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22 December 2015

Dear Consultee,

Consultation on changes to domestic legislation implementing certain international maritime liability conventions

This consultation seeks your views regarding our assessment of the potential financial and administrative impacts that may arise from our proposal to give effect, through secondary legislation, to increases to the limits of liability under the Convention on Limitation of Liability for Maritime Claims 1976, as amended by the 1996 Protocol (LLMC).

In April 2012 the International Maritime Organization adopted a 51% increase to the limits of liability set out under the LLMC to reflect changes in monetary value (inflation rates) between 1996 and 2012 – the first increase for 19 years. These new limits were supported by the UK and entered into force internationally on 8 June 2015. Details of the new limits can be found [here](#).

As well as consulting on the introduction of these new limits of liability, we are also seeking your views on a small number of additional amendments related to domestic maritime legislation. All the options have been assessed on their own merits, and the full impact in terms of cost and benefits are contained in the Impact Assessment (at [Annex A](#)).

The full suite of options are:

- **Option 1:** Implement the increases to the LLMC limits
- **Option 2:** Introduce an ambulatory reference to enable future increases to the LLMC limits to be implemented without the need for further legislation or regulatory provision;
- **Option 3:** Provide for more generous limits for passenger claims by removing a ship-owner's right to limit their liability for such claims under the LLMC;
- **Option 4:** Provide discretionary powers to the Secretary of State over the issuance of State Certificates to non-UK flagged vessels for Bunkers Convention purposes; and
- **Option 5:** This option goes beyond what is required to implement the increases to the LLMC limits, and would involve applying all of the above options as set out in the Impact Assessment.

Because of the difficulty in quantifying or monetising the costs associated with each proposal, the Impact Assessment asks a number of specific questions relating to our initial consideration of the

potential costs and direct impacts on industry (including small or micro businesses). We would urge you to consider very carefully any potential costs or burdens that may impact on business and we would welcome your views and comments, particularly if you are able to provide any further evidence or analysis to better support or inform our conclusions on each proposed option.

A summary of each proposal is set out below and accompanied by questions pertinent to each option, supported by our initial assessment of the impact on UK business. For a more comprehensive analysis please refer to the attached Impact Assessment itself.

There are also a number of additional questions not included in the Impact Assessment to which we would also seek your views, aimed at drawing on industry's knowledge, expertise and experience in matters related to the proposed changes.

Detailed Summary and Questions relating to each option:

Option 1: Increasing the limits to the LLMC

This option would implement the increases to the LLMC limits. Our Impact Assessment concludes that increases to the LLMC limits that have been adopted internationally should not introduce any new or additional costs to ship-owners in respect of insurance premiums that they pay since the increases are intended to reflect a realignment with inflation over the period of time between 1996 and 2012. Whilst there may be the potential for an increase in costs to ship-owners by applying Option 1 (although there is no automatic link between increased premiums and higher limits), there is a limited available evidence base from the maritime insurance industry itself, so it has not been possible to monetise what the cost might be.

Question 1

We would like to know if you are able to provide any additional evidence on the costs and benefits of our Impact Assessment. In particular, are you able to provide any evidence or data demonstrating how the increase in the limits of the LLMC may impact or translate into increased insurance premiums or other business costs?

Furthermore, do you have any evidence on how the real cost of insurance compares now to that of 1996 and is this solely attributable to changes in inflation since 1996?

Question 2

The increase in limits agreed by the IMO in 2012 only applies to vessels over 300gt. Do you believe that the limits for smaller vessels (under 300 gross tonnes) should also be increased in proportion to these new limits (historically, this has been to around 50% of any new limits under the LLMC)?

Option 2: The introduction of an ambulatory reference

This option introduces an ambulatory reference which arguably goes beyond the minimum needed to implement the internationally agreed increase in LLMC limits. It would impose no direct cost on business nor place additional cost on any individual or organisation. Nonetheless, ambulatory referencing would allow future increases to the LLMC limits to be implemented without the need for further legislation or regulatory provision - which is currently the only way in which such technical changes can be implemented in the UK. Helping to speed up the implementation of such technical changes in this way is something industry has been keen to see. It would also ensure the UK's continued compliance with International Conventions.

In relation to such increases, Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of ship-owners for maritime claims (the “Insurance Directive”) requires that insurance of ships entering an EU port or registered in an EU Member State must maintain insurance in an amount equal to the relevant limits under the LLMC.

The ambulatory reference provision would result in no direct benefits to any business, individual or organisation unless or until there is a future increase in the limits of liability under the LLMC.

Question 3

Do you support the idea of an ambulatory reference being included to help speed up the implementation of those future increases to the LLMC limits agreed at international level by the International Maritime Organization? If not, please explain your reasons and provide any evidence or analysis that supports your view.

Option 3: Removing the ship-owner’s right to limit their liabilities

This option is not directly linked to the proposed implementation of the internationally agreed increases to the LLMC. However, if this option were taken forward, it would provide for more generous passenger claims for death or personal injury by removing a ship-owner’s right to limit their liabilities for such claims under the LLMC.

The relationship between the LLMC and the 1974 Athens Convention (as amended by the 2002 Protocol) can be found in [Section 1.3](#) of the Impact Assessment.

For passenger vessels already engaged on international journeys there ought not be any additional cost to ship-owners because they are already required to carry insurance that respects the provisions of the Athens Convention, as amended by the 2002 Protocol. The per capita limits established in the Athens Convention are already higher than the per capita limits established in the LLMC. We do not believe that there will be any costs that would impact on passengers (for example, through increased fares).

Likewise, certain categories of ships classified as Class A and B vessels (under EU rules) on domestic seagoing voyages, will come into scope of the EU Regulation 392/2009 on the Liability of Carriers of Passengers by Sea in the event of accidents on 31 December 2016 and 31 December 2018 respectively. The cost has already been taken account of in the Regulatory Impact Assessments associated with the implementation of both the EU Regulation 329/2009 (August 2012) and the UK’s ratification of the 2002 Athens Protocol (November 2013).

In those Impact Assessments we sought views from ship-owners, the maritime insurers and the wider maritime community about removing a ship-owners right to limit their liabilities for passenger claims under the LLMC.

The view – at that time – was that industry supported this proposal. Nonetheless, we feel it is important to ask the question again in order for industry to reaffirm its support (or not) and to inform us if there have been any significant factors that may have contributed to a change of view. As such, this option will be reassessed in the light of further views, evidence and analysis received from consultees.

Question 4

Do you support the view that in the event of passenger claims, the higher limits under the Athens Convention (as amended by the 2002 Protocol) should be applied instead of those set out under the LLMC, which would have the effect of removing the ship-owner’s right to limit his liability for passenger claims according to the LLMC?

Question 5

Do you believe that this option will introduce significantly higher costs to ship-owners in respect of insurance premiums? If so, please indicate what those costs might be and provide any supporting evidence.

Question 6

Do you have any evidence or information relating to whether or not any of the other Contracting Parties to the 2002 Athens Protocol have removed the right of ship-owners to limit their liability for passenger claims under LLMC?

Option 4: Provide more discretionary powers to the Secretary of State

This option, which is deregulatory in nature, is not linked to the implementation of the international agreed increased limits to LLMC. It would remove an element of existing gold-plating in domestic legislation by providing the Secretary of State with more discretionary powers over the issue of State Certificates for Bunkers Convention purposes. This would remove the current obligation on the Secretary of State (exercised by the MCA) to issue certificates even in cases where he is not satisfied that either the vessel or ship-owner meets the minimum criteria. This would reinforce the UK's reputation in promoting safer vessels through proper compliance and standards, and make it more difficult for sub-standard vessels to operate.

This would have no impact for UK flagged vessels since they are already expected to comply with the standards set through the Conventions to which the UK is party. It would not introduce any new costs or burdens on industry, although it could, in theory, be more restrictive to owners of non-UK vessels as they could, as a result, be denied such certificates.

Question 7

Is our assessment of the cost and benefit of taking this option forward correct or do you have evidence or views to suggest otherwise?

Option 5: This option includes all of the above

This option incorporates all the benefits and costs from Options 1, 2, 3 and 4 which are explained separately above.

Question 8

Do you support taking forward all of the above options as a package of measures or do you have concerns about the possible outcomes? Please provide evidence or further analysis if you would not support these objectives

Question 9

Are there any options that you would prefer to see not taken forward? Please identify which ones and give the reasons why you would not want to see them implemented.

How to respond

All responses should be provided in writing by post, fax or email, and must be received no later than the closing date which is **2 February 2016**. If you would like further copies of this consultation document, it can be found at www.dft.gov.uk/consultations or you can contact Andrew Kelly (contact details below) if you would like alternative formats (Braille, audio CD, etc).

Please send consultation responses to:

Andrew Kelly
Maritime Trade and Liability Branch
Maritime Safety & Environment
DfT - Zone 2/33
Great Minster House
33 Horseferry Road
London
SW1P 4DR

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Email: andrew.kelly@dft.gsi.gov.uk

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

A list of consultees is provided at Annex B. If you have any suggestions of others who may wish to be involved in this process please contact us.

What will happen next

A summary of responses, including the next steps, will be published within three months of the consultation closing on www.dft.gov.uk/consultations. Paper copies are available on request.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department for Transport.

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Consultation Principles

The consultation is being conducted in line with the Government's Consultation Principles. A full version of these are available at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>.

