EXPLANATORY MEMORANDUM TO

THE GLOBAL COMBAT AIR PROGRAMME INTERNATIONAL GOVERNMENT ORGANISATION (IMMUNITIES AND PRIVILEGES) ORDER 2024

2024 No. 988

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Foreign, Commonwealth and Development Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 The Rt Hon Catherine West MP, Parliamentary Under Secretary of State (Indo-Pacific) confirms that this Explanatory Memorandum meets the required standard.

2.2 David Hunt, Deputy Director Protocol at the Foreign, Commonwealth and Development Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Phoebe Thomas at the Foreign, Commonwealth and Development Office Telephone: 07502 591854 or email: Protocol.DMIOUIntOrgs@fcdo.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Order gives effect to the Convention between the Government of the Italian Republic, the Government of Japan and the Government of the United Kingdom of Great Britain and Northern Ireland ("the Parties") establishing the Global Combat Air Programme International Government Organisation signed on 14 December 2023 ("the Convention"). The Convention was negotiated by the Ministry of Defence.

4.2 This Order confers legal capacity and privileges and immunities on the Global Combat Air Programme (GCAP) International Government Organisation (GIGO), and accords certain privileges and immunities to representatives of the Parties and to agency personnel in accordance with the Convention.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument is the United Kingdom.

4.4 The territorial application of this instrument is England and Wales, Scotland and Northern Ireland. In Scotland, articles 3 to 14 of this Order do not apply in so far as they would, if included in an Act of Scottish Parliament, be within the legislative competence of that Parliament.

5. Policy Context

What is being done and why?

5.1 In December 2022, the Prime Ministers of UK, Japan and Italy launched GCAP to deliver a next generation aircraft by 2035. The signing of the GCAP Convention between the partners took place in December 2023 and was conducted by the respective Defence Secretaries of the three nations. The GIGO will function as the executive body with the legal capacity to place contracts with industrial partners engaged in the GCAP. The GIGO HQ will be based in the UK, employing personnel from the UK, Italy and Japan. Given the nature of the GIGO, as an international defence organisation, the MOD has been leading on trilateral engagement and negotiations on its establishment. This Order in Council is a statutory instrument and forms part of the secondary legislation needed to establish the GIGO. It ensures the relevant privileges and immunities are in place for the Organisation, representatives of the Parties and to employees.

What was the previous policy, how is this different?

5.2 There has not been previous policy on this matter as it relates to the establishment of a new international organisation.

6. Legislative and Legal Context

How has the law changed?

6.1 There is no current or previous legislation on this matter as it relates to the establishment of a new international organisation.

Why was this approach taken to change the law?

6.2 This approach is being taken in order to give effect to the Convention.

7. Consultation

Summary of consultation outcome and methodology

7.1 No external consultation was undertaken as the instrument implements provisions of an international agreement to which the United Kingdom will be obliged to give effect as a matter of international law once it enters into force.

8. Applicable Guidance

8.1 No guidance will be published.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 We have not prepared an Impact Assessment for this SI, as there is no, or no significant, impact on the public sector, business, charities, or voluntary bodies.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument is not time limited and there is no requirement to monitor its implementation. Officials at the Foreign, Commonwealth and Development Office and the Ministry of Defence will monitor the implementation of the Convention on an ongoing and informal basis.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Minister Catherine West has made the following statement regarding Human Rights:

"In my view the provisions of the Global Combat Air Programme International Government Organisation (Immunities and Privileges) Order 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023.