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

LEG/CONF.13/6  
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**CONSIDERATION OF A DRAFT PROTOCOL TO AMEND THE ATHENS  
CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS  
AND THEIR LUGGAGE BY SEA, 1974**

**Submitted by Japan**

**SUMMARY**

**Executive summary:** This document proposes a revision to article 4 paragraph 2 of the draft protocol concerning the liability of the carrier for the loss suffered as a result of the death of or personal injury to a passenger not caused by a shipping incident.

**Action to be taken:** Paragraph 4

**Related documents:** LEG/CONF.13/3

1 Japan has reviewed article 4 paragraph 2 of the draft protocol concerning the liability of the carrier for the loss suffered as a result of the death of or personal injury to a passenger not caused by a shipping incident, bearing in mind the outcome of the discussion at the eighty-third session of the Legal Committee.

2 Our view is that the burden of proof even in the case of non-shipping incidents should be placed on the carrier in order to facilitate the expeditious compensation for passengers who might find it difficult to discharge that burden. Japan believes that it would be easier and fairer for the carrier to be required to disprove claims made against it by the claimants. In fact, Japan has already adopted for a long time this legislation that the carrier of passengers shall be liable, unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier. It is quite difficult for us to change the above existing principle policy into the opposition so as to place the burden of proof on the claimant.

3 Therefore, Japan proposes to replace the text of article 4(2) of the draft protocol by the following:

“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 unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.”

4 The Diplomatic Conference is requested to consider and support the proposal in this paper.