



**IMO**



**INTERNATIONAL MARITIME LAW INSTITUTE**

**Established under the auspices of the International Maritime Organization**

**A specialized agency of the United Nations**

**A BILL TO AMEND THE MERCHANT SHIPPING ACT OF 2002 TO  
INCORPORATE THE ATHENS CONVENTION RELATING TO THE  
CARRIAGE OF PASSENGERS AND THEIR LUGGAGE BY SEA, 2002  
INTO THE LAWS OF THE FEDERATION OF SAINT CHRISTOPHER  
AND NEVIS**

**A Legislation Drafting Project submitted in partial fulfilment of the requirements for the  
award of the Degree of Master of Laws (LL.M.) at the IMO International Maritime Law  
Institute**

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**Academic Year 2009/2010**

## **DEDICATION**

Success is to be measured not so much by the position that one has reached in life as by the obstacles which he has overcome while trying to succeed.

**-- Booker T. Washington**

To my loving mom Ms Sandra Davoren, my family and friends.

### **ACKNOWLEDGEMENT**

I would like to thank Almighty God for a clear mind, understanding, endurance, health, strength and strong will in completing this course.

Thanks are also extended to the Government of St. Kitts and Nevis and the International Maritime Organization (IMO) for their nomination and sponsorship.

To my family and friends for their continued love, support and assistance throughout my time at IMLI and always, I say thank you.

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**DRAFT BILL**

SCHEDULE

ANNEXES

## **EXPLANATORY NOTE**

Bill No. xxx, Date xx.xx.2010 on the Incorporation of the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 2002 into the laws of the Federation of Saint Christopher and Nevis

### **1. Objective of the Draft Bill**

This Bill undertakes to incorporate the Athens Convention Relating to the Carriage of Passengers and Their Luggage by Sea 2002 (hereinafter referred to as the Convention) into the laws of the Federation of Saint Christopher and Nevis (hereinafter referred to as St Kitts and Nevis or the Federation).

The existing laws of the Federation of St Kitts & Nevis with respect to maritime affairs are broadly captured by the national Merchant Shipping Act 2002 (Act 24). More specifically, legislation pertaining to passenger ships is found in Part XV of the Act and reflects the provisions as set out in the International Maritime Organization's (hereinafter referred to as IMO) Athens Convention Relating to the Carriage of Passengers and Their Luggage by Sea 1974. Subsequent to its coalescence into national law, the 1974 Convention has been amended and is superseded by a Protocol adopted in 2002.<sup>1</sup> It has been remiss of the Federation who although party to the Protocol has not sought to update the law to encompass the requisite amendments.

With the recent transition from a monoculture to a service based industry reliant on tourism, the exigency for the implementation of this Convention may be regarded as timely. It brings to the fore, the observance of definitive operational standards to which the Federation must adhere to in an effort to accommodate an increasing global trend in passenger movements while in compliance with its international obligations. Therefore the regulation of passenger ships while creating equipoise between the rights of passengers and the liability of ship owners is of paramount interest and importance. The Convention then, proves vital to the furtherance of the consistency and regulation of the carriage of passengers and their luggage by sea.

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<sup>1</sup> Protocol adopted on November 1, 2002 at an IMO Diplomatic Conference convened in Athens

The carriage of passengers and their luggage by sea often includes some aspect of cabotage. Cabotage is identified with coasting-trade so that it means navigating and trading along the coast between the ports thereof.<sup>2</sup> The twin-island federation of St Kitts & Nevis is no stranger to this occurrence. Rather, it constitutes the preferred method of transport between the islands. Despite the commonality and familiarity of the journey, the Federation recorded its first and undoubtedly most tragic maritime disaster on 1<sup>st</sup> August 1970. On that day the *MV Christena* embarked on a scheduled voyage from the island of St Kitts to its sister island Nevis. However, midway between the two islands the ship capsized and sank claiming the lives of many citizens.<sup>3</sup> The official cause of the disaster was attributed to an overload of the ship's passenger capacity from the designated 155 passengers to an excessive 350 on that day.<sup>4</sup> Additionally, it is largely speculated that one of the ship's air-tight hatches was negligently left open and contributed to its demise. Since then much has been done to monitor the loading and carrying capacity as well as the overall safety and security checks onboard inland vessels. However, the enforcement of these provisions is noticeably lacking. It is hoped then, that with the introduction of stricter policies under the proposed Bill it will do well as a deterrent for ship owners and operators who are negligent in these respects.

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<sup>2</sup> Black's Law Dictionary; 6<sup>th</sup> ed., West Publishing Company

<sup>3</sup> <http://buckleysboyz.page.tl/The-Christina-Disaster.htm?page;> Accessed December 5 2009

<sup>4</sup> [http://www.anguillian.com/article/articleview/6182/1/140/;](http://www.anguillian.com/article/articleview/6182/1/140/) Accessed November 29 2009

## 2. Historical background of the Athens Convention

The concept of ‘establishing an international framework to provide a minimum degree of legal protection for passengers carried by sea’<sup>5</sup> was introduced with the adoption of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea 1974. Following this, a number of protocols were enacted effecting changes to the Convention. However, it may be said that the most influential of these changes was brought about by the 2002 Protocol particularly as it relates to increased limits of liability.

### *2.1 The 1974 Convention and subsequent Protocols*

An IMO Diplomatic Conference convened in Athens in 1974 resulted in the adoption of the Convention Relating to the Carriage of Passengers and their Luggage by Sea on 13<sup>th</sup> December 1974. Its inception was founded on the need to harmonize two earlier Brussels conventions also relating to the carriage of passengers and their luggage by sea.<sup>6</sup> The 1974 Convention entered into force on 28<sup>th</sup> April 1987 having been formally ratified by twenty-five States. It is concerned with death and personal injury claims by passengers in addition to any loss or damage in respect of their luggage thereby introducing a “regime of liability and limitation.”<sup>7</sup> The significance of the Convention as Shaw denotes, has “governed international carriage of passengers by the majority of major ship owning nations for the last 20 years.”<sup>8</sup> Despite this, it was the view by many academics such as Tsimplis that the carrier’s limits of liability were too low.<sup>9</sup> Ultimately, protocols were introduced in 1976 and 1990 in an effort to increase these limits.