However, if you feel that this consultation does not comply with these principles, or have comments about the consultation process, then please contact:

Consultation Co-ordinator
Department for Transport
Zone 2/25 Great Minster House
London SW1P 4DR
Email consultation@dft.gsi.gov.uk

Attachments:

[**Annex A – Consultative Impact Assessment**](#)

[**Annex B – List of Consultees**](#)

Yours faithfully,

Andrew Kelly

Title: Increases to the limits of liabilities under the IMO Convention on Limitation of Liability for Maritime Claims IA No: DfT00329 Lead department or agency: Department for Transport Other departments or agencies:	Impact Assessment (IA)
	Date: 07/07/15
	Stage: Consultation
	Source of intervention: International
	Type of measure: Secondary legislation
Contact for enquiries: Andrew Kelly; Andrew.kelly@df.t.gsi.gov.uk; 0207944 5425	
Summary: Intervention and Options	RPC: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present	Net cost to business per year	In scope of One-In, Two-Out?	Measure qualifies as
£NQ	£NQ	£NQ	Yes	Zero Net Cost

What is the problem under consideration? Why is government intervention necessary?

The framework which allows ship-owners to limit their liability has not been increased to reflect inflation since 1996, such that compensation levels may not necessarily cover the cost of shipping related incidents. In addition, maritime legislation in this area is complex and difficult for industry to easily understand. There is also a mismatch between two existing compensation regimes to ensure passengers receive adequate compensation in the event of death or personal injury, loss or damage to luggage. Furthermore, a change to the Bunker Convention is required to provide the Secretary of State with the discretionary power in the issuance of State certificates in line with the original intention. Government intervention is required to implement the increases to the LLMC 1996 limits into UK law and amend existing legislation.

What are the policy objectives and the intended effects?

The policy objectives are: (1) to implement the increase to the limits of liability currently set out in the Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims 1976 (LLMC) to ensure public sector, businesses and individuals receive prompt and adequate compensation in the event of an incident; (2) to facilitate future increases to these limits without the need for further implementing legislation through an ambulatory reference; (3) to ensure that passengers have access to higher compensation limits under the Athens Convention and are not subjected to the limits under LLMC; and (4) to provide discretionary powers to the Secretary of State when issuing Port State Certificates to non-UK flagged vessels for the purposes of the Bunkers Convention.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Five policy options have been considered: (1) increase the limits to liability in line with those agreed internationally; (2) implement option (1) and include ambulatory referencing such that future increases agreed at the international level are adopted automatically into UK law; (3) have the Athens Convention take precedence over LLMC limits for passenger claims; (4) Amend UK legislation to allow SoS to use discretion in the issuance of State Certificates for Bunker Convention; and (5) implement all of these options.

Will the policy be reviewed? It will be reviewed. If applicable, set review date:: 06/2020

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible MINISTER:

Robert Goodwill MP

Date: December 2015

Summary: Analysis & Evidence

Policy Option 1

Description: Implement increase to the LLMC limits of liability adopted by the IMO in 2012 to ensure the public sector, businesses and individuals receive prompt recompense for the recovery of costs incurred and also adequate compensation.

FULL ECONOMIC ASSESSMENT

Price Base	PV Base Year NA	Time Period	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition)	Total Cost (Present Value)
Low	NQ	NA	NQ
High	NQ		NQ
Best Estimate	NQ		NQ

Description and scale of key monetised costs by ‘main affected groups’

Given the limitations of the available evidence base and the nature of the maritime insurance industry, the costs of this measure have not been monetised in this IA.

Other key non-monetised costs by ‘main affected groups’

Insurance premia could increase to reflect increased limits to liability. However, the increase to the limits (51%) broadly reflects inflation since 1996, such that real costs would be unaffected. In addition, no evidence has been forthcoming now or on previous occasions when seeking such information from insurance industry experts or ship-owners that establishes a clear link between increases to LLMC limits and insurance premia. The consultation aims to fill this gap.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition)	Total Benefit (Present Value)
Low	NQ	NA	NQ
High	NQ		NQ
Best Estimate	NQ		NQ

Description and scale of key monetised benefits by ‘main affected groups’

Given the limitations of the available evidence base and the nature of the maritime insurance industry, the benefits of this measure have not been monetised in this IA.

Other key non-monetised benefits by ‘main affected groups’

The main beneficiaries of increasing the LLMC limits are those who incur a loss or damaged property or environmental damage, as a result of a maritime incident. The benefits to this group are a transfer from the ship-owners, such that the benefits are expected to equal any cost increases resulting from changes, to the LLMC limits.

Key assumptions/sensitivities/risks **Discount** 3.5

It has not been possible to quantify the effect of the cost of insurance as it is influenced by multiple factors and operations. This consultation aims to gather information in this area. The increase in liability limits agreed by the IMO is based on CPI and the GDP inflation rate. A full qualitative description of the cost or benefit has been provided, including questions to consultees.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of	Measure
Costs: NQ	Benefits: NQ	Net: NQ		

Summary: Analysis & Evidence

Description: Incorporates Option 1 above and also facilitates future increases to the LLMC limits of liability without the need for further implementing legislation by means of an ambulatory reference.

FULL ECONOMIC ASSESSMENT

Price Base	PV Base Year NA	Time Period	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition)	Total Cost (Present Value)	
Low	NQ		NQ	NQ	
High	NQ		NQ	NQ	
Best Estimate	NQ		NQ	NQ	
<p>Description and scale of key monetised costs by 'main affected groups'</p> <p>Given the limitations of the available evidence base and the nature of the maritime insurance industry, the costs of this measure have not been monetised in this IA.</p>					
<p>Other key non-monetised costs by 'main affected groups'</p> <p>Costs are the same as those in Option 1.</p>					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition)	Total Benefit (Present Value)	
Low	NQ		NQ	NQ	
High	NQ			• NQ	
Best Estimate	NQ		NQ	NQ	
<p>Description and scale of key monetised benefits by 'main affected groups'</p> <p>Given the limitations of the available evidence base and the nature of the maritime insurance industry, the benefits of this measure have not been monetised in this IA.</p>					
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>In addition to the benefits identified in Option 1 if there is a future increase in limits of liability, the ambulatory reference provision would help speed up the implementation process and lead to a reduction in government administration costs. Ambulatory referencing will mean that industry will only have to familiarise itself with change to LLMC text instead of referring to national legislation changes.</p>					
Key assumptions/sensitivities/risks				Discount	3.5
<p>It has not been possible to quantify the effect of the cost of insurance as it is influenced by multiple factors and operations. This consultation aims to gather information in this area. The increase in liability limits agreed by the IMO is based on CPI and the GDP inflation rate. A full qualitative description of the cost or benefit has been provided, including questions to consultees.</p>					

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of	Measure
Costs:	Benefits:	Net: NQ	YES	Zero Net Cost

Summary: Analysis & Evidence

Policy Option 3

Description: Ensures that the compensation limits under the Athens Convention take precedence over the LLMC limits for passenger claims.

FULL ECONOMIC ASSESSMENT

Price Base	PV Base Year NA	Time Period	Net Benefit (Present Value (PV)) (£m)			
			Low: NQ	High: NQ	Best Estimate: NQ	
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition)		Total Cost (Present Value)	
Low	NQ	NA	NQ		NQ	
High	NQ		NQ		NQ	
Best Estimate	NQ		NQ		NQ	
Description and scale of key monetised costs by ‘main affected groups’						
Given the limitations of the available evidence base and the nature of the maritime insurance industry, the costs of this measure have not been monetised in this IA.						
Other key non-monetised costs by ‘main affected groups’						
There will be no cost to vessels already engaged on international passenger journeys because they are already required to carry insurance that respects the provisions of the Athens convention. EU regulation (EC 392/2009), implemented in the UK in 2012, requires ships on international voyages to comply with the provisions of the Athens Convention, these requirement will be extend to class A and B on ships on domestic voyages from 2017 and 2019 respectively, therefore there						
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition)		Total Benefit (Present Value)	
Low	NQ	NA	NQ		NQ	
High	NQ		NQ		NQ	
Best Estimate	NQ		NQ		NQ	
Description and scale of key monetised benefits by ‘main affected groups’						
Given the limitations of the available evidence base and the nature of the maritime insurance industry, the benefits of this measure have not been monetised in this IA.						
Other key non-monetised benefits by ‘main affected groups’						
Passengers travelling by sea on international journeys will automatically benefit from higher levels of compensation protection if an incident should occur. The increased limit of insurance that a ship-owner must have in place rising from from 175,000 SDR under LLMC to not less than 250,000 SDR under strict liability, with the possibility to rise to a maximum of 400,000 SDR, under the Athens						
Key assumptions/sensitivities/risks					Discount	3.5
It has not been possible to quantify the effect of the cost of insurance as it is influenced by multiple factors and operations. This consultation aims to gather information in this area. A full qualitative description of the cost or benefit has been provided, including questions to consultees.						

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of	Measure
Costs: NQ	Benefits: NQ	Net: NQ	YES	Zero Net Cost

Summary: Analysis & Evidence

Policy Option 4

Description: Provides discretionary powers for the issuing of UK state certificates for Bunker Convention purposes.

