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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:

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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:

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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