The 1976 protocol entered into force on 30<sup>th</sup> April 1989. It effectively abandoned the use of the "Poincaré franc" based on the official value of gold as the applicable unit of account under the Convention. In so doing, the Special Drawing Right (SDR) was instituted as its replacement with its rate of exchange being governed by the International Monetary Fund (IMF). Although

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<sup>5</sup> Thomas, Rhidian (Ed.); *Liability Regimes in Contemporary Maritime Law*, 1<sup>st</sup> Edition, British Library Cataloguing in Publication Data., 2007, p. 183

<sup>6</sup> ‘International Convention for the Unification of Certain Rules relating to the Carriage of Passengers by Sea, 1961’ and the ‘International Convention for the Unification of Certain Rules relating to Carriage of Passenger Luggage at Sea, 1967’

<sup>7</sup> Grime, Robert; *Shipping Law*, 2<sup>nd</sup> Edition, Sweet & Maxwell Limited; 1991, p.176

<sup>8</sup> Institute of Maritime Law; *Southampton on Shipping Law*, Informa Law., 2008, p.147

<sup>9</sup> At least for passengers from developed countries, and have been a major obstacle to the wide ratification of the Convention

this constituted a significant contribution to the 1974 Convention the issue of low limits of liability were not addressed. This then brought about the 1990 Protocol which sought to increase the per passenger limitation fund in the event of death or injury to 175,000 SDR, for loss of or damage to cabin luggage to 1,800 SDR and 10,000 SDR for loss of or damage to vehicles. Perhaps more significantly it makes provision for the future application of a “tacit acceptance” procedure which enables any further amendment to limitation amounts. Nonetheless, the Protocol has never entered into force.

Despite the existence of two subsequent protocols to the 1974 Convention, the Legal Committee of the IMO recognised the need for further modifications to the Convention. This led to a Diplomatic Conference which commenced in Athens on October of 2002. There, the intention to create amended and consolidated legislation based on the 1974 Convention, 1976 and 1990 Protocols was discussed. The outcome of the Conference brought about the enactment of the 2002 Protocol on 1<sup>st</sup> November 2002, which supersedes the previous 1974 Convention and all subsequent protocols. The Convention is now referred to as the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002. It carries the precondition that States which ratify it are required to denounce the 1974 Convention and the protocols of 1976 and 1990.<sup>10</sup>

The provisions of the 2002 Convention are largely addressed within the ambit of compulsory insurance, limits of liability, an opt-out clause, amendments to existing limits and loss of or damage to luggage and vehicles. In a nutshell it is said to operate “up to a certain limit, matched with financial security and direct action against insurers as well as a substantial increase in the limit.”<sup>11</sup> It is noteworthy to point out however, that in spite of these amendments and allowances with a view of providing a more secure travel environment for passengers the Convention has not yet entered into force. Currently there are four<sup>12</sup> signatory States to the Convention of the requisite ten for its entry into force.

As it pertains to cabotage neither the Athens Convention 1974, its 2002 Protocol or Guidelines discuss this trend. Nonetheless, the United Kingdom has extended the provisions of the 1974

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<sup>10</sup> Art. 17(5) of the Athens Conv. Relating to the Carriage of Passengers and their Luggage by Sea of 2002;

<sup>11</sup> Sheppard-Mandaraka, Aleka; Modern Maritime law, 2<sup>nd</sup> Edition, Cavendish Publishing Limited; 2007, p. 934

<sup>12</sup> [http://www.imo.org/Conventions/mainframe.asp?topic\\_id=247](http://www.imo.org/Conventions/mainframe.asp?topic_id=247); Accessed January 9 2010



Convention to include the carriage of passengers by sea between UK ports, the Isle of Man and the Channel Islands.<sup>13</sup> This is evidenced by the enactment of the 1987 ‘Carriage of Passengers and their Luggage by Sea (Domestic Carriage) Order. Similarly, the provisions of the Convention are extended to include domestic carriage within the Federation by virtue of Article 2(3) of the Bill.

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<sup>13</sup> Tsimplis, Dr M N.; “Liability in Respect of Passenger Claims and its Limitation”, *Journal of International Maritime Law*, Vol. 15, No. 2, (2009), p.128

### **3. Summary and Scope of the salient provisions of the Athens Convention relating to the Carriage of Passengers and Their Luggage by Sea 2002**

#### *3.1 Limitation of liability for loss of life and personal injury*

The carrier's liability and associated limitation are provided for in Article 4 of the Convention. It seeks to provide further assistance to claimant passengers than was previously afforded under the 1974 Convention. With respect to liability, the carrier may be deemed liable by way of strict or fault-based liability. The carrier is strictly liable for shipping incidents<sup>14</sup> of up to 250,000 SDRs for passenger death or personal injury on each distinct occasion.<sup>15</sup> Fault based liability on the other hand is dealt with in the Convention in relation to non-shipping incidents. Under this type of liability it is the claimant passenger who must prove fault. Where fault is established the carrier's total limit of liability is 400,000 SDRs. Additionally, it is important to note that liability of the carrier under the Convention applies only to loss arising from incidents that occurred in the course of carriage.<sup>16</sup> The onus is therefore on the claimant to prove not only the extent of the loss claimed but also that the incident causing the loss occurred in the course of carriage.

