



INTERNATIONAL CONFERENCE ON
THE REVISION OF THE ATHENS
CONVENTION RELATING TO THE
CARRIAGE OF PASSENGERS AND
THEIR LUGGAGE BY SEA, 1974
Agenda item 6

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**CONSIDERATION OF A DRAFT PROTOCOL OF 2002 TO AMEND THE ATHENS
CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS AND THEIR
LUGGAGE BY SEA, 1974**

Definition of “defect in the ship”

Note by the Secretariat

SUMMARY

<i>Executive summary:</i>	This document contains alternative proposals made by the Secretariat regarding the definition of “defect in the ship” (article 4 of the Protocol, to be incorporated as article 3.5(c) of the Convention)
<i>Action to be taken:</i>	Paragraph 4
<i>Related documents:</i>	LEG 83/14, paragraph 28, LEG/CONF.13/3

1 At its eighty-third session the Legal Committee of the Organization agreed that the definition of defect of ship contained in article 4 of the draft protocol (to be incorporated in the Convention as article 3.5(c)) required further work in order to ensure a clear distinction between the “hotel type” and the “navigational” elements of the ship. The Committee noted that the definition might also need some expansion to include items such as sprinklers and anti-fire equipment.

2 In response to these observations, the Legal Office, in consultation with the Maritime Safety Division of the Organization suggest that, rather than mentioning a non-exhaustive list of items, a general definition could be used, as follows:

““Defect in the ship” means any malfunction, failure or inadequacy of the ship’s structure, machinery, electrical installations, arrangements, equipment and fittings and services when used in the normal operation of a ship which has been designed, constructed and certificated in accordance with the applicable international conventions.”

or

““Defect in the ship” means any failure, malfunction or inadequacy of the ship’s structure, machinery, equipment, fittings and services.”

3 If the Conference were unable to accept any of the general definitions contained in paragraph 2, the following alternative could also be considered:

““Defect in the ship” means any malfunction or failure of the ship’s structure, machinery, electrical installations, equipment and fittings when used:

- .1 for embarkation, disembarkation and evacuation of passengers; and
- .2 in the normal operation of the ship, including, but not limited to, propulsion, steering, safety of navigation, mooring, anchoring, leaving a berth or anchorage, fire protection, flooding control, stability and the operation and deployment of life-saving appliances and arrangements.”

Action requested of the Conference

4 The Conference is invited to consider the alternative definitions of “defect in the ship” contained in this document and to comment and decide, as appropriate.