FULL ECONOMIC ASSESSMENT

Price Base	PV Base Year NA	Time Period	Net Benefit (Present Value (PV)) (£m)			
			Low: NQ	High: NQ	Best Estimate: NQ	
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition)		Total Cost (Present Value)	
Low	NQ	NA	NQ		NQ	
High	NQ		NQ		NQ	
Best Estimate	NQ		NQ		NQ	
Description and scale of key monetised costs by ‘main affected groups’						
Given the limitations of the available evidence base and the nature of the maritime insurance industry, the costs of this measure have not been monetised in this IA.						
Other key non-monetised costs by ‘main affected groups’						
The provision will not introduce any new costs or burdens on industry.						
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition)		Total Benefit (Present Value)	
Low	NQ	NA	NQ		NQ	
High	NQ		NQ		NQ	
Best Estimate	NQ		NQ		NQ	
Description and scale of key monetised benefits by ‘main affected groups’						
Given the limitations of the available evidence base and the nature of the maritime insurance industry, the benefits of this measure have not been monetised in this IA. As certificates are refused on a case by case basis, it is unable to be monetised.						
Other key non-monetised benefits by ‘main affected groups’						
The Secretary of State will have the power to refuse to issue certificates relating to the Bunkers convention where he is not satisfied that either the vessel or the ship owner meets the minimum criteria. This will reinforce the UK reputation for the promotion of safe vessels, making it harder for sub-standard vessels to operate.						
Key assumptions/sensitivities/risks					Discount	3.5
It has not been possible to quantify the effect of the cost of insurance as it is influenced by multiple factors and operations. This consultation aims to gather information in this area. A full qualitative description of the cost or benefit has been provided, including questions to consultees.						

BUSINESS ASSESSMENT (Option 42)

Direct impact on business (Equivalent Annual) £m:			In scope of	Measure
Costs: NQ	Benefits:	Net: NQ		

Summary: Analysis & Evidence

Policy Option 5

Description: Incorporates Options 1, 2, 3 and 4 above, and provides discretionary powers for the issuing of UK state certificates for Bunker Convention purposes.

FULL ECONOMIC ASSESSMENT

Price Base	PV Base Year NA	Time Period	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition)	Total Cost (Present Value)
Low	NQ	NA	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised costs by ‘main affected groups’

Given the limitations of the available evidence base and the nature of the maritime insurance industry, the costs of this measure have not been monetised in this IA.

Other key non-monetised costs by ‘main affected groups’

This option will not introduce any new costs or burdens on industry above those outlined for options 1-4.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition)	Total Benefit (Present Value)
Low	NQ	NA	NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised benefits by ‘main affected groups’

Given the limitations of the available evidence base and the nature of the maritime insurance industry, the benefits of this measure have not been monetised in this IA. As certificates are refused on a case by case basis, it is unable to be monetised.

Other key non-monetised benefits by ‘main affected groups’

This option will not introduce any new benefits above those outlined for options 1-4.

Key assumptions/sensitivities/risks	Discount	3.5
It has not been possible to quantify the effect of the cost of insurance as it is influenced by multiple factors and operations. This consultation aims to gather information in this area. The increase in liability limits agreed by the IMO is based on CPI and the GDP inflation rate. A full qualitative description of the cost or benefit has been provided, including questions to consultees.		

BUSINESS ASSESSMENT (Option 5)

Direct impact on business (Equivalent Annual) £m:		In scope of	Measure
Costs: NQ	Benefits:		
	Net: NQ	YES	Zero Net Cost

Evidence Base (for summary sheets)

The main purpose of this impact assessment is to set out the potential impact of implementing the increase to the limits of liability that are currently set out in the Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims 1976 (LLMC), and the associated costs and benefits to the UK of doing so. The new limits were adopted by the International Maritime Organization (IMO) in April 2012 and entered into force internationally on 8 June 2015.

This consultative impact assessment asks a number of questions to industry experts and other stakeholders and a summary of those questions is set out in **Annex C**.

Definitions: in this Impact Assessment reference to –

- The *LLMC* means the Convention on Limitation of Liability for Maritime Claims 1976, as amended by the 1996 Protocol. It establishes an internationally recognised framework of liability limitation for vessels of 300 gross tons (gt) or above, and allows ship-owners a right to limit their liability for any claims arising from a wide range of shipping related incidents by setting up a limitation fund from which a Court will pay agreed claims;
- The *IMO* means the International Maritime Organization. This is a specialised agency of the United Nations with 170 Member State and three Associate Members. The IMO's primary purpose is to develop and maintain a comprehensive regulatory framework for shipping covering safety, environmental concerns, legal matters, technical co-operation, maritime security and the efficiency of shipping;
- *SDR* means a Special Drawing Right. This is an international reserve asset created by the International Monetary Fund in 1969 to supplement its member countries' official reserves. As at 7 July 2015, 1 SDR was worth £0.90 (\$1.39);
- The *Bunkers Convention* means the International Convention on Civil Liabilities for Bunker Oil Pollution Damage 2001. This requires insurance or other financial security for all ships over 1000 gross tonnage (gt) entering the UK. It introduces strict liability for pollution or associated preventative measures for all types of ships' fuel and lubricating oil;
- The *Wreck Convention* means the Nairobi International Convention for the Removal of Wrecks 2007. This provides a uniform legal basis to locate, mark and remove, or have removed wrecks which pose a hazard to navigation of the marine environment. It imposes strict liability and compulsory insurance (for ships of 300gt and above) on ship-owners;
- The *Athens Convention* means the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended by the Protocol of 2002. This Convention establishes a liability and compulsory insurance regime specifically related to the death of, or personal injury to, a passenger, and the loss of, or damage to, their luggage carried by sea on an international journey. Ship-owners are required to have insurance in place that is not less than 250,000 SDR;
- The *HNS Convention* means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996, as amended by the 2010 Protocol. This is not in force internationally yet;
- The *EU Insurance Directive* means the Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of ship-owners for maritime claims. It requires all ships over 300gt to maintain insurance. The limits are in line with those already established under the LLMC 1996;

- *Ambulatory referencing* in domestic legislation provides a legislative mechanism that allows changes to international instruments (in this case, to changes in the limits of liabilities for maritime claims), to which the UK is a party, to take effect in UK law without the need to make further legislative or regulatory provision. It was introduced in the Deregulation Act 2015 which received Royal Assent in March 2015;
- *Passenger* means, for the purposes of this impact assessment, any person carried in a ship (a) under a contract of carriage, or (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by either the LLMC '96 or the Athens Convention.
- The *IGP&I Clubs* mean the International Group of Protection and Indemnity Clubs, who provide the majority of maritime insurance cover for third party liabilities, including the Bunkers, Wreck Removal, Athens (non-war related) Conventions, and the EU Insurance Directive, mentioned above. IGP&I Clubs are mutual non-profit making organisations that operate through a claim sharing agreement between themselves (“the Pooling Agreement”). According to the most recent figures from Equasis¹ who provide global maritime statistics, approximately 61% of the world’s ocean-going fleet are insured through the IGP&I Clubs, and this represents approximately 92% of the global tonnage of merchant vessels².

Background

1.1 The LLMC

The UK is a State Party to the LLMC which sets specified, maximum, limits of liability for three types of maritime claims against ship-owners – **loss of life or personal injury claims** (for persons other than passengers); **passenger claims**; and **property claims** (such as damage to other ships, property or harbour works). A full list of claims subject to limitation is set out in **Annex A**.

Reservations

Under Article 18 of the 1996 LLMC Protocol, State Parties are permitted to apply the following Reservations:

Article 2 (1) (d) and (e) –

- A State may exclude the right to limit liability in respect of the raising, removal, destruction or rendering harmless of a ship that has sunk, or is wrecked or abandoned, including anything that is, or has been, on board the ship.
- A State may exclude the right to limit liability in respect of the removal, destruction or the rendering harmless of the cargo of the ship.
- A State may exclude claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection With the Carriage of Hazardous and Noxious Substances By Sea, 1996 (the HNS Convention).

¹ Equasis is an organisation that provides statistical data to the maritime sector in order to promote safety and quality;

² The World Merchant Fleet, Equasis Annual Report 2012, chapter 4; The data is accessible freely on the internet at <http://www.equasis.org/>

The HNS Convention will establish a liability and compensation regime for damage caused by dangerous and polluting cargoes carried by ship. The limits of liability will be considerably higher than those under the 1996 LLMC Protocol and it will be much easier for claimants to obtain compensation. The purpose of this Reservation is, therefore, to ensure that claimants can obtain the higher compensation amounts available under the HNS Convention.

The UK has made this Reservation, but it will only apply if and when the HNS Convention (as amended) enters into force. In the meantime, the limits of liability under the LLMC '96 will continue to apply to damage arising from hazardous and noxious cargoes.

The right of limitation under LLMC is available to both ship-owners and salvors. It enables them to limit their total liability for defined claims arising on any distinct occasion to a maximum fixed amount, unless the loss resulted from their personal act or omission, committed with the intent to cause loss, or recklessly and with knowledge that such loss would probably result.

The LLMC sets out a wide definition of parties qualifying as a "ship-owner", including not only the registered owners but also charterers, managers and operators of a sea going ship.

Liability for claims under the LLMC is limited to an aggregate amount calculated by reference to the tonnage of the ship, or to the number of passengers a ship is certified to carry, with the International Monetary Fund's Special Drawing Rights ("SDRs") acting as the international unit of account. Higher limits apply to personal claims as opposed to property claims.

This framework allows ship-owners to limit their liability to a readily insurable amount at a reasonable premium, which can be factored into their overall running costs of the vessel. It also provides for fair levels of compensation, which are intended to encourage prompt settlement. The alternative to setting a maximum limit is unlimited liability, which would lead to uncontrolled levels of compensation having to be paid out to successful claimants.