The liability of the carrier with respect to death or personal injury is provided for in Article 368(1)(a) of the St Kitts and Nevis Merchant Shipping Act. It provides that:

*With respect to limits of liability of the carrier for death or personal injury, the following rules shall apply:*

*Subject to paragraphs (b), (c), and (d), liability for the death of or personal injury to a passenger shall not exceed 46,666 special drawing rights per carriage*

As evidenced above, the St Kitts and Nevis Merchant Shipping Act provides for a standard limit of liability for the carrier. It does not provide for an upper limit of liability in instances where the loss suffered for death or personal injury exceeds the present limit of 46, 666 SDRs. On the other hand, the Convention expressly provides for both and as such, "passengers claiming under the new regime will have much better chances of recovery".<sup>17</sup> Nonetheless it is important to note

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<sup>14</sup> Supra, n. 10; Art. 4(5)(a)

<sup>15</sup> Ibid. Art. 4(1)

<sup>16</sup> Ibid. Art. 4(6)

<sup>17</sup> Tsimplis, M N Dr; op. cit., p. 125

that there are express circumstances where the carrier will not be liable for losses claimed under the upper limit of account. The Convention provides that:

*The carrier shall be liable to the extent that such loss in respect of that passenger on each distinct occasion does not exceed 250,000 units of account, unless the carrier proves that the incident:*

- (a) Resulted from an act of war, hostilities, civil war insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character: or*
- (b) Was wholly caused by an act or omission done with the intent to cause the incident by a third party.*

*If and to the extent that the loss exceeds the above limit, the carrier shall be further liable unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.*<sup>18</sup>

The carrier will therefore be strictly liable for up to 250,000 SDRs but will only be liable in excess of this amount where fault is proved with respect to the above circumstances. Nonetheless, an upper limit of account affords passengers the ability to maximise their claims for loss of life and personal injury where such loss does not fall in the mentioned circumstances. This is particularly significant for St Kitts and Nevis in recognition of the increasing number of cruise passengers that grace the Federation's shores who must be protected in the event of such loss.

### *3.2 Limitation of liability for damage to luggage/vehicles*

The Convention recognises the distinction between cabin luggage, luggage carried in or on vehicles and other luggage which do not necessarily fall with these two categories. It provides that in the event of loss of or damage to cabin luggage the carrier is liable for a maximum of 2,250 SDRs<sup>19</sup> per passenger, per carriage. As it pertains to loss of or damage to vehicles including the luggage carried in or on said vehicle the carrier is liable up to the amount of 12,700

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<sup>18</sup> See *supra*, n. 14; Art. 3(1)

<sup>19</sup> *Ibid.* Art. 8(1)

SDRs<sup>20</sup> per vehicle, per carriage. Finally, the loss of or damage to luggage other than cabin luggage or luggage carried in or on vehicles is recoverable up to 3,375 SDRs.<sup>21</sup> However, the carrier may escape liability with respect to all other luggage other than cabin luggage if he is able to prove that the incident which caused the loss or damage “occurred without the fault or neglect of the carrier”<sup>22</sup>. The carrier therefore assumes the burden of proof in this instance, as the element of fault and neglect is presumed if the loss or damage was caused by a shipping incident within the meaning of the Convention.

### *3.3 Requirement of Compulsory insurance*

A unique feature of the Convention is the introduction of compulsory insurance and the right of direct action against the insurer. The 1974 Convention did not carry this requirement of compulsory insurance as such an additional obligation is placed on the carrier that did not exist previously. The Convention provides that:

*“When passengers are carried on board a ship registered in a State Party that is licensed to carry more than twelve passengers, and this Convention applies, any carrier who actually performs the whole or a part of the carriage shall maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover liability under this Convention in respect of the death of and personal injury to passengers. The limit of the compulsory insurance or other financial security shall not be less than 250,000 units of account per passenger on each distinct occasion.”*<sup>23</sup>

This provision specifically stipulates that its applicability extends to carriers who conduct the whole or part of the carriage with respect to ships with a carrying capacity of more than twelve passengers. More importantly, it expressly states that a derogation of less than 250,000 SDRs as coverage per passenger on each occasion is not permitted. In addition to this standard requirement of compulsory insurance the Article goes on to further outline the manner in which the certificate is to issued, its contents, the powers which may be granted by Member States to relevant authorities, who may issue and withdraw certificates and the language to be used in the

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<sup>20</sup> Ibid; Art. 8(2)

<sup>21</sup> Ibid; Art. 8(3)

<sup>22</sup> Ibid; Art. 3(4)

<sup>23</sup> Ibid; Art. 4bis(1)

certificate.<sup>24</sup> In keeping with these requirements the Convention places an express duty on the Member States with respect to ships within their jurisdiction:

*“A State Party shall not permit a ship under its flag to which this Article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 15.”*<sup>25</sup>

The compulsory insurance regime also stipulates that any loss or damage covered by way of insurance or other financial security may be directly recovered from the insurer. It provides that:

*“Any claim for compensation covered by insurance or other financial security pursuant to this Article may be brought directly against the insurer or other person providing financial security.”*<sup>26</sup>

Consequently, its incorporation into the Federation’s Merchant Shipping Act will assist greatly in ensuring “that the claims of innocent passengers would be adequately secured and paid.”<sup>27</sup>

### *3.4 Time Bar*

A time bar of two years is provided for in the Convention in relation to an action for damages for the death of or personal injury of a passenger and the loss of or damage to luggage.<sup>28</sup> Article 16(2) states that the period of limitation commences from:

- (a) *“in the case of personal injury, from the date of disembarkation of the passenger;*
- (b) *in the case of death occurring during the carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three years from the date of disembarkation;*
- (c) *in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.”*

This provision remains unchanged by the Convention and is therefore similarly mirrored in Article 376(2) of the St Kitts and Nevis Merchant Shipping Act. However, the Convention

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<sup>24</sup> Ibid. Art. 4bis(2)-(7)

<sup>25</sup> Ibid. Art. 4bis(12)

<sup>26</sup> Ibid; Art. 4bis(10)

<sup>27</sup> <http://www.bmla.org.uk/documents/athens-paper-june-2001.htm>; Accessed January 13 2010

<sup>28</sup> Ibid. Art. 16(1)

introduces a new dimension to the time bar period by allowing national courts to suspend or interrupt the period of limitation as necessary given that the date of disembarkation does not exceed five years and the date of discovery of loss or damage does not exceed three years.<sup>29</sup>

### *3.5 Amendments of the limits of liability*

A new procedure for the amendment of the carrier's limits of liability has been introduced by the Convention.<sup>30</sup> It provides that a proposal to amend the limits must be entered by at least one half, but not less than six, of the States party to the Convention. Thereafter it shall be circulated by the Secretary-General to all Members of IMO and States Parties. The proposed amendment having been circulated must then be submitted at least six months thereafter to the IMO Legal Committee for its consideration. Additionally, a two-thirds majority vote of the States Parties to the Convention is required for its adoption, taking into account "the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance."<sup>31</sup> Notwithstanding, the Convention makes provision for instances where amendments to the limits of liability are prohibited:

7       “(a) No amendment of the limits under this Article may be considered less than five years from the date of entry into force of a previous amendment under this Article.

