



CIRCULAR

To the Members

Inter-Club New York Produce Exchange Agreement 2011 (as amended July 2025)

The Inter-Club New York Produce Exchange Agreement (the ICA), which was originally formulated and entered into force in 1970, provides a simple mechanism for apportioning cargo claims as between Owners and Charterers arising under the New York Produce Exchange Form (NYPE) and Asbatime form charterparties. The purpose is to avoid lengthy and costly litigation on matters of liability and apportionment.

Since its inception, the ICA has been amended on three occasions. The first in 1984 to address a specific shortcoming relating to the time limit for making claims. The second in 1996 was more wide-ranging and was introduced in particular to meet the needs of the container industry. The third and most recent amendment took place in 2011, in which a new provision was incorporated to create an entitlement to security on the basis of reciprocity.

The ICA continues to work well, achieving its intended purpose, and remains widely adopted by the maritime industry. However, the International Group of P&I Clubs (the Group) is aware of a specific issue concerning the interpretation of clause 4 (c), which provides:

“(4) Apportionment under this Agreement shall only be applied to Cargo Claims where:

.....

(c) the claim has been properly settled or compromised and paid.”

The intention of the Group Clubs has always been that the term “settled” encompasses a court judgment or arbitration award. However, arguments have surfaced to the contrary and to provide contractual certainty and avoid disputes on this issue, which would run counter to the purpose of the ICA, the Group has decided to amend the Inter-Club New York Produce Exchange Agreement 1996 (as amended September 2011) (the 2011 Agreement).

The 2025 Agreement is attached in track change and non-track change versions. The track changes record the amendments that have been made to the 2011 Agreement. As will be seen the only substantive amendments are to clauses 3(c) and 4 (c) to address this specific issue and the position on costs recovery where a claim is withdrawn, not fully pursued or successfully defended.

The 2025 Agreement will take effect from 14 July 2025.

Contractually the 2025 Agreement:

- (a) will not, subject to (c) below, apply to charterparties entered into prior to 14/07/25 or to claims arising under such charterparties whether such claims arise before or after 14/07/25, unless the charterparty contains reference to ICA 1996 ‘or any amendments thereto’ or similar wording.

- (b) will apply to charterparties entered into on or after 14/07/25 and to claims arising under such charterparties if the 2025 Agreement is incorporated into such charterparties either by way of:
 - (i) a specific reference to the “ICA 2011 (as amended July 2025)”;
 - or
 - (ii) if the charterparty contains a reference to the ICA 1996 ‘or any amendments thereto’ or similar wording
- (c) can be incorporated into charterparties entered into before 14/07/25 and to claims arising under such charterparties if the parties to such charterparties agree that it should e.g. by way of an addendum to the charterparty or if it contains reference to ICA 1996 ‘or any amendment thereto’ or similar wording.

Notwithstanding the contractual application of the 2025 Agreement, as set out in the preceding paragraph, Clubs will nevertheless, in accordance with the second paragraph of the preamble to the 2025 Agreement, recommend to their members that they apply the 2025 Agreement to all NYPE / Asbatime charterparties and claims arising under such charterparties whenever entered into and whether or not they incorporate the 1996 Agreement, 2011 Agreement or 2025 Agreement.

The Club recommends that members specifically incorporate the 2025 Agreement into NYPE and Asbatime charterparties entered into on or after 14/07/25.

All Group Clubs have issued a similar Circular.

Yours faithfully,

The Japan Ship Owners’ Mutual Protection & Indemnity Association

Attachment: ICA 2011 (as amended 2025)
ICA 2011 (as amended 2025) (track changes)

Inter-Club New York Produce Exchange Agreement 2011 (as amended July 2025)

This Agreement, the Inter-Club New York Produce Exchange Agreement 2011 (as amended July 2025) (the Agreement), made on 14th July 2025 between the P&I Clubs being members of The International Group of P&I Associations listed below (hereafter referred to as "the Clubs") amends the Inter-Club New York Produce Exchange Agreement 2011 in respect of all charterparties specified in clause (1) hereof and shall continue in force until varied or terminated. Any variation to be effective must be approved in writing by all the Clubs but it is open to any Club to withdraw from the Agreement on giving to all the other Clubs not less than three months' written notice thereof, such withdrawal to take effect at the expiration of that period. After the expiry of such notice the Agreement shall nevertheless continue as between all the Clubs, other than the Club giving such notice who shall remain bound by and be entitled to the benefit of this Agreement in respect of all Cargo Claims arising out of charterparties commenced prior to the expiration of such notice.

