



OCTOBER 9, 2018

CIRCULAR NO. 37/18

TO MEMBERS OF THE ASSOCIATION

Dear Member:

**NEW CHARTERPARTY CLAUSE PROMOTING THE USE OF THE INTER-CLUB NEW YORK PRODUCE EXCHANGE AGREEMENT 1996, AS AMENDED SEPTEMBER 2011**

Reference is made to [Circular No. 23/11](#) of August 23, 2011 which drew Members' attention to the Inter-Club New York Produce Exchange Agreement 1996 (the ICA), as amended in September 2011. This provides a mechanism whereby liability for cargo claims arising under the New York Produce Exchange form (NYPE) or Asbatime charterparties and/or contracts of carriage authorized under such charterparties, can be swiftly and fairly apportioned between owners and charterers.

In order to promote the application and incorporation of the 2011 Agreement into all NYPE/Asbatime charterparties, Circular No. 23/11 referred Members to a recommended charterparty clause drafted by the International Group of P&I Clubs.

In the interim, a recent London arbitration finding has given the International Group cause for concern in regard to this recommended clause, the tribunal having found that it only incorporated the liability provisions of the ICA and not the requirement to provide security as contained in clause 9 of the 2011 agreement.

As a result, the International Group has amended the recommended charterparty clause wording issued in 2016 (see [Club Circular No. 16/16](#) of May 4, 2016) in order to take account of this recent finding and to encompass the 2011 agreement requirement for security to be provided. The amended clause for recommendation is as follows:

***Cargo claims as between Owners and the Charterers shall be governed by, secured, apportioned and settled fully in accordance with the provisions of the Inter-Club New York Produce Exchange Agreement 1996 (as amended 2011), or any subsequent modification or replacement thereof. This clause shall take precedence over any other clause or clauses in this charterparty purporting to incorporate any other version of the inter-Club New York Produce Exchange Agreement into this charterparty.***

Members are asked to note their records accordingly. Should they have any questions, the Managers will be pleased to respond.

Yours faithfully,

Joseph E.M. Hughes, Chairman & CEO  
Shipowners Claims Bureau, Inc., Managers for  
**THE AMERICAN CLUB**

*All International Group clubs have issued a similar circular.*