



# THE ASSOCIATION OF AVERAGE ADJUSTERS OF THE UNITED STATES AND CANADA

## Study Syllabus – Marine Hull Claims Professional

The following syllabus is intended solely as a suggested study guide for those planning to take the examination for Marine Hull Claims Professional membership in the Association. The Membership Committee is under no obligation to confine its examination to the material included herein.

### 1. Common policy forms

- American Institute Hull Clauses (June 2, 1977)
- American Institute Hull Clauses (September 29, 2009)
- American Institute Hull War Risks & Strikes (December 1, 1977) plus addendum dated April 1, 1984
- American Institute Increased Value & Excess Liabilities (November 3, 1977)
- Institute Time Clauses – Hulls (October 1, 1983 and November 1, 1995)
- International Hull Clauses (November 1, 2003)
- Institute Fishing Vessel Clauses (July 20, 1987)
- Nordic Marine Insurance Plan of 2013

*Canadian candidates additionally will be required to demonstrate knowledge of:*

- CBMU Great Lakes Hull Clauses (September 1, 1971)
- Canadian Hulls (Pacific) Clauses, (June 15, 2005)

*US candidates additionally will be required to demonstrate knowledge of:*

- American Institute Tug Form (August 1, 1976)
- American Institute Great Lakes Hull Clauses (March 9, 1978)
- Taylor Form (1953 rev. 1970)
- Pacific Coast Tug/Barge form (1979)
- Protection & Indemnity (SP-23 and SP-38)

### 2. Special Clauses

- American Hull Insurance Syndicate Liner Negligence Clause (June 2, 1977)
- General Average Absorption Clauses
- Liner Repair Clauses
- Aggregate Deductibles (Annual or other)

### 3. Statutes, Rules of Practice

- Rules of Practice of the Association of Average Adjusters of the United States and Canada, adopted September 30, 2015, confirmed October 5, 2015.
- York-Antwerp Rules 1974
- York-Antwerp Rules 1994
- York-Antwerp Rules 2004
- York-Antwerp Rules 2016
- Marine Insurance Act 1906 (UK)

*Canadian candidates additionally will be required to demonstrate knowledge of:*

- Marine Insurance Act, S.C. 1993
- Marine Liability Act, S.C. 2001



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### 4. Other Contracts

- Average Agreement/Bond
- General Average Guarantee (also deposits)
- Lloyds Open Form 2011

### 5. Special Subjects

- Reasonable cost of repairs
- Common charges
- Unrepaired damage
- Sue & Labor charges
- General Average – basis of apportionment and liability
- General Average – increased value and claim on Increased Value policy
- Total Loss & Abandonment
- Bottom painting
- Proximate cause / Death Blow Theory
- Salvage awards, life salvage
- Collision liability
- Aggregate Deductible (Annual or other)
- Removal Expenses

### 6. Legal Cases - US candidates:

- *Potter v. Ocean*  
Established the legal basis for ballast GA under US law.
- *Ralli v. Troop*  
There are numerous cases defining the degree of peril necessary to create a general average situation. This case cites “imminent peril over the whole”. See also *Star of Hope* below.
- *United States v. Atlantic Mutual Insurance Co. (1936)*  
Established that a claim for general average contribution accrues and is enforceable when a ship arrives at destination and discharges her cargo, not at the time of adjustment.
- *United States v. Reliable Transfer Co. Inc.*  
Brought US law into line with that of other maritime nations by imposing the doctrine of comparative fault in collision cases.
- *The “George W. Roby”*  
Supports the theory that innocent claimants have priority in limitation funds arising out of collision.
- *The “J.P. Donaldson”*  
Decision states that “any right of contribution in general average cannot extend beyond the barge and her cargo” in Tug and Tow cases.