The Clubs will recommend to their Members without qualification that their Members adopt this Agreement for the purpose of apportioning liability for claims in respect of cargo which arise under, out of or in connection with all charterparties on the New York Produce Exchange Form 1946 or 1993 or Asbatime Form 1981 (or any subsequent amendment of such Forms), whether or not this Agreement has been incorporated into such charterparties.

Scope of application

(1) This Agreement applies to any charterparty which is entered into after the date hereof on the New York Produce Exchange Form 1946 or 1993 or Asbatime Form 1981 (or any subsequent amendment of such Forms).

(2) The terms of this Agreement shall apply notwithstanding anything to the contrary in any other provision of the charterparty; in particular the provisions of clause (6) (time bar) shall apply notwithstanding any provision of the charterparty or rule of law to the contrary.

(3) For the purposes of this Agreement, Cargo Claim(s) mean claims for loss, damage, shortage (including slackage, ullage or pilferage), overcarriage of or delay to cargo including customs dues or fines in respect of such loss, damage, shortage, overcarriage or delay and include:

(a) any legal costs claimed by the original person making any such claim;

(b) any interest claimed by the original person making any such claim;

(c) all legal, Club correspondents' and experts' costs reasonably incurred in the defence of or in the settlement of the claim made by the original person, even if the claim is successfully defended, withdrawn or otherwise not pursued but shall not include any costs of whatsoever nature incurred in making a claim under this Agreement or in seeking an indemnity under the charterparty.

(4) Apportionment under this Agreement shall only be applied to Cargo Claims where:

(a) the claim was made under a contract of carriage, whatever its form,

(i) which was authorised under the charterparty;

or

(ii) which would have been authorised under the charterparty but for the inclusion in that contract of carriage of Through Transport or Combined Transport provisions,

provided that

(iii) in the case of contracts of carriage containing Through Transport or Combined Transport provisions (whether falling within (i) or (ii) above) the loss, damage, shortage, overcarriage or delay occurred after commencement of the loading of the cargo on to the chartered vessel and prior to completion of its discharge from that vessel (the burden of proof being on the Charterer to establish that the loss, damage, shortage, overcarriage or delay did or did not so occur); and

(iv) the contract of carriage (or that part of the transit that comprised carriage on the chartered vessel) incorporated terms no less favourable to the carrier than the Hague or Hague Visby Rules, or, when compulsorily applicable by operation of law to the contract of carriage, the Hamburg Rules or any national law giving effect thereto; and

(b) the cargo responsibility clauses in the charterparty have not been materially amended. A material amendment is one which makes the liability, as between Owners and Charterers, for Cargo Claims clear. In particular, it is agreed solely for the purposes of this Agreement:

(i) that the addition of the words "and responsibility" in clause 8 of the New York Produce Exchange Form 1946 or 1993 or clause 8 of the Asbatime Form 1981, or any similar amendment of the charterparty making the Master responsible for cargo handling, is not a material amendment; and

(ii) that if the words "cargo claims" are added to the second sentence of clause 26 of the New York Produce Exchange Form 1946 or 1993 or clause 25 of the Asbatime Form 1981, apportionment under this Agreement shall not be applied under any circumstances even if the charterparty is made subject to the terms of this Agreement; and

(c) the claim has been properly settled or compromised and paid. Settled includes but is not limited to, claims adjudicated by any court or tribunal, or those resolved through an amicable settlement between the parties.

(5) This Agreement applies regardless of legal forum or place of arbitration specified in the charterparty and regardless of any incorporation of the Hague, Hague Visby Rules or Hamburg Rules therein.

