

This circular provides an update to the Inter-Club New York Produce Exchange Agreement 2011 (as amended July 2025)

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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are to clauses 3(c) and 4 (c) to address this specific issue and the position on costs recovery where a claim is withdrawn, not fully pursued or successfully defended.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 14th 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.