(b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the Convention as revised by this Protocol increased by six per cent per year calculated on a compound basis from the date on which this Protocol was opened for signature.

(c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the Convention as revised by this Protocol multiplied by three.”<sup>32</sup>

### *3.6 Opt-out clause*

This clause enables States to regulate the limit of liability for personal injury and death owing to the provisions of their national law. This allowance comes with the precondition that the

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<sup>29</sup> Ibid; Art. 16(3)

<sup>30</sup> Ibid. Art. 23(1)

<sup>31</sup> Ibid. Art. 23(6)

<sup>32</sup> Ibid; Art. 23(7)

national limits of liability are not lower than those stipulated in the Convention. Further, States which make use of this option are required to notify the IMO Secretary-General of the limit of liability being adopted.

#### 4. IMO Resolutions and Guidelines

IMO has devised a set of Guidelines aimed at assisting States Parties towards the effective incorporation of the Convention into their domestic legislation. In fact, it is thought that problems regarding implementation of the Convention have been resolved by the adoption of these Guidelines.<sup>33</sup> They were adopted by the IMO Legal Committee at its ninety-second session in October of 2006. The Guidelines hinge on the recommendation that States which ratify, approve or accede to the Convention take into account reservations in keeping with the provisions of the Convention. This is so, particularly as it pertains to the issues of compulsory insurance and limitation of liability for carriers. Hence, the incorporation of the IMO Reservations and Guidelines is evidenced in Article 3 of the Bill.

A model insurance certificate is annexed to the list of Reservations and Guidelines as a means of regulating the Convention's compulsory insurance regime. It is to this end, States which form part of the European Union have considered becoming party to the Convention as part of a process to develop a Regulation<sup>34</sup> which will form part of their third maritime safety package.

In addition to IMO guidelines the Organization also introduced a series of resolutions.<sup>35</sup> The most noteworthy of which is the resolution in relation to Regional Economic Integration Organizations. It provides for States Parties to the Convention to transfer the authority to deal with matters governed by the Convention to a particular Organization. The Organization may then under such authority acquire the rights and responsibilities of the relevant State or States.<sup>36</sup> The Convention recognises the transfer of these rights and responsibilities in every respect as it stipulates that:

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<sup>33</sup> *Supra*, n. 17; p. 125

<sup>34</sup> Regulation (EC) No 392/2009 of the European Parliament and of the Council on the Liability of Carriers of Passengers by Sea in the Event of Accidents

<sup>35</sup> Conference Resolution 1: Regional Economic Integration Organizations; Conference Resolution 2: Certificates of Insurance or other Financial Security and Ships Flying the Flag of a State under the Terms of a Bareboat Charter Registration and Conference Resolution 3: the Framework of Good Practice with Respect to Carriers' Liabilities

<sup>36</sup> Athens Conv., 2002; Art. 19(1)



*“States Parties which are Member States of a Regional Economic Integration Organization which is a Party to this Protocol shall be presumed to have competence over all matters governed by this Protocol...”<sup>37</sup>*

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<sup>37</sup> Ibid. Art. 19(5)

## **5. Procedure for the Ratification and Incorporation of this Convention into the domestic National Law of St Kitts & Nevis**

Although being signatories to the Convention it is yet to be ratified in accordance with domestic law procedures in the federation of St. Kitts and Nevis. In becoming party to an international convention it must go through the process of signature, ratification and adoption to take legal effect. The Federation's Permanent Representative to the United Nations has the power to sign such treaties, however ratification and subsequent adoption lies within the exclusive consent of Parliament.

The procedure for the initiation and screening of the Bill for its enactment into the laws of St Kitts and Nevis is centrally controlled by the Attorney General's Chambers. The Office of Parliamentary Counsel within the Attorney General's Chambers, whose duty it is to draft both principal and subsidiary legislation will then assist in the preparation of the Bill. In so doing, the Bill must first be submitted by the Maritime Director to the Minister of Public Works, Utilities, Transport and Posts for consideration by him as to whether the legislation is deemed necessary. Where the Minister concurs that new or amending legislation is necessary then a Cabinet Memorandum seeking approval in principle must be submitted by him to the Cabinet and a copy sent to the Attorney General's Chambers. The Memorandum will include in brief the principles and purpose of the Bill and the reasons as to why it is necessary.

After the Bill has been discussed by Cabinet the Secretary to the Cabinet will notify the Minister of Public Works, Utilities, Transport and Posts and the Attorney General's Chambers of their decision. Upon approval of the Bill, the Minister with the assistance of the Maritime Director and his departmental team would prepare a Green Paper containing a general outline of the policy which is circulated to the public for their feedback and comments. Thereafter, Cabinet will review any comments received and determine if amendments are to be made. Where amendments are required the Minister again with the assistance of his Maritime Director and departmental team must then prepare a White Paper outlining the amendments and advise of the approval obtained by Cabinet. Subsequent to this, the Permanent Secretary within the Ministry of Public Works, Utilities, Transport and Posts must then forward to the Attorney General's Chambers instructions for the final drafting of the Bill. Once a preliminary draft has been

produced and approved by the Attorney General, a copy of the draft will be returned by the draughtsmen to the Permanent Secretary.