Time Bar

(6) Recovery under this Agreement by an Owner or Charterer shall be deemed to be waived and absolutely barred unless written notification of the Cargo Claim has been given to the other party to the charterparty within 24 months of the date of delivery of the cargo or the date the cargo should have been delivered, save that, where the Hamburg Rules or any national legislation giving effect thereto are compulsorily applicable by operation of law to the contract of carriage or to that part of the transit that comprised carriage on the chartered vessel, the period shall be 36 months. Such notification shall if possible include details of the contract of carriage, the nature of the claim and the amount claimed.

The apportionment

(7) The amount of any Cargo Claim to be apportioned under this Agreement shall be the amount in fact borne by the party to the charterparty seeking apportionment, regardless of whether that claim may be or has been apportioned by application of this Agreement to another charterparty.

(8) Cargo Claims shall be apportioned as follows:

(a) Claims in fact arising out of unseaworthiness and/of error or fault in navigation or management of the vessel:

100% Owners

save where the Owner proves that the unseaworthiness was caused by the loading, stowage, lashing, discharge or other handling of the cargo, in which case the claim shall be apportioned under sub-clause (b).

(b) Claims in fact arising out of the loading, stowage, lashing, discharge, storage or other handling of cargo:

100% Charterers

unless the words "and responsibility" are added in clause 8 or there is a similar amendment making the Master responsible for cargo handling in which case:

50% Charterers 50% Owners

save where the Charterer proves that the failure properly to load, stow, lash, discharge or handle the cargo was caused by the unseaworthiness of the vessel in which case:

100% Owners

(c) Subject to (a) and (b) above, claims for shortage or overcarriage: 50% Charterers

50% Owners

unless there is clear and irrefutable evidence that the claim arose out of pilferage or act or neglect by one or the other (including their servants or sub-contractors) in which case that party shall then bear 100% of the claim.

(d) All other cargo claims whatsoever (including claims for delay to cargo): 50% Charterers
50% Owners

unless there is clear and irrefutable evidence that the claim arose out of the act or neglect of the one or the other (including their servants or sub-contractors) in which case that party shall then bear 100% of the claim.

Security

(9) If a party to the charterparty provides security to a person making a Cargo Claim, that party shall be entitled upon demand to acceptable security for an equivalent amount in respect of that

Cargo Claim from the other party to the charterparty, regardless of whether a right to apportionment between the parties to the charterparty has arisen under this Agreement provided that:

(a) written notification of the Cargo Claim has been given by the party demanding security to the

other party to the charterparty within the relevant period specified in clause (6); and

(b) the party demanding such security reciprocates by providing acceptable security to the other party to the charterparty if requested to do so.

Governing Law

(10) This Agreement shall be subject to English Law and the exclusive Jurisdiction of the English Courts, unless it is incorporated into the charterparty (or the settlement of claims in respect of cargo under the charterparty is made subject to this Agreement), in which case it shall be subject to the law and jurisdiction provisions governing the charterparty.

American Steamship Owners Mutual Protection & Indemnity Association, Inc.

American Steamship Owners Marine Insurance Company (Europe) Ltd

Assuranceforeningen Gard

Gard P&I (Bermuda) Ltd

Assuranceforeningen Skuld (Gjensidig)

Skuld Mutual Protection and Indemnity Association (Bermuda) Ltd

The Britannia Steam Ship Insurance Association Ltd.

The Britannia Steam Ship Insurance Association Europe

The Japan Ship Owners' Mutual Protection and Indemnity Association

The London Steam-Ship Owners' Mutual Insurance Association Ltd.