This would force insurance companies to set premiums on financial risks that are of an unquantifiable and unpredictable nature – and, in turn, potentially expose their businesses to significant risks. The end result would be unacceptably high premiums and/or insurers deciding to withdraw from the market altogether, both of which would act as a disincentive to ship-owners to comply with their international obligations and so distort competition. Such outcomes could lead to increased non-compliance since the market would not favour those attempting to comply and have the potential effect of increased numbers of sub-standard vessels operating in international waters and increase financial risks for governments to clean up after incidents.

A ship-owner's limit of liability under the IMO's Bunkers Convention, Wreck Removal Convention, Athens Convention and – when it is in force internationally – the HNS Convention, are all based on the limits set out in the LLMC, as is the EU Insurance Directive.

The UK has dis-applied these limits for wreck removal purposes.

The limits of liability under the LLMC can be amended using the "tacit" amendment procedure. This procedure provides for a maximum increase on the current limits (adopted back in October 1996) of 6% per year, calculated on a compound basis. To bring an increase into effect takes three years from the time of adoption by the IMO Legal Committee.

1.2 Summary of limits of liability under LLMC

In April 2012 the IMO adopted a 51% increase to the limits of liability set out under the LLMC using the tacit amendment procedure. These new limits, which do not apply to passenger claims (as defined under Article 7(2) of the LLMC), are due to enter into force on 8 June 2015.

The new maximum limit of liability for claims for **loss of life or personal injury** (non passenger) on ships between 300 gross tons (gt) but not exceeding 2,000 gross tons (gt) is 3.02 million SDR (up from 2 million SDR).

For larger ships, the following additional amounts are used in calculating the limitation amount:

- For each ton from 2,001 to 30,000 tons – 1,208 SDR (up from 800 SDR)
- For each ton from 30,001 to 70,000 tons – 906 SDR (up from 600 SDR)
- For each ton in excess of 70,000 – 604 SDR (up from 400 SDR)

The new limit of liability for **property claims** for ships not exceeding 2,000gt is 1.51 million SDR (up from 1 million SDR).

For larger ships, the following additional amounts are used in calculating the limitation amount:

- For each ton from 2,001 to 30,000 tons – 604 SDR (up from 400 SDR)
- For each ton from 30,001 to 70,000 tons – 453 SDR (up from 300 SDR)
- For each ton in excess of 70,000 tons – 302 SDR (up from 200 SDR)

1.3 The relationship between the LLMC and the Athens Convention

The LLMC 1996 provides a limitation of liability for passenger claims of up to 175,000 SDR multiplied by the number of passengers authorised to be carried on a vessel, in the event of an incident involving death or injury to passengers, or loss or damage to their luggage.

Conversely, the 1974 Athens Convention, as amended most recently by the Protocol of 2002, and to which the UK is a State Party, introduces compulsory insurance and sets out the levels of liability of a ship-owner in respect of claims arising from death or personal injury to passengers. It requires ship-owners to have in place insurance of not less than 250,000 SDRs per passenger (increased from 46,666 SDR) on the basis of strict liability, rising to up to 400,000 SDRs. The Athens Convention also introduced the right of direct action against the insurer.

However, the Athens Convention does not automatically remove the right of the ship-owner to apply the limits under LLMC 1996 relating to passengers claims, and in order to increase the greater financial protection available to passengers, a change in domestic legislation would be necessary to remove that right.

Under existing UK law, a ship-owner can invoke the global (maximum) limitation in the LLMC '96 in respect of a passenger claim to which the Athens Convention applied (175,000 SDRs multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate). Under the current arrangement there may be circumstances where a passenger may not be able to expect more than 175,000 SDRs in the event of an incident. As explained above it would require a change in UK legislation to remove the ship-owners right and compel them to respect the higher limits provided for under the Athens Convention.

Nonetheless, there is also always the potential that a passenger may be able to obtain a much higher level of compensation under the LLMC 1996, given the way that the liability is set up, since a single passenger has the potential to claim the full global maximum. However, in its consideration a Court would be unlikely to agree to that, given that the whole purpose of financial compensation in these events is intended to restore the claimant to the position they would have been before the incident, at least as far as a financial payment can.

The proposal to remove from UK law the right of ship-owners to revert to LLMC in the event of passenger claims was first proposed in the 2012 Consultation to industry in respect of

implementing Regulation (EC) 392/2009³. Industries response at that time was to support this proposal when it was appropriate to do so, since it would provide access to higher levels of compensation for passengers.

By way of example, and for illustrative purposes only, a vessel authorised to carry 10 passengers would, under the provisions of LLMC '96, be required to have insurance in place of up to 1,750,000 SDR (175,000 SDR multiplied by the number of passengers that the vessel is authorised to carry); in the event of a single passenger death (or injury), that person would potentially be able to claim up to the maximum global limit. However, it should be noted that it would be a Court that ultimately decides what would be an appropriate level to financially compensate a passenger.

In a similar situation under the provisions of the 2002 Athens Protocol a passenger could claim up to 250,000 SDR, rising to a maximum limit of up to a maximum of 400,000 SDR.

It is, however, important to note that it is a Court that determines the actual amount to be paid as compensation and it will take into account a wide range of determining factors, so it should not be assumed that in any such cases the victim would obtain the maximum amount under either framework. But a change in the law would allow a passenger access to a higher minimum amount than is currently available.

It is also worth noting that the agreed increases to the 1996 LLMC limits do not include an increase for passenger claims in the event of death or personal injury, which has the negative effect of maintaining the available compensation to passengers under LLMC 1996 at 1996 levels.

1.4 General Approach of Courts in considering claims

Without any specific provisions in either the LLMC 96 or Athens Conventions governing how damages for personal injury or death in such claims should be assessed or calculated by a Court, general tort law principles would normally apply.

Although each action would be treated individually, it would nonetheless essentially means that the aim of the damages award would be to provide full compensation for the loss or injury suffered so that the claimant was restored (in so far as a financial award could) to the position he or she would have been in but for the injury. In broad terms this would involve an assessment of what losses had already been incurred as a direct result of the injury by the time of trial or settlement of the case (e.g. past loss of earnings and care costs, costs of altering or moving accommodation) and what any future losses would be (e.g. future care costs and loss of earnings), together with a sum for pain, suffering and loss of amenity.

In the UK, the Judicial College (the body responsible for training judges) publishes guidelines for assessing the pain and suffering award based on the seriousness of the injury, but otherwise the damages would depend on the individual circumstances (e.g. the loss of earnings payment would depend on the nature of the claimant's job, prospects of promotion etc). In more serious cases the claimant's life expectancy will be relevant, and there are actuarial tables (the "Ogden Tables") which are used to assist in calculating the appropriate amount of long-term awards. Both parties would put forward evidence on the different heads of damage payable and (if this were contested) the court would decide what amounts were appropriate and at that point refer to the maximum limits of liability set out in the Conventions, depending on whether the ship-owner has the right to use the limits of LLMC 96 or is required to apply the higher limits set out in the Athens Convention.

³ EU Regulation(EC) 392/2009 on the liability of carriers of passengers by sea in the event of accidents and the UK's ratification of the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974.

Under our preferred option (Option 5), the ability to invoke the global limitation under LLMC would be removed which would have the effect of offering passengers seeking compensation for death or personal injury a more robust settlement, although it will remain, as in all cases, dependent on a Court's assessment of what the appropriate level should be, taking account of all evidence and circumstances

2. Problem under consideration

There is a need to ensure that the international framework which allows ship-owners to limit their liability for maritime claims remains effective and provides for the increased cost of having to deal with shipping related incidents, especially those arising from incidents involving bunker fuel spills. Failure by ship-owners to have measures in place to cover their liabilities could have considerable consequences for those affected by such incidents and lead to the Government, local authorities, business (of all sizes) and individuals not being able to recover costs associated with dealing with an incident, or obtain recompense for damages, if the limits are inadequate to cover the costs of claims.

The 51% increase to the LLMC limits of liability adopted by the IMO in 2012 entered into force internationally on 8 June 2015. Being a State Party to the LLMC, the UK is obliged to implement these increases otherwise the UK would be in breach of its international obligations and could lead to significant operational difficulties for ship-owners flying the UK flag.

Of course, if the UK were to decide that it no longer wished to abide by the LLMC or to the changes to the liability limits, the correct procedure would be for the UK to denounce the Convention. However, such a step is not being considered here because it would be detrimental to the UK's wider economic interests, given the international nature of shipping and the UK's reliance in shipping for international trade.

There is always the likelihood that the LLMC 1996 limits may increase on future occasions, triggered not just by changes in monetary values, and it would considerably simplify the whole implementation process if there was a legislative mechanism to ease the process on such future occasions.

There is also a need to consider the wider liability regime particularly regarding claims made in the event of passenger death or personal injury, where there is a mismatch between what is currently available under LLMC 1996 (with a limit set at 175,000SDR multiplied by the number of passengers a vessel is authorised to carry) and the higher limits (not less than 250,000 SDR) under the Athens Convention as recently amended by the 2002 Protocol.

A final issue is in relation to the Bunkers Convention and the need to give the Secretary of State discretionary powers when issuing Port State Certificates, in line with the implementation of other similar Conventions. Such discretion will give the Secretary of State the right to refuse to issue certificates to vessels that do not comply and provide legal certainty.

