



General Average Rules IVR Applicability and application

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GA's – carriage by sea

2015: “Hanjin Green Earth”

2016: “CCNI Arauco”

2017: “APL Austria” / “MSC Daniela”

2018: “Maersk Honam”

2019:

“Yantian Express”





“Atlantic Peach”





“APL Vancouver”





Agenda

- I. Background GA concept
 - what is it?

- II. GA Regime - applicability
 - PIL-aspects
 - various rules
 - frame of reference

- III. GA Regime – application (Zsolt Kovacs)



I. Background GA Concept



General average

In essence:

maritime burden sharing mechanism



General average

Rule I IVR :

“Sacrifices and expenditure reasonably made and/or incurred, in extraordinary circumstances, for the purpose of saving a vessel and its cargo from a common peril are general average.”



II. GA Regime - applicability



Regime

General Average Convention or EU Regulation does not exist

Basis: in the applicable national law / relevant contract

(art. 26 CMNI)

What about the IVR Rules? / Danube Rules?



GA standard rules

IVR Rules do not have an official, independent status

- Vienna Convention on Treaties not applicable
- No overriding importance or influence

In essence: “GA standard rules”, including the IVR-Rules, need the national law



IVR – status

Applicability IVR Rules:

- national legislations (incorporation or freedom of contract)
- contract of carriage
- general average security

Most national laws: freedom of contract

- with exceptions, whether are not specifically related to general average



IVR Rules - status

BUT: which law?

International framework:

CMNI and/or EU Rome I and Rome II Regulation

Art. 29 CMNI applicable to general average obligations?



GA standard rules - application

- An obligation shall be governed by *the law* chosen by the parties
(art. 3 Rome I; art. 14 Rome II; art. 29 (1) CMNI)
- Other sets of rules are contractual terms only



GA standard rules – application

Contractual incorporation:

- Agreement required: parties/version/exclusions
- Specific conditions/criteria of national law





IVR – content

IVR

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comprehensive general average regime!



Questions?

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