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### 6. Legal Cases - US candidates: (Cont'd)

- *The “Jason”*  
Upheld the validity of the general average negligence clause in charter parties.
- *The “Pennsylvania”*  
Places the burden of proof in limitation proceedings on the petitioner.
- *The “Star of Hope”*  
There are numerous cases defining the degree of peril necessary to create a General Average situation. This case cites “danger imminent and apparently inevitable”. See also *Ralli v. Troop* above.
- *The “Union Reliance”*  
The cost of wreck removal is a charge against the wreck and its cargo can be sold to defray the costs.
- *The “West Imboden”*  
A sacrifice made in the mistaken belief that a peril existed does not constitute a general average act.
- *East River Steamship Corp. v. Transamerica Delaval*  
Bars tort actions in products liability cases where the loss is purely economic. Plaintiff must show that the defective product caused injury or damage to persons or other property, i.e., the product is entitled to injure itself only.
- *The Armar*  
Provides formula for calculating unrepaired damage claim. The court took the damaged value of the vessel as compared to the sound value and found a depreciation percentage which was applied to the insured value. The cost of repairs fell within the limitation imposed by the formula and thus was recoverable in full.

### 7. Legal Cases - Canadian candidates:

- *Zavarovalna Skupnost Triglav (Insurance Community Triglav Ltd.) v. Terrasses Jewelers Inc. [1983]*  
This decision confirmed that marine insurance is a part of the maritime law over which the Federal court has jurisdiction under heading of “navigation and shipping” in the Constitution Act.
- *Transport Desgagnés Inc. v. Wartsila Canada Inc., 2015 QCCS 5514, 2017 QCCA 1471 (2017-10-04)*  
Further definition of Canadian Maritime Law; whether provincial legislation is constitutionally applicable to the sale of parts for a marine engine.
- *Bamcell II - Century Insurance v. Case Existological Laboratories Ltd., [1983]*  
Regarding Perils of the seas and concurrent causes of loss limiting the risk; distinction between a policy term which is a suspensive condition and not a true warranty.



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#### 7. Legal Cases - Canadian candidates: (Cont'd)

- *“La Pointe” - C.C.R. Fishing v. British Reserve Insurance Co. [1990]*  
Regarding perils of the seas and proximate cause and remote cause
- *Peracomo Inc. v. Telus Communications Co. [2014]*  
Limitation of liability and conduct which constitutes an exclusion of coverage. Differing standards of fault between Marine Liability under the Convention and the exclusion of insurance coverage for wilful misconduct.
- *“The Point Levy” - Ultramar Canada Inc. v. Mutual Marine Office Inc. 1995*  
Apportionment of General Average contributions and in particular the responsibility for ‘excess general average’ expenses incurred to salvage the cargo and vessel and the cargo.
- *“The City of Colombo” - Ellerman Lines v. Gibbs Nathaniel Ltd. [1986]*  
Non-separation agreement, cargoes right to demand delivery of cargo at a port of refuge, pre 1984 YAR incorporating Non-Separation Clause in Rule G
- *“The Popi M” - Rhesa Shipping Co., S.A. v. Edmunds [1985]*  
The Shipowners bear the burden of proof to establish that the proximate cause of the ship’s loss was due to an insured peril.
- *“The Miss Jay Jay” - J.J. Lloyd Instruments Ltd. v. Northern Star Insurance Co. Ltd. [1987]*  
Two proximate causes of loss, one included in coverage, and the other not expressly excluded, coverage for the loss under standard hull policy exists.

#### 8. Recommended reading:

- THE MARINE INSURANCE ACT 1906, Chalmers, LexisNexis UK, London
- MARINE INSURANCE AND GENERAL AVERAGE IN THE UNITED STATES, 2<sup>nd</sup> or 3<sup>rd</sup> Edition, Leslie J. Buglass, Cornell Maritime Press

#### Canadian candidates:

- LAW AND PRACTICE OF MARINE INSURANCE IN CANADA, George R. Strathy and George C. Moore, LexisNexis/Butterworths