3. Rationale for intervention

LLMC 1996 increases

In the event of a shipping related incident, there is currently nothing to compel ship-owners to pay claims beyond their current limits of liability under the LLMC. The resulting difference could potentially be significant and, as indicated previously, have negative effects on those seeking recompense, or those (such as Government) who would have to meet any shortfall, since it would not be practical or realistic to leave an incident (particularly involving pollution or environmental damage) unresolved and claimants would have nowhere else to turn

The very concept of limitation envisages rare cases where claims would be capped. There have been very few incidents since the Convention came into force where costs have actually exceeded the cap.

However, it is 19 years since the current LLMC limits were set and it was decided by the IMO's Legal Committee to increase them in line with changes in monetary value (inflation) since they were set in 1996. The Convention provides a mechanism for the limits to be increased in consideration of three key factors (which are set out in the next section).

The catalyst for the latest increase in the limits of liability under the LLMC dates back to 2009 when an incident involving the vessel *Pacific Adventurer* prompted the Australian Government to table a proposal to increase the limits at the IMO. The *Pacific Adventurer* was a cargo vessel which was caught in a cyclone off Queensland (Australia). Some 31 containers filled with ammonium nitrate were lost overboard, and damage below the water line also resulted in an estimated 270 tonnes of bunker fuel oil being spilt. In total, 60 km of shoreline were affected by this incident. The Australian Government declared a state of emergency and engaged legal proceedings against the ship-owner. Response operations cost a total of 34 million Australian dollars.

Following negotiations with the Australian Government, the ship-owner offered 25 million Australian dollars in compensation, instead of the 17 million which would otherwise have been required by law within the framework of the LLMC. Although this incident represented one of a very few number of incidents where the existing LLMC limits had been exceeded, it highlighted an apparent disparity between what could be claimed under LLMC and the actual cost of clean up after an incident.

Use of an ambulatory provision

Raising the international limits of liability for general maritime claims and providing for future increases through ambulatory referencing will help to strengthen the application of the international liability regime by ensuring that any such future increases can be applied in the quickest and most effective way in the UK.

Removing the ship-owner's right to limit their liability under LLMC 1996 for passenger claims

In removing the ship-owners right to rely on the limits under the 1996 LLMC will safeguard in real terms the compensation levels for passenger claims in the event of death or personal injury by compelling ship-owners to have insurance in place that complies with the compensatory limits under the Athens Convention.

Amending the Bunkers Convention

Government intervention is necessary to amend UK legislation to incorporate these changes, and to remove an element of legislative gold-plating relating to the issuing of State certificates for Bunker Convention purposes.

4. Factors to be taken into account for increasing LLMC 96 limits of liability

The LLMC lists three factors which the IMO must take into account when considering a proposal to raise the limits of liability. These are as follows:

- the experience of incidents;
- the effect on the cost of insurance, and
- changes in monetary values.

In light of the proposal from Australia, the IMO considered evidence against all three factors. This evidence can be summarised as follows:

The experience of incidents

In evidence presented to the IMO, the IGP&I Clubs identified 7 out of a total of 595 (1.2%) reported incidents between January 2000 and August 2009 that had incurred costs for pollution damage arising from bunker fuel spills that exceeded the LLMC liability limits, with 3 further cases identified up to March 2012.

Incident	Date	Location	Estimated Costs	Applicable Limit	Difference
Gold Leader	05/03/08	Japan	\$50-60m	\$1,642,516	\$48-58,357,483
Vicuna	15/11/04	Brazil	\$31,500,000	\$7,378,688	\$24,121,312
Sea Diamond	05/04/07	Greece	\$37,313,239	\$13,921,331	\$23,391,908
Server	12/01/07	Norway	\$35,309,997	\$12,333,351	\$22,976,646
Maersk Holyhead	06/11/05	Venezuela	\$32,500,000	\$11,235,840	\$21,264,160
Don Pedro	11/07/07	Spain	\$16,500,000	\$6,903,107	\$9,596,893
Ku San	15/07/06	Japan	\$2,790,680	\$1,553,610	\$1,237,070
Bohai Challenge	31/01/11	Japan	\$8,574,612	\$5,660,000	\$2,887,612
Full City	31/07/09	Norway	\$46,410,451	\$10,014,067	\$36,396,384
Pacific Adventurer	11/03/09	Australia	AUD 33,889,400	AUD 17,000,000	AUD 16,889,400

There were, however, several incidents where the consequences could have been a lot worse, and this continues to be a cause for concern.

The effect on the cost of insurance

There is no automatic link between an increase in liability insurance and insurance premiums that a ship-owner has to pay. The level of insurance is predicated on risk and will largely be based on previous claims' history and usually towards the lower end of claims which are likely to be more frequent but less costly. Although industry experts have been invited on numerous occasions to provide evidence or data on the impact on increased insurance on ship-owners it has not been forthcoming. This is because the maritime insurance market is compelled to consider the wider impact of different international obligations on ship-owners and the wide range of liabilities and risks. The resilience of the market to pay out in the event of incidents is largely predicated on the range and frequency of global incidents and the ability to pay; the risks are determined by the different types of vessel, their cargoes, their areas of operation and so on. Anecdotally this was confirmed by a major maritime insurer during the 2015 Red Ensign Group meeting in Bermuda, where the UK (Department for Transport and the Maritime Coastguard Agency) meet the key actors from the Overseas Territories and Crown Dependencies to discuss a range of technical and safety issues, including limits of liabilities.

The majority of UK ship-owners belong to one of the International Group of P & I clubs and it is in their interests to keep insurance low whilst maintaining high standards and reputation. Commercial sensitivities – as well as other factors – means that it is simply not possible to quantify the effect on the cost of insurance on ship-owners simply from an increase in the limits, since insurance rates are influenced by severable variables, e.g. severity and frequency of claims in any one year, types of claims, cost, capacity and resilience of market re-insurance. Moreover,

the premium paid for liability insurance covers a variety of different risks relating to the use and operation of the vessel.

Changes in monetary values

The Consumer Price Index (CPI) inflation rate and the GDP Deflator inflation rate are the most commonly used sources of data when calculating inflation factors. Data and analysis provided by Japan to the IMO in 2012, which had been independently verified by the IGP&I Clubs and the UK Chamber of Shipping at the time, indicated that changes in monetary value (inflation rates) of the State Parties to the LLMC between 1996 and 2010 were no more than 45%.

Conclusion

Based on these three factors, the majority of States (including the UK) concluded that a maximum increase in the original limits of liability of 6% per year as advocated by Australia in its proposal (which, on a compound basis, would equate to an increase in excess of 145%) was not justified. The IMO subsequently adopted an increase that reflects the change in monetary value up to 2010, adjusted to reflect the monetary value up to the year of adoption (2012) - namely 51%. In accordance with the tacit agreement procedure, which provides for a three year period between adoption and entry into force, the revised limits will enter into force on 8 June 2015 – some 19 years since the LLMC '96 limits were first adopted.

4. Policy objectives

The policy objectives are to:

- (1) Implement the increase to the limits of liability under LLMC to ensure public sector, businesses and individuals receive prompt recompense for (recovery of) costs incurred and adequate compensation;
- (2) Facilitate future increases to these limits without the need for further implementing legislation;
- (3) Ensure that the compensation limits under the Athens Convention take precedence over the LLMC limits for passenger claims; and
- (4) Provide discretionary powers for the issuing of UK state certificates for Bunker Convention purposes.

5. Policy Options

5.1 Do Nothing

This option would have the effect of the UK not implementing the increases to the liability limits and would, therefore, maintain the *status quo* set by the existing limits.

Whilst this would not necessarily result in any additional costs to UK ship-owners operating solely within UK waters, it could affect any UK registered ships wishing to visit a port in another State Party that had implemented the increases. In such circumstances the UK vessel would then be subjected to those new limits and, in turn, would have implications for the compulsory insurance requirements under other liability Conventions. By failing to comply with international rules UK ship-owner's could soon find themselves disadvantaged from operating if their vessels are detained or refused entry into the ports of other State Parties.

Furthermore, this option would prevent victims from being able to make claims for the new, higher limits and therefore be unable to recover the full cost of having to deal with shipping related incidents.

To note, that the LLMC itself does not have requirements to have compulsory insurance, but establishes the legal and financial framework within which other liability Conventions operate.

5.2 Option 1: Implement increase to the LLMC limits of liability adopted by the IMO in 2012 to ensure public sector, businesses and individuals receive prompt recompense for the recovery of costs incurred and also adequate compensation.

Implementing these increases would help to strengthen the international regime and help to create a level playing field within and across industry. It would also ensure that victims are able to recover such costs from having to deal with shipping-related incidents and that they would have access to the new, higher limits set out in the LLMC 96. The new, higher limits, do not adjust those limits previously set for passenger claims.

The mechanism to do this would be achieved by amending the general limits set out in Schedule 7, Chapter II, Article 6 of the 1995 Merchant Shipping Act, with the Secretary of State using powers under (2C) and (2D) of Section 185 to make secondary legislation to introduce the new limits.

5.3 Option 2: Incorporates Option 1 above and also facilitates future increases to the LLMC limits of liability without the need for further implementing legislation by means of an ambulatory reference.

In addition to implementing the current proposal to increase the LLMC limits (option 1), this option would facilitate an easier adjustment to LLMC 1996 increases in the future.