Any additional comments by the Minister or on behalf of his ministry must once more be communicated to the draughtsmen in writing and any necessary changes made. Once this is done the Minister must then indicate in writing his approval of the Bill and his readiness to proceed to Cabinet for its final approval. Owing to Cabinet's approval of the final draft of the Bill the Ministry must finally prepare a Blue Print of the Bill for circulation to members of the public. Thereafter, a copy of the Blue Print and proposed Bill is sent to the office of the Prime Minister where a circular of the date of its presentation to Parliament will be issued and subsequently forwarded to the Ministry of Public Works, Utilities, Transport and Posts. Once the Bill is tabled in Parliament, it is read and debated three times and a vote is taken by members either in support of or against it. If a vote is taken in favour of the Bill it is affixed with the signature of the Head of State and enters into force upon publication in the Gazette.

In light of the abovementioned procedures it is essential to indicate that the Bill takes into account the IMO Reservation and Guidelines for Implementation of the Athens Convention as it relates to the incorporation of the Convention into the laws of St. Kitts and Nevis. As a consequence, the Bill should be ratified with the reservation as set out in Section 1.1 of the IMO document.



# **ST CHRISTOPHER AND NEVIS**

## **CHAPTER 7.05**

### **MERCHANT SHIPPING ACT**

**and Subsidiary Legislation**

**Revised Edition**

This is a revised edition of the law, prepared under the authority of the Law Revision Act, No. 9 of 1986

This edition contains a revision of the **Merchant Shipping Act** (Act 24 of 2002), Part XV of 'Liability of Shipowners and Others', Chapter 1 titled the 'Carriage of Passengers and Luggage by Sea'

**DRAFT BILL**

**BILL**

No. xxx, DATE xx.xx.2010

**A BILL TO AMEND THE MERCHANT SHIPPING ACT OF 2002 TO INCORPORATE THE  
ATHENS CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS AND THEIR  
LUGGAGE BY SEA, 2002 INTO THE LAWS OF THE FEDERATION OF SAINT  
CHRISTOPHER AND NEVIS**

**CONSIDERING** that it is desirable to revise the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, done at Athens on 13 December 1974, to provide for enhanced compensation, to introduce strict liability, to establish a simplified procedure for updating the limitation amounts, and to ensure compulsory insurance for the benefit of passengers,

**HAVE AGREED**, that the Merchant Shipping Act (Act 24 of 2002) shall be amended as follows:

**ARTICLE 1**

**Interpretation.**

**1 The following text is added as Article 362(1) paragraph 1 of the Chapter:**

“Chapter” means the text of Chapter I of Part XV of the Merchant Shipping Act (Act 24 of 2002).

**2 The following text is added as Article 362(1) paragraph 2 of the Chapter:**

“Organization” means the International Maritime Organization.

**3 The following text is added as Article 362(1) paragraph 3 of the Chapter:**

“Secretary-General” means the Secretary-General of the Organization.

**4 Article 362(1) paragraph 8 of the Chapter is replaced by the following text:**

“Convention” means the text of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002.

**5 Article 362(1) paragraph 6 of the Chapter is replaced by the following text:**

“carrier who actually performs the whole or part of the carriage” means the performing carrier, or, in so far as the carrier actually performs the carriage, the carrier.

**6 Article 362(1) paragraph 14 of the Chapter is replaced by the following text:**

“Ship” means any vessel or craft designed, used or capable of being used solely or partly for navigation, without regard to method or lack of propulsion and whether seagoing or not, but not including an air cushion vehicle.

## **ARTICLE 2**

**1 The following text is added as Article 363(4) of the Chapter:**

This Chapter shall apply taking into account the IMO Reservation and Guidelines for Implementation of the Athens Convention as annexed to this Act.

## **ARTICLE 3**

**Article 364 of the Chapter is replaced by the following text:**

### **Article 364**

#### **Liability of the carrier**

- 1** For the loss suffered as a result of the death of or personal injury to a passenger caused by a shipping incident, the carrier shall be liable to the extent that such loss in respect of that passenger on each distinct occasion does not exceed 250,000 units of account, unless the carrier proves that the incident:

- (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
- (b) was wholly caused by an act or omission done with the intent to cause the incident by a third party.

If and to the extent that the loss exceeds the above limit, the carrier shall be further liable unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.

- 2** For the loss suffered as a result of the death of or personal injury to a passenger not caused by a shipping incident, the carrier shall be liable if the incident which caused the loss was due to the fault or neglect of the carrier. The burden of proving fault or neglect shall lie with the claimant.

- 3 For the loss suffered as a result of the loss of or damage to cabin luggage, the carrier shall be liable if the incident which caused the loss was due to the fault or neglect of the carrier. The fault or neglect of the carrier shall be presumed for loss caused by a shipping incident.
- 4 For the loss suffered as a result of the loss of or damage to luggage other than cabin luggage, the carrier shall be liable unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.
- 5 For the purposes of this Article:
- (a) “shipping incident” means shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship, or defect in the ship;
  - (b) “fault or neglect of the carrier” includes the fault or neglect of the servants of the carrier, acting within the scope of their employment;
  - (c) “defect in the ship” means any malfunction, failure or non-compliance with applicable safety regulations in respect of any part of the ship or its equipment when used for the escape, evacuation, embarkation and disembarkation of passengers; or when used for the propulsion, steering, safe navigation, mooring, anchoring, arriving at or leaving berth or anchorage, or damage control after flooding; or when used for the launching of life saving appliances; and
  - (d) “loss” shall not include punitive or exemplary damages.
- 6 The liability of the carrier under this Article only relates to loss arising from incidents that occurred in the course of the carriage. The burden of proving that the incident which caused the loss occurred in the course of the carriage, and the extent of the loss, shall lie with the claimant.
- 7 Nothing in this Act shall prejudice any right of recourse of the carrier against any third party, or the defence of contributory negligence under Article 368 of this Chapter. Nothing in this Article shall prejudice any right of limitation under Article 36 of this Chapter.
- 8 Presumptions of fault or neglect of a party or the allocation of the burden of proof to a party shall not prevent evidence in favour of that party from being considered.

#### **ARTICLE 4**

**The following text is added as Article 365bis of the Chapter:**

##### **Article 365bis**

##### **Compulsory Insurance**

- 1 When passengers are carried on board a ship registered in Saint Christopher and Nevis that is licensed to carry more than twelve passengers, and this Chapter applies, any carrier who actually performs the whole or a part of the carriage shall maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover liability under this Chapter in respect of the death of and personal injury to passengers. The limit of the compulsory insurance or other financial security shall not be less than 250,000 special drawing rights per passenger on each distinct occasion.

