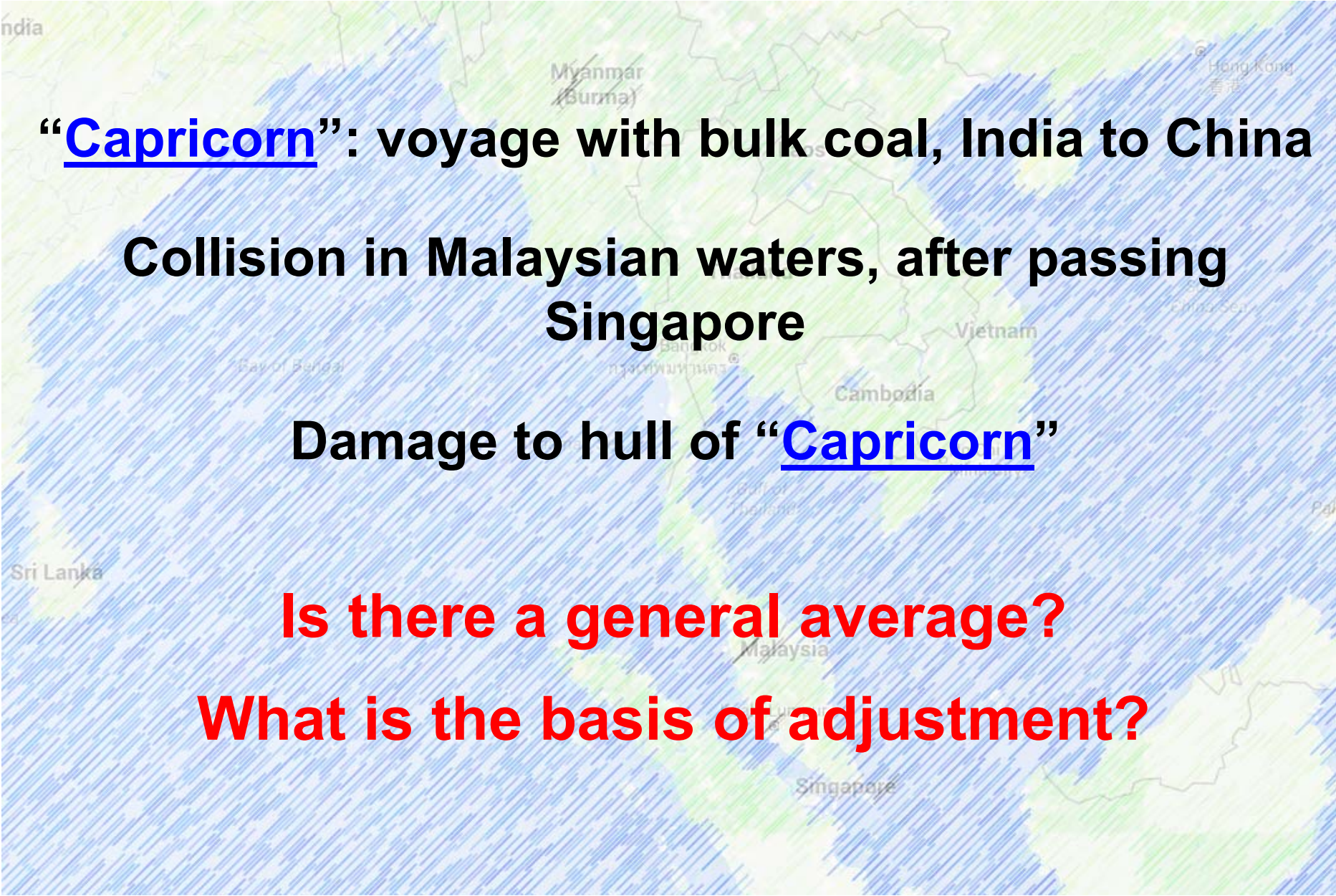
General average: basic concept

“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

A map of Southeast Asia and surrounding regions, including India, Myanmar (Burma), Hong Kong, China, Vietnam, Cambodia, Thailand, Malaysia, Singapore, and Sri Lanka. The map is overlaid with a blue and white diagonal grid pattern.

“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?

A map of Southeast Asia and surrounding regions, including India, Myanmar (Burma), Laos, Thailand, Vietnam, Cambodia, Malaysia, Singapore, and Hong Kong. The map is overlaid with a blue and green grid pattern.

“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**

Richards Hogg Lindley

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.

<u>Taurus pays</u>		
Agreed claim of Capricorn	<u>1,694,464.03</u>	
at Taurus's ppn of blame	<u>30%</u>	508,339.21
<u>Capricorn pays</u>		
Agreed claim of Taurus	<u>440,000.00</u>	
at Capricorn's ppn of blame	<u>70%</u>	308,000.00
Taurus pays on balance single liability settlement of		200,339.21

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”

Adjustment

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.

Richards Hogg Lindley

Demystifying general average and collision liability claims

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

