



APRIL 1, 2011

CIRCULAR NO. 14/11

TO MEMBERS OF THE ASSOCIATION

Dear Member:

**CHARTERPARTY CLAUSES: INDEMNITY FOR INSURED RISKS**

It has recently been reported by a number of clubs within the International Group that some charterers have been seeking to incorporate a certain clause into their charterparties, in particular in the container trades.

For the reasons set out below, the clause in question has the potential to prejudice an Owner's P&I cover and should not be agreed without considering the full implications of doing so.

Your Managers understand that there are different versions of the clause, but the most common form is:

***"Notwithstanding anything stipulated in this contract to the contrary, Owners are responsible for and shall keep Charterers free from all insured risks as covered by P&I."***

These, or similar words, are designed to impose responsibility upon the owner for all P&I liabilities that would otherwise be liabilities falling on a charterer, even if the latter is wholly at fault, in effect requiring the owner to be the charterer's P&I insurer.

The clause also bars recourse claims by the owner against the charterer, when the latter is or would normally be responsible for liabilities or losses incurred by an owner arising from an accident or casualty.

Members are advised to refuse this and similar clauses. Under an owner's P&I entry, liabilities incurred under a blanket indemnity and waiver of recourse of this kind are excluded. There is thus a considerable risk, if an owner agrees this or a similar form of clause, that he will be exposed to significant uninsured liability.

Your Managers will be happy to advise further, and it is recommended that any Member asked to agree this clause or a similar form of clause, should contact the Club before doing so.

Yours faithfully,

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

*All Clubs in the International Group have issued a similar Circular.*