- 2 A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Chapter shall be issued to each ship after the Maritime Authority of Saint Christopher and Nevis has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in Saint Christopher and Nevis, such certificate shall be issued or certified by the International Registrar of Shipping and Seamen; with respect to a ship not registered in Saint Christopher and Nevis it may be issued or certified by the Maritime Authority of Saint Christopher and Nevis. This certificate shall be in the form of the model set out in the annex to this Chapter and shall contain the following particulars:
- (a) name of ship, distinctive number or letters and port of registry;
  - (b) name and principal place of business of the carrier who actually performs the whole or a part of the carriage;
  - (c) IMO ship identification number;
  - (d) type and duration of security;
  - (e) name and principal place of business of insurer or other person providing financial security and, where appropriate, place of business where the insurance or other financial security is established; and
  - (f) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other financial security.
- 3 (a) Saint Christopher and Nevis may authorize an institution or an organization recognised by it to issue the certificate. Such institution or organization shall inform the Maritime Authority of the issue of each certificate. In all cases, the Maritime Authority shall fully guarantee the completeness and accuracy of the certificate so issued, and shall undertake to ensure the necessary arrangements to satisfy this obligation.
- (b) Saint Christopher and Nevis shall notify the Secretary-General of:
- (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognised by it;
  - (ii) the withdrawal of such authority; and
  - (iii) the date from which such authority or withdrawal of such authority takes effect
- An authority delegated shall not take effect prior to three months from the date from which notification to that effect was given to the Secretary-General.
- (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not complied with. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.
- 4 The certificate shall be in English which is the official language of Saint Christopher and Nevis.



- 5 The certificate shall be carried on board the ship, and a copy shall be deposited with the International Registrar of Shipping and Seamen or, if the ship is not registered in Saint Christopher and Nevis, with the Maritime Authority.
- 6 An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5, unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or other financial security no longer satisfying the requirements of this Article.
- 7 Saint Christopher and Nevis shall, subject to the provisions of this Article, determine the conditions of issue and validity of the certificate.
- 8 Nothing in this Chapter shall be construed as preventing Saint Christopher and Nevis from relying on information obtained from other States or the International Maritime Organization or other international organizations relating to the financial standing of providers of insurance or other financial security for the purposes of this Chapter. In such cases, Saint Christopher and Nevis, relying on such information is not relieved of its responsibility of issuing the certificate.
- 9 Certificates issued or certified under the authority of Saint Christopher and Nevis shall be accepted by other States for the purposes of this Chapter and shall be regarded by other States as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in Saint Christopher and Nevis. A State may at any time request consultation with Saint Christopher and Nevis should it believe that the insurer or guarantor named in the insurance certificate is not financially capable of meeting the obligations imposed by this Chapter.
- 10 Any claim for compensation covered by insurance or other financial security pursuant to this Article may be brought directly against the insurer or other person providing financial security. In such case, the amount set out in paragraph 1 applies as the limit of liability of the insurer or other person providing financial security, even if the carrier or the performing carrier is not entitled to limitation of liability. The defendant may further invoke the defences (other than the bankruptcy or winding up) which the carrier referred to in paragraph 1 would have been entitled to invoke in accordance with this Chapter. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the assured, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the assured against the defendant. The defendant shall in any event have the right to require the carrier and the performing carrier to be joined in the proceedings.
- 11 Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Chapter, and any payments made of such sums shall discharge any liability arising under this Chapter to the extent of the amounts paid.
- 12 A ship under the flag of Saint Christopher and Nevis to which this Article applies shall not be permitted to operate at any time unless a certificate has been issued under paragraphs 2 or 15.
- 13 Subject to the provisions of this Article, Saint Christopher and Nevis shall ensure, as under its national law, that insurance or other financial security, to the extent specified in paragraph 1, is in force in respect of any

ship that is licensed to carry more than twelve passengers, wherever registered, entering or leaving a port in the territory of Saint Christopher and Nevis in so far as this Chapter applies.

- 14 Notwithstanding the provisions of paragraph 5, Saint Christopher and Nevis may notify the Secretary-General that, for the purposes of paragraph 13, ships are not required to carry on board or to produce the certificate required by paragraph 2 when entering or leaving ports within the territory of Saint Christopher and Nevis, provided that the Secretary-General is notified that records are maintained in an electronic format, accessible to all States, attesting the existence of the certificate and enabling the discharge of the obligations under paragraph 13.
- 15 If insurance or other financial security is not maintained in respect of a ship owned by Saint Christopher and Nevis, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the Maritime Authority, stating that the ship is owned by Saint Christopher and Nevis and liability is covered within the amount prescribed in accordance with paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.

## **ARTICLE 5**

**Article 368 of the Chapter is replaced by the following text:**

### **Article 368**

#### **Limit of liability for death or personal injury**

- 1 The liability of the carrier for the death of or personal injury to a passenger under Article 3 shall in no case exceed 400,000 special drawing rights per passenger on each distinct occasion. Where, in accordance with the law of the court seized of the case, damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the said limit.
- 2 Saint Christopher and Nevis may regulate by specific provisions of national law the limit of liability prescribed in paragraph 1, provided that the national limit of liability, if any, is not lower than that prescribed in paragraph 1. If the option provided for in this paragraph is made use of, the Secretary-General shall be informed of the limit of liability adopted or of the fact that there is none.

## **ARTICLE 6**

**Article 369 of the Chapter is replaced by the following text:**

### **Article 369**

#### **Limits of liability for loss of or damage to luggage**

- 1 The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 2,250 special drawing rights per passenger, per carriage.
- 2 The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 12,700 special drawing rights per vehicle, per carriage.

- 3 The liability of the carrier for the loss of or damage to luggage other than that mentioned in paragraphs 1 and 2 shall in no case exceed 3,375 special drawing rights per passenger, per carriage.
- 4 The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 330 special drawing rights in the case of damage to a vehicle and not exceeding 149 special drawing rights per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage.

