



# SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



## The York-Antwerp Rules 2016: A Triumph of Commercial Pragmatism

The carriage of goods by sea was, before the Hague Rules of 1924, governed largely by the contractual terms imposed by English ship owners, which were for the most part non-negotiable. A while back when working on a case, I reviewed the *Travaux Préparatoires*<sup>1</sup> of the 1924 convention. They record a fascinating negotiation between the English representative for ship owners, and a number of European delegates who were plainly aligned with cargo insurers. At that time, the commercial interests were aligned with national interests, but international commerce recognised that a compromise was required if there was to be less litigation over claims.

The enabling of that convention was a significant contribution by the Comité Maritime International (to us, the CMI) in achieving uniformity of maritime law.

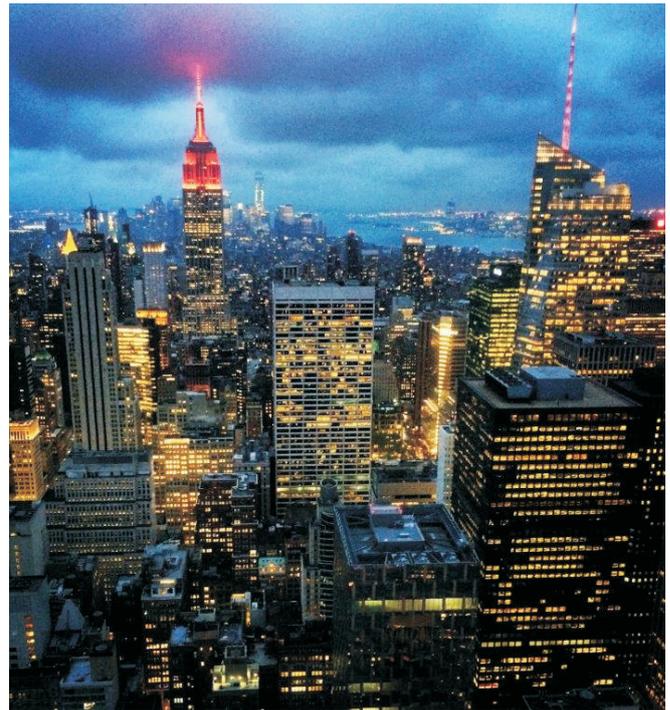
The Assembly of the CMI in New York approved the York-Antwerp Rules 2016 last month. This was achieved due to the work of the International Working Group over a number of years, and the participation of the International Union of Marine Insurers (representing cargo insurers) and the International Chamber of Shipping (representing ship owners) to negotiate a commercial compromise.

It was the participation of those two industry groups that brought to mind the negotiations at the Hague, in 1924. With the changes in global commerce, now commercial bodies play a direct role in the negotiation of new Rules governing their commercial terms, but the CMI played a key role in facilitating that compromise.

By the time the draft Rules were presented at New York, major differences had been resolved between IUMI and ICS. National delegates proposed some refinements, but those were largely procedural, rather than substantive.

The Rules will be implemented almost immediately. BIMCO's Documentary Committee, have already agreed that all new and revised BIMCO charter parties and bills of lading will now refer to general average being adjusted in accordance with the York-Antwerp Rules 2016.

In recent times, it has proved difficult to achieve adoption and enactment of international conventions promoted by the CMI. The adoption of the Rules and immediate implementation by BIMCO is therefore a significant achievement for the CMI.



*View from the top of the Rockerfeller*

*continued overleaf*

While for many members of MLAANZ, dealing with a general average case is an infrequent event, there is comfort in the knowledge that those who do this work regularly have produced a compromise that will make a difference in adjusting practice and have a real consequence as to how casualties are managed. IUMI has prepared a summary of the changes in the Rules in its press release at [http://www.iumi.com/images/documents/Press\\_releases/160509\\_IUMI\\_Press\\_Release\\_York-Antwerp\\_Rules.pdf](http://www.iumi.com/images/documents/Press_releases/160509_IUMI_Press_Release_York-Antwerp_Rules.pdf).

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<sup>1</sup> Available on the *CMI website*