The current practice of implementing international maritime conventions, and regular changes to them, by means of a mixture of primary legislation and secondary legislation has resulted in a complex regulatory structure that is confusing to industry and the regulator alike. It includes a complex mix of international conventions and protocols, EU regulation and domestic rules, applying to different types of vessel engaged in different types of transport of goods and/or passengers (such as domestic journeys, in land waterways and international journeys). It is also time consuming and resource intensive, leading to delays in implementation – which in turn can result in ships being challenged during inspections in foreign ports leading to delays and inconvenience to UK ships.

A new section 306A of the 1995 Act provides a mechanism that would allow changes to international instruments in the maritime sector, to which the UK is a party, to take effect in UK law without the need to make further legislative or regulatory provision.

The practical effect of this section is that where the power has been applied through secondary legislation the Government would not need to make further secondary legislation or publish any other regulatory document in order to give effect to changes to international obligations and standards; changes to the text of an international instrument would be automatically incorporated into UK law in the circumstances specified in the secondary legislation.⁴

The secondary legislation introducing this option would mean that future amendments to the LLMC limits of liability would automatically be applied without the need for further legislation or regulatory provision. It should be noted that there are three specific scenarios visualised in the LLMC 1996 that would trigger an increase in the limits, as set out in Section 4 – the experience of incidents; the effect on the cost of insurance and, finally, changes in monetary values (Such as, for example, inflation).

⁴ These notes refer to the Deregulation Act 2015 (c.20), page 63 of the Explanatory Note, which received Royal Assent on 26 March 2015

Although Option 2 introduces an ambulatory reference and incorporates option 1, it is above the minimum implementation requirements. Nonetheless, ambulatory referencing will reduce the number of statutory instruments and legislation which would be required in the future. The amount of new and complex regulatory structure could be confusing to industry and regulators. It is not expected that this provision in itself will impose additional cost on business.

5.4 Option 3: Ensures that the compensation limits under the Athens Convention take precedence over the LLMC limits for passenger claims.

The agreed increases to LLMC 1996 limits (option 1) apply only to incidents that do not involve claims for death or personal injury to passengers. This means that any claims for death or personal injury to passengers made under the LLMC 1996 would not reflect changes to monetary values since then, meaning that passengers may not actually be able to access a higher, and perhaps more appropriate, limit.

Advancing this option would have the effect of ensuring greater compensation protection for passengers in the event of death or personal injury. However, being a State party to the Athens Convention, which is particular to incidents involving passengers on international journeys, does not automatically negate or remove the right of the ship-owner to apply the lower limits for passenger claims under LLMC 1996. Since the UK is a State Party to both LLMC 1996 and the Athens Convention, a change in UK legislation is necessary to effect such a change and ensure that passengers have access to higher limits which better reflect potential losses that need to be compensated for, at least as far as financial compensation can.

The 1974 Athens Convention as amended by the Protocol of 2002 and the LLMC '96 defines a passenger as any person carried in a ship (a) under a contract of carriage, or (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Convention.

The Convention requires carriers to maintain insurance to cover the limits for strict liability under the Convention in respect of the death of and personal injury to passengers.

The limit of the compulsory insurance shall not be less than 250,000 SDR per passenger on each distinct occasion. Ships are to be issued with a certificate attesting that insurance is in force.

The limits of liability have been raised significantly under the Protocol, to reflect present day conditions and the mechanism for raising limits in the future has been made easier within the IMO.

The liability of the carrier for the death of or personal injury to a passenger is limited to 250,000 SDR per passenger on each distinct occasion.

If the loss exceeds the limit, the carrier is further liable for up to a limit of 400,000 SDR per passenger on each distinct occasion - unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.

In other words, a ship-owner would, under existing UK law, be entitled to invoke the global limitation in the LLMC in respect of a passenger claim to which the Athens Convention applied and could, therefore, limit their liability for claims of loss of life or personal injury to passengers of a ship to the maximum limit of liability of 175,000 SDRs multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate.

Since the new increased limits agreed by the IMO's 99th Legal Committee did not introduce any increases in connection to passenger claims under LLMC, there are no financial improvements in relation to passenger claims to make them more commensurate with those set out in the 2002 Athens Protocol.

By taking forward this option to remove the ship-owner's ability to invoke the LLMC global limitation, the effect would compel ship-owners to have in place, through appropriate insurance for potential passenger claims, the higher limits as set out under the 1974 Athens Convention (as amended by the 2002 Protocol) and remove their right to limit their liabilities under LLMC. This, in turn, would also ensure greater protection to passengers in the event of death or personal injury.

Furthermore, Regulation (EC) 392/2009 introduced the main provisions of the 2002 Athens Protocol into the EU and which was implemented by the UK on 31 December 2012 by The Merchant Shipping (Carriage of Passengers by Sea) Regulations 2012⁵. The EU Regulation will also bring into scope Class A and B vessels engaged domestic voyages. The UK took advantage of the only available derogations within the Regulation to delay this until 31 December 2016 and 31 December 2018 respectively.

Class A and B vessels are defined by the sea area in which they normally operate (rather than by their tonnage). What this will mean is that from those dates ship-owners who operate such routes used by Class A and Class B vessels operating within the UK, will be in scope of the EU Regulation (*vis à vis*, the 2002 Athens Protocol to the extent that it applies to EU vessels) and, as such, will be required to have the appropriate level of insurance in place (250,000 SDR for strict liability and up to 400,000 SDR) to cover their liabilities in the event of death or personal injury to passengers or loss or damage to their luggage.

Our proposed changes under this option will automatically apply to those Class A and B vessels on domestic journeys that the EU Regulation brings into scope (when the current derogations expire).

5.5 Option 4: Provides discretionary powers for the issuing of UK state certificates for Bunker Convention purposes.

The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006⁶ amend Chapter 3 of Part 6 of the Merchant Shipping Act 1995 (Liability for Oil Pollution – The Bunkers Convention). Article 18 (3) of those regulations amends Section 164 dealing with the issue of certificates by the Secretary of State, where certificates are issued by the Port State Control (in the UK this is the Marine and Coastguard Agency, MCA) verifying that the ship-owner has in place insurance cover to meet his/her liability obligations under the Bunkers Convention.

However, the amending SI contains the word “shall” with respect to any request for a certificate by a non-State party to the Secretary of State for Transport, instead of the discretionary effect of “may”, which is provided for in both the original IMO 2001 Convention (under Article 7 (2)) and the EU Council Decision⁷ that authorised EU Member States to sign, ratify or accede to the Convention. Applying this option and correcting the legislative language will reflect the original intention of those measures.

In the current situation this has had the effect of legally requiring the Secretary of State to issue certificates to a registered ship-owner if they demonstrate that they are able to meet their liability obligations and that the underlying insurance (or other financial security) is sufficient to cover those liabilities. This removes any discretion that the Secretary of State may wish to apply in cases where the ship-owner or the vessel itself fails to respect its other obligations under other conventions or protocols. In particular, this could lead to situations where the Secretary of State is

⁵ SI 2012 No. 3152

⁶ SI 2006 No. 1244

⁷ Council Decision 2002/762/EC

required to issue certificates to vessels flagged by non-ratifying States that are on the Paris MoU Port State Control Black and Grey lists⁸.

Whilst the UK's policy has been that certificates will not be provided for those vessels whose Flag State is on the Paris MOU Black List, this position conflicts with existing legislation and, therefore, creates a risk of challenge for the UK. In other words, if a ship-owner was to insist on receiving a certificate from the United Kingdom and all the relevant and necessary documentation was in all respects complete and compliant – irrespective of the condition of the vessel or the status of the ship-owner – the Secretary of State would nonetheless be required to issue a certificate or risk having his decision not to issue a certificate overturned at judicial review, which has the potential to expose the UK to claims for compensation.

This has been an ongoing risk (ever since the amending regulations were made in 2006), but one that can be rapidly resolved by making a minor modification to that legislation, replacing the word “shall” with “may”, and so bringing it fully in line with the original intention of the Convention that gives a State Party to discretion to issue certificates to non-UK flagged ships. By ensuring the Secretary of State's discretionary power in this respect would also bring it in line with other such discretionary powers currently applied across obligations to issue certificates under Port State Control.

Option 5 – Applying all of the above options in one legislative measure

This option may be considered as the preferred option at this stage of the impact assessment, dependent on responses from industry experts. And even then the final decision would rest with the Government as to whether or not to proceed, given the nature of some of the measures. However, Option 1 will ensure that ship-owners are properly insured to the new higher limits; incorporating Option 2 would ease the passage of future increases to the LLMC 1996; option 3 would ensure that passengers have access to higher levels of compensation. Option 4 is a minor adjustment to existing legislation, ensuring that the Secretary of State has at his or her disposal discretionary powers to issue State certificates or not. It would be disproportionate to carry out a further analysis and impact assessment in order to achieve this and that is why it is now included in this current package of measures.

5.6 Penalties

In connection with the 4 options set out above, it should be noted that the UK already has in place a well-established, comprehensive and coherent framework of maritime regulatory enforcement which is well understood within the maritime community. No further modification or introduction of new provisions will be necessary in either the enforcement measures or the framework of penalties as a result of the changes to the limits of liabilities agreed by the 99th IMO Legal Committee, since the fundamental requirement for ship-owners to have appropriate levels of insurance in place (as well as certification) are already in place. It will, nonetheless, be the responsibility of ship-owners to ensure that their insurance is adequate and appropriate and reflects the new limits after 8 June 2015.