#### **ARTICLE 7**

**Article 376, paragraph 3, of the Chapter is replaced by the following text:**

The Court shall govern the grounds for suspension and interruption of limitation periods, but in no case shall an action under this Chapter be brought after the expiration of any one of the following periods of time:

- (a) A period of five years beginning with the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later; or, if earlier
- (b) a period of three years beginning with the date when the claimant knew or ought reasonably to have known of the injury, loss or damage caused by the incident.

#### **ARTICLE 8**

**The following text is added as Article 377, paragraph 5, of the Chapter:**

Actions under Article 365bis of this Act shall, at the option of the claimant, be brought before the Court where action could be brought against the carrier or performing carrier according to paragraph 1.

#### **ARTICLE 9**

**Article 378 of the Chapter is replaced by the following text:**

##### **Article 378**

##### **Invalidity of contractual provisions**

Any contractual provision concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to the passenger's luggage, purporting to relieve any person liable under this Chapter of liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Chapter except as provided in sub-paragraph(b)(i) of section 369, and any such provision purporting to shift the burden of proof which rests on the carrier or performing carrier, or having the effect of restricting the options specified in subsection(1) of section 377, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Chapter.

## **ARTICLE 10**

**Article 380 of the Chapter is replaced by the following text:**

### **Article 380**

#### **Nuclear damage**

No liability shall arise under this Chapter for damage caused by a nuclear incident:

- (a) if liability arises under an international convention relating to nuclear damage applicable to Saint Christopher and Nevis; or
- (b) if the operator of a nuclear installation is liable for such damage by virtue of a law of Saint Christopher and Nevis governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as under an international convention or any amendment or Protocol thereto which is in force.

## **ARTICLE 11**

### **Model certificate**

- 1 The model certificate set out in the annex to the Convention shall be incorporated as an annex to the *Merchant Shipping Act* (Act 24 of 2002).
- 2 The following text is added as Article 1bis of the Chapter:

“Article 1bis

*Annex*

The annex to this Convention shall constitute an integral part of the Chapter.”

## **SCHEDULE**

### **ORDER AMENDING THE FIRST SCHEDULE TO THE MERCHANT SHIPPING ACT (ACT 24 OF 2002) OF THE LAWS OF THE FEDERATION OF SAINT CHRISTOPHER AND NEVIS**

#### **AMENDMENTS**

**1 The First Schedule to the *Merchant Shipping Act, 2002* is amended by adding the following after item 6:**

7 Certificate of Insurance or other Financial Security in respect of Liability for the Death of and Personal Injury to Passengers.

#### **FIRST SCHEDULE**

##### **INSTRUMENTS AND DOCUMENTS FOR WHICH FORMS ARE TO BE PRESCRIBED**

[Section 57 of the Act]

1. Certificate of survey.
2. Declaration of ownership by individual owner.
3. Declaration of ownership on behalf of a corporation as owner.
4. Certificate of registry.
5. Declaration of ownership by individual transferee.
6. Provisional certificate.
7. Declaration of owner taking by transmission.
8. Declaration of mortgagee taking by transmission.
9. Bill of Sale.
10. Mortgage to secure principal sum and interest.
11. Mortgage to secure account current, etc. (individuals or joint owners).
12. Transfer of mortgage by individual or joint owners.
13. Transfer of mortgage by body corporate.

## **SCHEDULE**

### **ORDER AMENDING THE SIXTH SCHEDULE TO THE MERCHANT SHIPPING ACT (ACT 24 OF 2002) OF THE LAWS OF THE FEDERATION OF SAINT CHRISTOPHER AND NEVIS**

#### **AMENDMENTS**

**1** The Sixth Schedule to the *Merchant Shipping Act, 2002* is amended by adding the following after item (a):

(b) The Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea 2002.

#### **SIXTH SCHEDULE**

(Saved by section 462(2) of the Act)

##### **INTERNATIONAL CONVENTIONS**

*[Previously First Schedule to Act 15/1965, saved by s. 462(2)]*

- (a) The International Convention for the Safety of Life at Sea, 1960, as amended.
- (b) The International Convention on Load Lines, 1966.
- (c) The International Telecommunication Convention (Montreux), 1965, and the Radio Regulations, 1968.
- (d) The Convention on Facilitation of International Maritime Traffic, 1965.
- (e) The International Convention on Tonnage Measurement of Ships, 1969.
- (f) The International Health Regulations (Geneva), 1969.
- (g) The International Regulations for Preventing Collisions at Sea, 1972.

**IMO RESERVATION AND GUIDELINES FOR IMPLEMENTATION OF THE ATHENS CONVENTION**

**Reservation**

The Athens Convention should be ratified with the following reservation:

**[1.1] Reservation in connection with the ratification by the Government of Saint Christopher and Nevis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002 (—the Convention“)**

Limitation of liability of carriers etc.

[1.2] The Government of Saint Christopher and Nevis reserves the right to and undertakes to limit liability under paragraph 1 or 2 of Article 3 of the Convention, if any, in respect of death of or personal injury to a passenger caused by any of the risks referred to in paragraph 2.2 of the IMO Guidelines for Implementation of the Athens Convention to the lower of the following amounts:

-250,000 units of account in respect of each passenger on each distinct occasion; or

-340 million units of account overall per ship on each distinct occasion.

[1.3] Furthermore, the Government of Saint Christopher and Nevis reserves the right to and undertakes to apply the IMO Guidelines for Implementation of the Athens Convention paragraphs 2.1.1 and 2.2.2 mutatis mutandis, to such liabilities.

[1.4] The liability of the performing carrier pursuant to Article 4 of the Convention, the liability of the servants and agents of the carrier or the performing carrier pursuant to Article 11 of the Convention and the limit of the aggregate of the amounts recoverable pursuant to Article 12 of the Convention shall be limited in the same way.

[1.5] The reservation and undertaking in paragraph 1.2 will apply regardless of the basis of liability under paragraph 1 or 2 of Article 3 and notwithstanding anything to the contrary in Article 4 or 7 of the Convention; but this reservation and undertaking do not affect the operation of Articles 10 and 13.

