

**EXPLANATORY MEMORANDUM ON THE PROTOCOL OF 2002 TO THE  
ATHENS CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS AND  
THEIR LUGGAGE BY SEA 1974**

**Title of the Convention**

Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974.

**Command Paper Number:** 8760

**Subject Matter**

The Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea 1974 ("the 2002 Athens Protocol") was adopted by the International Maritime Organisation (IMO) on 1 November 2002. The IMO is the United Nations specialised agency with responsibility for safety and security at sea and the prevention of maritime pollution from ships.

The 2002 Athens Protocol will provide an enhanced framework for compensation in the event of death or personal injury to a passenger, including loss of or damage to luggage, when travelling by sea. The 2002 Athens Protocol increases the limits of liability that currently exist under the 1974 Convention (up to 400,000 Special Drawing Rights (SDR) per passenger in the event of death or personal injury. On 7 November, 1 SDR had an approximate value of £0.95)<sup>1</sup>. It also requires carriers to maintain compulsory insurance (up to 250,000 SDR per passenger) on a strict liability basis, and it provides claimants with the right of taking direct action against the insurer.

**Ministerial Responsibility**

The Secretary of State for Transport has responsibility for shipping policy, including maritime insurance and liability matters. The Secretaries of State for Foreign and Commonwealth Affairs; Justice; Scotland; Wales; and Northern Ireland, also have a policy interest.

**Policy considerations**

**(i) General**

The main provisions of the 2002 Athens Protocol have already been incorporated into EU law. Regulation (EC) 392/2009, which entered into force on 31 December 2012, was implemented in the UK by means of The Merchant Shipping (Carriage of Passengers by Sea) Regulations 2012.

The requirements of two Council Decisions (2012/22/EU and 2012/23/EU) necessitate further Government intervention to ratify the 2002 Athens Protocol. This will not only ensure that UK-flagged vessels can be issued with the correct international certification attesting that they have the necessary insurance in place,

<sup>1</sup> SDR means a Special Drawing Right. A SDR is an international reserve asset created by the International Monetary Fund in 1969 to supplement its member countries' official reserves. For further information see:  
[http://www.imf.org/external/np/fin/data/param\\_rms\\_mth.aspx](http://www.imf.org/external/np/fin/data/param_rms_mth.aspx)

but it will also enable the 2002 Athens Protocol to be extended to the Overseas Territories and Crown Dependencies should they so wish it.

There is a need to ensure that the framework for providing compensation in the event of death or personal injury of a fare paying passenger continues to operate effectively, and that claims for compensation are met adequately and paid promptly. If the Overseas Territories and Crown Dependencies are not able to ratify the 2002 Athens Protocol, the same level of protection would not necessarily be available to passengers on international (non-EU) journeys travelling on passenger ships registered in Overseas Territories and Crown Dependencies as for passengers travelling on passenger ships registered in the UK. For example, there would remain a risk that passenger ships registered in Overseas Territories and Crown Dependencies would not take out appropriate insurance coverage for risks relating to the death of or injury to passengers carried at sea, or the loss of or damage to luggage.

#### **(ii) Impact Assessment**

An Impact Assessment (IA) No.DfT00242 has been carried out on this measure. However, although key external stakeholders were invited to contribute to the IA, the available evidence base continues to have a number of limitations. Given the significant uncertainties surrounding the impacts of this measure (e.g. the number of Overseas Territories and Crown Dependencies that would choose to ratify the 2002 Athens Protocol is uncertain) and the limitations of the available evidence base, it has not been possible to monetise any of the costs and benefits in this IA. However, the IA does provide a full qualitative description of the impacts. The Regulatory Policy Committee (RPC) has reviewed the IA and concluded that it is fit for purpose.

#### **Reservations and declarations**

For the purposes of ratification, it will be necessary for the UK to denounce the 1974 Athens Convention, and to declare that the UK wishes to be bound by the IMO Reservation, which includes the guidelines for implementation of the 2002 Athens Protocol, which was adopted by the IMO back in 2006. This reservation, which is mandatory for all EU Member States under the terms of Regulation (EC) 392/2009, addresses the need for States to adopt a consistent approach to implementation, particularly in relation to the liabilities for certain war and terrorism related risks and the State Certification requirements attesting that a ship owner has the necessary insurance in place.

#### **Implementation**

To enable the UK to become a State Party to the 2002 Athens Protocol when it enters into force internationally on 23 April 2014, the UK will need to deposit its instrument of ratification with the IMO by 23 January 2014.

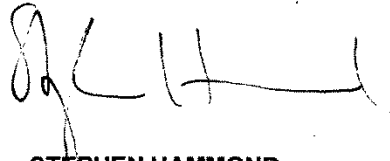
Although the 2002 Athens Protocol is of international origin, the requirements of two EU Council Decisions (2012/22/EU and 2012/23/EU) necessitate Government intervention to ratify the 2002 Athens Protocol.

The introduction of the Merchant Shipping (Convention relating to the Carriage of Passengers and their Luggage by Sea) (Amendment) (Order) 2014 will enable UK ratification of the 2002 Athens Protocol. It will also revoke some related domestic legislation identified as being redundant under the Maritime Theme of the Red Tape Challenge.

As it does the minimum necessary for the UK to ratify the 2002 Protocol and revoking the redundant domestic legislation would have no impacts on business, it is considered to be out of scope of the One-in-Two-Out (OITO) Rule. The RPC have concluded that this assessment appears to be reasonable.

#### **Consultations**

UK ratification of the 2002 Athens Protocol formed part of the Department's targeted six week consultation on the implementation of Regulation (EC) 392/2009. The overall view from responses received was one of support.

A handwritten signature in black ink, appearing to read 'S. Hammond', with a stylized flourish at the end.

**STEPHEN HAMMOND**  
Parliamentary Under Secretary of State  
Department of Transport