6. COSTS AND BENEFITS

6.1 Introduction

⁸ The Paris MoU is an organisation that consists of 27 participating maritime Administrations and covers the waters of the European coastal States and the North Atlantic basin from North America to Europe. Its mission is to eliminate the operation of sub-standard ships through a harmonized system of port State control. Its basic principle is that the prime responsibility for compliance with the requirements laid down in the international maritime conventions lies with the ship-owner/operator. Responsibility for ensuring such compliance remains with the flag State.

Despite repeated efforts to obtain further information about the potential costs to ship-owners on their insurance premiums or other costs arising from changes, such as those referred to in this IA, industry experts have not been able to provide any evidence. Anecdotally, during the Red Ensign Conference in Bermuda in June 2015, representatives of the maritime insurance industry confirmed that there are a range of factors that are taken into account when calculating increased premiums. Whilst being market-based, insurance is also calculated on the resilience of the market, the number of previous incidents, the nature of those incidents, which directly impact on the cost of insurance, the activities and journeys of the vessels and so on. Insurers are not necessarily influenced by conventions, or changes to conventions.

Therefore, due to the limitations of the available evidence base, and the nature of the maritime insurance industry, it has not been possible to monetise any of the costs and benefits that have been identified for this impact assessment. Where it has not been possible to monetise costs or benefits, a full qualitative description of the cost or benefit has been provided in this impact assessment, including questions to consultees. The consultation aims to gather evidence in these areas.

6.2 Option 1 (implementing the new liability limits to 1996 LLMC)

Costs

In real terms, increasing the maximum LLMC limits to those agreed by the IMO should not introduce any new or additional costs to ship-owners in respect of the insurance premiums that they pay since the increases are intended to reflect a realignment with inflation over the period of time between 1996 and 2012. Whilst there may be the potential for an increase in costs to ship-owners by applying Option 1 (although there is no automatic link between increased premiums and higher limits), there is a limitation of an available evidence base from the maritime insurance industry itself, and so it has not been possible to monetise what this cost might be. However, whilst there is no automatic correlation between inflation-related increases to the limits and insurance premiums to be paid, any such impact would reflect that inflation, rather than any real cost increase. This consultation aims to gather information in this area.

Benefits

The increases to the LLMC are as a result of changes in monetary value (inflation rates) between 1996 and 2012. Proceeding with Option 1 will ensure UK ship-owners continue to meet their obligations and that future claims can continue to be met.

Question to Consultees:

We would like to know if you are able to provide any additional evidence on the costs and benefits of this impact assessment. In particular, are you able to provide any evidence or data demonstrating how the increase in the limits of the LLMC may impact or translate into increased insurance premiums or other business costs? Furthermore is there any evidence on how the real cost of insurance compares now to those of 1996.

6.3 Option 2 (introducing a provision for an ambulatory reference)

Costs

This option of providing for an ambulatory reference would impose no direct cost on business or place additional cost on any individual or organisation. Nonetheless, because ambulatory referencing would enable future increases to be applied automatically without the need for further

legislation or regulatory provision, there could be a direct cost to business if at some point in the future a decision is made within the framework of the IMO to increase the limits of liability again— e.g. because they are no longer keeping pace with changes in monetary value or no longer reflect the reality of the costs associated with the clean-up of an increasing number of incidents.

Benefits

Until there is a future increase in the limits of liability under the LLMC, the ambulatory reference provision would result in no direct benefits to any business, individual or organisation. However, when such increases do occur, the ambulatory reference provision would help to speed up the implementation process. This in turn would affect the timing of when any costs and benefits are actually incurred by businesses, individuals or organisations, and would also lead to a reduction in the administrative resources currently required by Government for implementation purposes.

Utilising this power would also mean that, when a change is made to the limits of liability, industry only has to familiarise itself with the change to the LLMC text rather than also having to refer to national legislation implementing (and sometimes interpreting) the change to the LLMC.

Prompt implementation also has the potential benefit of reducing the likelihood of delays and inconvenience in foreign ports for UK flagged ships trading internationally, and international criticism associated with late implementation.

6.4 Option 3 Ensures that the compensation limits under the Athens Convention take precedence over the LLMC limits for passenger claims).

Costs

For vessels already engaged on international passenger journeys there ought not be any cost to ship-owners because they are already required to carry insurance that respects the provisions of the Athens Convention (as amended by the 2002 Protocol), so removing their right to revert back to the lower LLMC limits should not attract any additional costs to them, or at least none that have not already been identified in consultation and IAs for Athens ratification and implementation of the EU Regulation. There will be no cost impact for passengers.

Likewise, Class A and B vessels on domestic voyages, which will come into scope of the EU Regulation on 31 December 2016 and 31 December 2018, the cost, as far as it can be determined, has already been taken account of in the Regulatory Impact Assessment associated with implementing the EU Regulation.

Questions to consultees:

In our consultation of July 2012 in respect of implementing Regulation (EC) 392/2009 (the 2002 Athens Protocol), we asked consultees if they agreed with the UK approach of removing the ship-owners right to limit their liability for passenger claims under the LLMC, in favour of the higher limits under Athens. The responses at the time indicated that this proposed approach by the UK was sensible. Do you still maintain that view so that in the event of passenger claims, the higher limits (under the Athens Convention, as amended by the 2002 Protocol) could be applied?

Do you believe that this option will introduce significantly higher costs to shipowners in respect of insurance premiums? If so, please indicate what those costs might be?

Do you have any evidence or information relating to whether or not any of the other 21 Contracting Parties to the 2002 Athens Protocol have removed the right of ship-owners to limit their liability for passenger claims under LLMC?

Benefits

The main benefit will be for passengers travelling by sea who will, should an incident occur, benefit automatically from the higher level of compensation obtainable through the Athens Convention in the event of death or personal injury or loss or damage to luggage.

6.5 Option 4 Amend the Bunkers Convention Regulation to give Secretary of State discretionary powers over the issuance of Port State Certificates.

Costs

There will be no impact for UK flagged vessels since they are already expected to comply with the standards set through the Conventions to which the UK is a party to. This provision will not introduce any new costs or burdens on industry.

Benefits

The main practical benefit will be to remove the obligation on the Secretary of State to issue certificates relating to the Bunkers Convention in cases where he is not satisfied that either the vessel or the ship-owner meets the minimum criteria. It will, of course, reinforce the UK's reputation in promoting safer vessels through proper compliance and standards, making it more difficult for sub-standard vessels to operate.

Question for Consultees:

Is our assessment of the cost and benefit of taking this option forward correct or do you have evidence or views to suggest otherwise?

6.6 Option 5 (Incorporate all of the previous options into one preferred option)

Costs

This will incorporate the costs from options 1,2,3 & 4. The costs are explained separately in the above sections.

Benefits.

This will incorporate the benefits from options 1,2,3 & 4. The benefits are explained separately in the above sections.

6.7 Scope of the Impact Assessment

This impact assessment considers the additional costs and benefits that would arise as a result of the policy options (Options 1 to 4) being considered. In order to do this effectively, each option has been considered as a stand-alone option and assessed on its own merits. The intention of this is to provide for the possibility to assess the impacts of different policy option combinations that could be taken forward, bench-marked against the 'Do Nothing' scenario.

Under the 'Do Nothing' scenario the increased limits of liability under LLMC '96 as agreed by the Legal Committee in 2012 would not be implemented in the UK by legislation. Whilst business would still be obliged to comply and meet its insurance and liability obligations under the 1996 limits, it means that the cost to business on the one hand would be lessened, since the premiums would not rise in line to reflect the new liability limits. On the other hand, victims would find costs for clean-up operations increasing with a gap emerging between those recoverable costs (through compensation) and the amount that a ship-owner or insurers was liable for (in compensation payment).

6.8 Other Costs

Familiarisation costs: There should be negligible – if any – familiarisation costs for ship-owners under any of the policy options since ship-owners ought already to have in place the necessary insurance certification required within both the framework of LLMC and for meeting any specific requirements set out in the appropriate Convention. No additional work would be required.

Administrative cost: There are, as a consequence of the proposed provisions in this IA, no new or revised administrative costs to ship-owners.

Question for Consultees:

Do you agree with our assessment of any familiarisation or administrative costs, or are there other elements that are not covered?

7. Key assumptions/sensitivities/risks

Risks

It has not been possible to quantify the effect of the cost of insurance as it is influenced by multiple factors and operations. However, previous impact assessments and consultations have been carried out over the last five years which have a direct relevance to this IA – in particular implementation of EU Directive 2009/20/EU on insurance for maritime claims (2011); implementation of Regulation (EU) 2009/ 392 on the 2002 Athens Protocol (2012); the implementation of 2002 Athens Protocol as an international Convention (2013); the Nairobi Wreck Removal Convention 2015 (2010).

In all of these legislative steps industry and other stake-holders have been invited to provide evidence or further information about the likely costs or administrative impacts arising from Government intervention. They have been either unable to, or reluctant (for commercial reasons) to inform the development of these impact assessments. The risk of not having such data – and therefore underestimating the cost to industry – has been significantly mitigated by industry's own admission that on all previous occasions it has not been able to add to the knowledge base and, in fact, have confirmed that assessments have been accurate and fair.

Assumptions

The increase in liability limits agreed by the IMO is based on CPI and the GDP inflation rate. Due to limitations of the evidence base, we are unable to monetise the costs and benefits of this impact assessment. A full qualitative description of each cost and benefit has been provided and questions to consultees have been proposed.

