

March 2011

TO ALL MEMBERS

**The Britannia Steam Ship
Insurance Association Limited**

Managers
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Dear Sirs

Charterparty Clauses – Indemnity for Insured Risks

A number of the Clubs in the International Group have recently been made aware of a clause that some charterers have been seeking to incorporate into their charterparties, in particular in the container trade. For the reasons set out below the clause has the potential to prejudice an owner's P&I cover and should not be agreed without considering the full implications of doing so.

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 the clause that he will be exposed to significant uninsured liability.

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

Clubs in the International Group have issued similar circulars.

Yours faithfully
Tindall Riley (Britannia) Ltd
Managers

This circular should be placed in the Binder under Section 3. Cargo Documentation