Compulsory insurance and limitation of liability of insurers

[1.6] The Government of Saint Christopher and Nevis reserves the right to and undertakes to limit the requirement under paragraph 1 of Article 4bis to maintain insurance or other financial security for death or personal injury to a passenger caused by any of the risks referred to in paragraph 2.2 of the IMO Guidelines for Implementation of the Athens Convention to the lower of the following amounts:

-250,000 units of account in respect of each passenger on each distinct occasion; or

- 340 million units of account overall per ship on each distinct occasion.

[1.7] The Government of Saint Christopher and Nevis reserves the right to and undertakes to limit the liability of the insurer or other person providing financial security under paragraph 10 of Article 4bis, for death or personal injury to a passenger caused by any of the risks referred to in paragraph 2.2 of the IMO Guidelines for Implementation of the Athens Convention, to a maximum limit of the amount of insurance or other financial security which the carrier is required to maintain under paragraph 1.6 of this reservation.

[1.8] The Government of Saint Christopher and Nevis also reserves the right to and undertakes to apply the IMO Guidelines for Implementation of the Athens Convention including the application of the clauses referred to in paragraphs 2.1 and 2.2 in the Guidelines in all compulsory insurance under the Convention.

[1.9] The Government of Saint Christopher and Nevis reserves the right to and undertakes to exempt the provider of insurance or other financial security under paragraph 1 of Article 4bis from any liability for which he has not undertaken to be liable.

#### Certification

[1.10] The Government of Saint Christopher and Nevis reserves the right to and undertakes to issue insurance certificates under paragraph 2 of Article 4bis of the Convention so as:

to reflect the limitations of liability and the requirements for insurance cover referred to in paragraphs 1.2, 1.6, 1.7 and 1.9; and

to include such other limitations, requirements and exemptions as it finds that the insurance market conditions at the time of the issue of the certificate necessitate.

[1.11] The Government of Saint Christopher and Nevis reserves the right to and undertakes to accept insurance certificates issued by other States issued pursuant to a similar reservation.

[1.12] All such limitations, requirements and exemptions will be clearly reflected in the Certificate issued or certified under paragraph 2 of Article 4bis of the Convention.

#### Relationship between this Reservation and the IMO Guidelines for Implementation of the Athens Convention

[1.13] The rights retained by this reservation will be exercised with due regard to the IMO Guidelines for Implementation of the Athens Convention, or to any amendments thereto, with an aim to ensure uniformity. If a proposal to amend the IMO Guidelines for Implementation of the Athens Convention, including the limits, has been approved by the Legal Committee of the International Maritime Organization,



those amendments will apply as from the time determined by the Committee. This is without prejudice to the rules of international law regarding the right to withdraw or amend the reservation.“

## **Guidelines**

In the current state of the insurance market, insurance certificates should be issued on the basis of one undertaking from an insurer covering war risks, and another insurer covering non-war risks. Each insurer should only be liable for its part. The following rules should apply:

2.1 Both war and non-war insurance may be subject to the following clauses:

2.1.1 Institute Radioactive Contamination, Chemical, Biological, Bio-chemical and Electromagnetic Weapons Exclusion Clause (Institute clause no. 370);

2.1.2 Institute Cyber Attack Exclusion Clause (Institute clause no. 380);

2.1.3 The defences and limitations of a provider of compulsory financial security under the Convention as modified by these guidelines, in particular the limit of 250,000 units of account per passenger on each distinct occasion;

2.1.4 The proviso that the insurance shall only cover liabilities subject to the Convention as modified by these guidelines; and

2.1.5 The proviso that any amounts settled under the Convention shall serve to reduce the outstanding liability of the carrier and/or its insurer under Article 4bis of the Convention even if they are not paid by or claimed from the respective war or non-war insurers.

2.2 War insurance shall cover liability, if any, for the loss suffered as a result of death or personal injury to a passenger caused by:

- war, civil war, revolution, rebellion, insurrection, or civil strife arising there from, or any hostile act by or against a belligerent power;
- capture, seizure, arrest, restraint or detainment, and the consequences thereof or any attempt thereat;
- derelict mines, torpedoes, bombs or other derelict weapons of war;
- act of any terrorist or any person acting maliciously or from a political motive and any action taken to prevent or counter any such risk;
- confiscation and expropriation; and may be subject to the following exemptions, limitations and

requirements:

#### 2.2.1 War Automatic Termination and Exclusion Clause

2.2.2 In the event the claims of individual passengers exceed in the aggregate the sum of 340 million units of account overall per ship on any distinct occasion, the carrier shall be entitled to invoke limitation of his liability in the amount of 340 million units of account, always provided that:

- this amount should be distributed amongst claimants in proportion to their established claims;

the distribution of this amount may be made in one or more portions to claimants known at the time of the distribution; and

the distribution of this amount may be made by the insurer, or by the Court in respect of claims allegedly covered by the insurance.

#### 2.2.3 30 days notice clause in cases not covered by 2.2.1

2.3 Non-war insurance should cover all perils subject to compulsory insurance other than those risks listed in 2.2, whether or not they are subject to exemptions, limitations or requirements in 2.1 and 2.2.

3 Certificates should not be issued on another basis than set out in paragraph 2 unless the matter first has been considered by the Legal Committee of the International Maritime Organization.

4 The Legal Committee encourages the Depositary of the Convention - if necessary - to make these guidelines known when about to deposit an instrument of signature, ratification, acceptance, approval or accession.

\* \* \*



**ATHENS CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS AND  
THEIR LUGGAGE BY SEA, 1974**

**Denunciation by Saint Christopher and Nevis**

Saint Christopher and Nevis with reference to Article 25 of the Athens Convention Relating to the Carriage of Passengers and Their Luggage by Sea, 1974 hereby enforces its right to denunciation.

In accordance with Article 25, paragraph 1, Saint Christopher and Nevis may denounce the Convention at any time after the date of its entry into force in Saint Christopher and Nevis.