8. WIDER IMPACTS

8.1 Small and Micro Business Assessment

It is not considered that the introduction of the new LLMC limits will have any significant impact on small businesses. The increases are applied to an international Convention already in force and the liability conditions are applied according to the gross tonnage of vessels.

The businesses that would be affected by the increases are ship-owners and insurers. So whilst it is accepted that some UK ship-owners may be small businesses, particularly those that operate as one-ship companies, the IGP&I Clubs (who insure around 90% of the world's ocean-going tonnage) and the UK Chamber of Shipping have stated that the majority of the UK fleet maintains compulsory insurance (where required by one of the other international Conventions in force or by the EU Insurance Directive). Due to lack of available data, it has not been possible to quantify the number of small and micro businesses which could be affected by the above options. Through consultation, this IA aims to obtain more information on the number of small and micro businesses affected.

All vessels over 300 gt require an annual State Certificate as proof that insurance or other financial security is in place within the framework of the LLMC and this will continue. For UK flagged vessels, such certificates are issued by the MCA. The cost for such certificates is currently £31 and is not seen as placing a significant burden on small firms who are currently required to have certificates already, nor will it put them at any significant disadvantage to ship-owners of vessels under 300 gt who are not required to have a certificate.

Micro Businesses

Small and micro businesses are not necessarily exempt from the proposed options. They would come into scope of LLMC '96 and, therefore, the increased liability limits if: (a) the vessel or vessels that they operate are over 300 gross tons and; (b) the vessels are engaged in international journeys. However, such vessels in the 300 - 500gross ton range would not normally be owned by micro businesses, since it is a costly investment (anything between £5million - £10 million) and ship ownership is very often shared between different parties, depending on the size of the vessel, the cargoes they carry, the areas and risks in which they operate, the financing of the vessel, and so on. Whereas, the complement of crew may well be employed through an agency, rather than being employed directly by the ship-owner.

As a result of these important factors there is no available evidence to support the idea that any micro businesses in the UK do operate and crew such vessels – even though the measure has no direct impact on any business (as demonstrated in this IA).

Question to Consultees:

Are any elements of the proposed packages of measures likely to impact on you as a small or micro business? If so, please provide details.

8.2 Competition Assessment

None of the options proposed would place any additional burdens on any new or existing firms, and would have no impact on competition within the maritime sector.

8.3 Environmental & Carbon Impact

None of the options would have any adverse environmental or carbon impact.

8.4 Race, Disability and Gender Impact Assessment

All options have been assessed for relevance but the measures proposed are not going to have any variation in impact on different groups; an Equalities Impact assessment is therefore not required.

8.5 Human Rights

We believe that the Minister would be able to make the following statement: "In my view the provisions are compatible with the Convention rights."

8.6 Family Test

It is considered that there are no significant impacts on families

9. SUMMARY AND PREFERRED OPTION

The preferred option is Option 5 as this will not only deliver the minimum objective, which is to ensure that the new LLMC limits can be applied, thereby providing the financial framework through which victims of incidents can seek prompt and appropriate compensation, but also to recoup their costs in connection with any clean up as a result of such incidents. It incorporates the ambulatory reference enabling future LLMC 1996 increases to be applied more easily and contribute towards providing legal certainty.

Furthermore, Option 5 provides for amending related legislation, in particular around ensuring that in the event of death or personal injury, passengers can have recourse to the higher limits set out under the Athens Convention (as amended by the 2002 Protocol) rather than the lower limits offered by LLMC '96.

Option 5 enables an amendment to the Bunkers Convention legislation and gives the Secretary of State discretion when issuing certificates. It would be disproportionate to go through the impact assessment process on such a minor point, which introduces no cost or admin burden on industry, and it is appropriate to include this measure in the package.

10. One-In, Two-Out

The preferred option (option 5) contains elements of gold plating which will cost business little or no money. These are in scope of OITO. These are listed below, together with the reasoning as to why they are desirable.

- Introduction of ambulatory referencing: No cost to business. Allows future increases to the liability claim limits to be implemented automatically, with no legislation required. Future changes will happen regardless of ambulatory referencing, so there is no added cost to business, but a time saving for public administration of not having to use legislation.
- Introduction of the limits under the 2002 Protocol of the Athens Convention: No or small cost to business. The increase in the LLMC does not relate to claims where death or personal injury to passengers have occurred, so if the limits of the Protocol were not introduced, these would remain at the level set in 1996. Ships that make international trips already have insurance covering the 2002 Protocol limits, therefore there is no cost to them. The impact on domestic class A and B vessels was already accounted for in an impact assessment relating to regulation (EC) 392/2009, implemented in the UK on 31 December 2012
- Giving the Secretary of State discretionary powers over the issuance of Port State Certificates: This removes existing gold plating, as currently the Secretary of State has to issue these certificates if the vessel has all the required documentation, even if the UK does not want to issue the certificate. The current requirement in international conventions is that a Secretary of State may issue a certificate (and by extension may not). Moving to this less restrictive requirement is what is being proposed in this impact assessment.

11. Post Implementation Review (PIR) Plan

1. **Review status:** Please classify with an 'x' and provide any explanations below.

	Sunset clause	X	Other review clause		Political commitment		Other reason		No plan to review
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2. **Expected review date** (month and year, xx/xx):

08	06	/	2	0
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Rationale for PIR approach:

Describe the rationale for the evidence that will be sought and the level of resources that will be used to collect it.

- **Will the level of evidence and resourcing be low, medium or high? (See Guidance for Conducting PIRs)**

The level of evidence and resourcing for this review will be low. The proposed changes to legislation do not impact on the maritime sector in terms of cost or administrative burdens and industry will not be asked to do anything more than they are doing at the moment. The only effective way to gather evidence will be on a case by case basis when an incident occurs; but these are few and far between so it may not be possible to effectively evaluate any impacts.

- **What forms of monitoring data will be collected?**

In liaison with MCA and the maritime ship-owners and insurance sector it will be possible to obtain information about incidents involving UK vessels and – where possible – assess the costs for recovery.

- **What evaluation approaches will be used? (e.g. impact, process, economic)**

We will ask industry and the maritime insurance sector to provide information and analysis of any impacts, numbers of incident involving UK vessels engaged on international journeys, and any incidents involving death or injury to passengers.

- **How will stakeholder views be collected? (e.g. feedback mechanisms, consultations, research)**

Views and feedback will be undertaken through consultation with our established stakeholder groups and the original consultee list in order to gain their views on the impact of the Regulations

General Limits of Liability (i.e. for those incidents other than loss of life and injury to passengers, or loss or damage to passenger luggage)

The LLMC '96 establishes a framework and sets limits for the vast majority of third party claims that can be made against a ship-owner. The scope of the general limits are set out under Article 2 (1) of the LLMC '96. These are:

- (a) Claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connexion with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
- (b) Claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- (c) Claims in respect of other losses resulting from infringement of rights other than contractual rights, occurring in direct connexion with the operation of the ship or salvage operations;
- (d) Claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is, or has been, on board such ships;
- (e) Claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
- (f) Claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

Furthermore, the following claims are exempted from limitation under LLMC, and are, therefore, not affected by the latest increases:

- (a) Claims for salvage, including, if applicable, any claim form or special compensation under Article 14 of the International Convention on Salvage 1989 as amended, or contributed in General Average;
- (b) Claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage dated 29th November 1969 or of any amendment or Protocol thereto which is in force;
- (c) Claims subject to any international convention or national legislation governing or prohibiting the limitation of liability for nuclear damage;
- (d) Claims against the ship-owner of a nuclear ship for nuclear damage;
- (e) Claims by servants of the ship-owner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the ship-owner or salvor and such servants the ship-owner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than provided for in Article 6.

UK Fleet Statistics (2014)

Vessel Type (Commercial Vessels)	Number of Vessels	Total GT
International	Number of Vessels	Total GT
NLS Tanker	0	0
Combination carrier	27	458908
Oil tanker	12	424811
Gas carrier	4	268806
Chemical tanker	28	373893
Bulk carrier	18	786385
Containership	92	6514185
Ro-Ro cargo ship	31	897326
General cargo / multipurpose ship	100	299416
Refrigerated cargo carrier	0	0
Ro-Ro passenger vessel	76	881415
Passenger ship	95	632766
Factory ship	0	0
Heavy load carrier	0	0
Offshore service vessel	148	283309
Mobile offshore drilling unit	6	261084
Special purpose ship	46	493224
High speed cargo craft	0	0
Tug	175	64646
Livestock	0	0
Dredger	33	79384
Vessels in use for sport and pleasure	0	0
Fishing Vessels	5718	184084
Other types of ship	353	262048
Total:	6962	13165689

List of Consultees

Scottish Government

Welsh Government

Northern Ireland Executive

International Group of P&I Clubs

CLIA UK & Ireland

Ince & Co

Norton Rose

Irwin Mitchell

Holman, Fenwick and Willan

Thomas Cooper

Hill Dickinson

British Maritime Law Association

UK Chamber of Shipping

Marsh Insurance

Scottish Boatowners Mutual Association

UK Major Ports Group

British Ports Association

Association of British Ports

Bentleys, Stokes and Lowless Maritime Insurers

Clyde and Co LLP

Professor Nick Gateskell

RMT

Nautilus

Trades Union Congress

British Marine

Carina

Catlin

Navigators

Lead Yacht

QBE