The London P&I Insurance Company (Europe) Limited

NorthStandard Limited

NorthStandard EU Designated Activity Company

The Standard Club Asia Ltd

The Standard Club Ireland Designated Activity Company

The Standard Club UK Ltd

The Shipowners' Mutual Protection and Indemnity Association (Luxembourg)

The Steamship Mutual Underwriting Association (Bermuda) Limited

Steamship Mutual Underwriting Association (Europe) Limited

Steamship Mutual Underwriting Association Limited

Sveriges Angfartygs Assurans Forening (The Swedish Club)

The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited

The United Kingdom Mutual Steam Ship Assurance Association Limited

UK P&I Club NV

The West of England Ship Owners Mutual Insurance Association (Luxembourg)

Inter-Club New York Produce Exchange Agreement 2011 (as amended July 2025)

Inter-Club New York Produce Exchange Agreement 2011~~1996~~ (as amended ~~September July 20~~25~~11~~)

This Agreement, the Inter-Club New York Produce Exchange Agreement 2011~~1996~~ (as amended ~~September July 20~~25~~11~~) (the Agreement), made on ~~1st September 14th July 20~~25~~11~~ between the P&I Clubs being members of The International Group of P&I Associations listed below (hereafter referred to as "the Clubs") amends the Inter-Club New York Produce Exchange Agreement 2011~~1996~~ in respect of all charterparties specified in clause (1) hereof and shall continue in force until varied or terminated. Any variation to be effective must be approved in writing by all the Clubs but it is open to any Club to withdraw from the Agreement on giving to all the other Clubs not less than three months' written notice thereof, such withdrawal to take effect at the expiration of that period. After the expiry of such notice the Agreement shall nevertheless continue as between all the Clubs, other than the Club giving such notice who shall remain bound by and be entitled to the benefit of this Agreement in respect of all Cargo Claims arising out of charterparties commenced prior to the expiration of such notice.

The Clubs will recommend to their Members without qualification that their Members adopt this Agreement for the purpose of apportioning liability for claims in respect of cargo which arise under, out of or in connection with all charterparties on the New York Produce Exchange Form 1946 or 1993 or Asbatime Form 1981 (or any subsequent amendment of such Forms), whether or not this Agreement has been incorporated into such charterparties.

Scope of application

(1) This Agreement applies to any charterparty which is entered into after the date hereof on the New York Produce Exchange Form 1946 or 1993 or Asbatime Form 1981 (or any subsequent amendment of such Forms).

(2) The terms of this Agreement shall apply notwithstanding anything to the contrary in any other provision of the charterparty; in particular the provisions of clause (6) (time bar) shall apply notwithstanding any provision of the charterparty or rule of law to the contrary.

(3) For the purposes of this Agreement, Cargo Claim(s) mean claims for loss, damage, shortage (including slackage, ullage or pilferage), overcarriage of or delay to cargo including customs dues or fines in respect of such loss, damage, shortage, overcarriage or delay and include:

(a) any legal costs claimed by the original person making any such claim;

(b) any interest claimed by the original person making any such claim;

(c) all legal, Club correspondents' and experts' costs reasonably incurred in the defence of or in the settlement of the claim made by the original person, even if the claim is successfully defended, withdrawn or otherwise not pursued but shall not include any costs of whatsoever nature incurred in making a claim under this Agreement or in seeking an indemnity under the charterparty.

(4) Apportionment under this Agreement shall only be applied to Cargo Claims where:

(a) the claim was made under a contract of carriage, whatever its form,

(i) which was authorised under the charterparty;

or

(ii) which would have been authorised under the charterparty but for the inclusion in that contract of carriage of Through Transport or Combined Transport provisions,

provided that

(iii) in the case of contracts of carriage containing Through Transport or Combined Transport provisions (whether falling within (i) or (ii) above) the loss, damage, shortage, overcarriage or delay occurred after commencement of the loading of the cargo on to the chartered vessel and prior to completion of its discharge from that vessel (the burden of proof being on the Charterer to establish that the loss, damage, shortage, overcarriage or delay did or did not so occur); and

(iv) the contract of carriage (or that part of the transit that comprised carriage on the chartered vessel) incorporated terms no less favourable to the carrier than the Hague or Hague Visby Rules, or, when compulsorily applicable by operation of law to the contract of carriage, the Hamburg Rules or any national law giving effect thereto; and

(b) the cargo responsibility clauses in the charterparty have not been materially amended. A material amendment is one which makes the liability, as between Owners and Charterers, for Cargo Claims clear. In particular, it is agreed solely for the purposes of this Agreement:

(i) that the addition of the words "and responsibility" in clause 8 of the New York Produce Exchange Form 1946 or 1993 or clause 8 of the Asbatime Form 1981, or any similar amendment of the charterparty making the Master responsible for cargo handling, is not a material amendment; and

(ii) that if the words "cargo claims" are added to the second sentence of clause 26 of the New York Produce Exchange Form 1946 or 1993 or clause 25 of the Asbatime Form 1981, apportionment under this Agreement shall not be applied under any circumstances even if the charterparty is made subject to the terms of this Agreement; and

(c) the claim has been properly settled or compromised and paid. Settled includes but is not limited to, claims adjudicated by any court or tribunal, or those resolved through an amicable settlement between the parties.

(5) This Agreement applies regardless of legal forum or place of arbitration specified in the charterparty and regardless of any incorporation of the Hague, Hague Visby Rules or Hamburg Rules therein.

Time Bar

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save where the Owner proves that the unseaworthiness was caused by the loading, stowage, lashing, discharge or other handling of the cargo, in which case the claim shall be apportioned under sub-clause (b).

(b) Claims in fact arising out of the loading, stowage, lashing, discharge, storage or other handling of cargo:

100% Charterers

unless the words "and responsibility" are added in clause 8 or there is a similar amendment making the Master responsible for cargo handling in which case:

50% Charterers 50% Owners

save where the Charterer proves that the failure properly to load, stow, lash, discharge or handle the cargo was caused by the unseaworthiness of the vessel in which case:

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(c) Subject to (a) and (b) above, claims for shortage or overcarriage: 50% Charterers

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unless there is clear and irrefutable evidence that the claim arose out of pilferage or act or neglect by one or the other {including their servants or sub-contractors) in which case that party shall then bear 100% of the claim.

(d) All other cargo claims whatsoever (including claims for delay to cargo): 50% Charterers
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unless there is clear and irrefutable evidence that the claim arose out of the act or neglect of the one or the other (including their servants or sub-contractors) in which case that party shall then bear 100% of the claim.

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(9) If a party to the charterparty provides security to a person making a Cargo Claim, that party shall be entitled upon demand to acceptable security for an equivalent amount in respect of that

Cargo Claim from the other party to the charterparty, regardless of whether a right to apportionment between the parties to the charterparty has arisen under this Agreement provided that:

(a) written notification of the Cargo Claim has been given by the party demanding security to the

other party to the charterparty within the relevant period specified in clause (6); and

(b) the party demanding such security reciprocates by providing acceptable security to the other party to the charterparty if requested to do so.

Governing Law

(10) This Agreement shall be subject to English Law and the exclusive Jurisdiction of the English Courts, unless it is incorporated into the charterparty (or the settlement of claims in respect of cargo under the charterparty is made subject to this Agreement), in which case it shall be subject to the law and jurisdiction provisions governing the charterparty.

American Steamship Owners Mutual Protection & Indemnity Association, Inc.

American Steamship Owners Marine Insurance Company (Europe) Ltd

Assuranceforeningen Gard

Gard P&I (Bermuda) Ltd

Assuranceforeningen Skuld (Gjensidig)

Skuld Mutual Protection and Indemnity Association (Bermuda) Ltd

The Britannia Steam Ship Insurance Association Ltd.

The Britannia Steam Ship Insurance Association Europe

The Japan Ship Owners' Mutual Protection and Indemnity Association

The London Steam-Ship Owners' Mutual Insurance Association Ltd.

The London P&I Insurance Company (Europe) Limited

NorthStandard Limited

NorthStandard EU Designated Activity Company

The Standard Club Asia Ltd

The Standard Club Ireland Designated Activity Company

The Standard Club UK Ltd

The Shipowners' Mutual Protection and Indemnity Association (Luxembourg)

The Steamship Mutual Underwriting Association (Bermuda) Limited

Steamship Mutual Underwriting Association (Europe) Limited

Steamship Mutual Underwriting Association Limited

Sveriges Angfartygs Assurans Forening (The Swedish Club)

The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited

The United Kingdom Mutual Steam Ship Assurance Association Limited

UK P&I Club NV

The West of England Ship Owners Mutual Insurance Association (Luxembourg)