

APPLICATION AND REVISION OF THE GUIDELINES ON THE ALLOCATION OF RESPONSIBILITIES TO SEEK THE
SUCCESSFUL RESOLUTION OF STOWAWAY CASES (RESOLUTION A.871(20))

INTERNATIONAL MARITIME ORGANIZATION



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ASSEMBLY
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**Adopted on 2 December 2009
(Agenda item 14)**

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GUIDELINES ON THE ALLOCATION OF RESPONSIBILITIES TO SEEK THE
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THE ASSEMBLY,

HAVING CONSIDERED the general purposes of the Convention on Facilitation of International Maritime Traffic, 1965, as amended (“the FAL Convention”), in particular article III,

NOTING with concern the number of incidents involving stowaways; the consequent potential for disruption of maritime traffic; the impact such incidents may have on the safe operation of ships; and the considerable risks faced by stowaways, including loss of life,

RECALLING that, at its twentieth regular session, it adopted on 27 November 1997 resolution A.871(20) on *Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases* (“the Guidelines”),

RECALLING ALSO that, in accordance with article VII(2)(a) of the FAL Convention, the Facilitation Committee, at its twenty-ninth session, adopted on 10 January 2002 resolution FAL.7(29) on *Amendments to the Convention on Facilitation of International Maritime Traffic, 1965*, as amended, to introduce a new section 4 on Stowaways in the Annex to the FAL Convention prescribing Standards and Recommended Practices on matters relating to stowaways (“the FAL provisions on stowaways”), which entered into force on 1 May 2003,

NOTING that several Member States which are also Contracting Governments to the FAL Convention:

- (a) have notified the Secretary-General, in accordance with article VIII(1) of the FAL Convention (in relation to the Standards specified in section 4 of the Annex to the FAL Convention) either that they find it impracticable to comply with the above-mentioned Standards or of differences between their own practices and those Standards; or

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- (b) have not yet notified the Secretary-General, in accordance with article VIII(3) of the FAL Convention, that they have brought their formalities, documentary requirements and procedures into accord in so far as practicable with the Recommended Practices specified in section 4 of the Annex to the FAL Convention,

NOTING ALSO that the parallel existence of the Guidelines and the FAL provisions on stowaways has raised questions in relation to the procedures to be followed for dealing with stowaways by Member States which are also Contracting Governments to the FAL Convention – in particular those referred to above,

CONVINCED of the need to align, to the extent possible and desirable, the Guidelines with the FAL provisions on stowaways and to revise them in a manner that reflects developments in efforts undertaken to prevent stowaways, as well as to provide guidance and recommendations, taking into account the FAL provisions on stowaways, on measures which can be implemented by vessels to prevent cases involving stowaways,

RECOGNIZING that the revision of the Guidelines should be done in a manner that does not duplicate the existing provisions of the Special measures to enhance maritime security contained in chapter XI-2 of the International Convention for the Safety of Life at Sea, 1974, as amended, and in the International Ship and Port Facility Security (ISPS) Code, but augments and supplements them in the context of preventing cases involving stowaways,

BEING AWARE that considerable difficulties continue to be encountered by shipmasters and shipping companies, shipowners and ship operators when stowaways are to be disembarked from ships into the care of appropriate authorities,

APPRECIATING the difficulties faced by Member States in accepting stowaways for examination pending repatriation and then in allowing the vessels concerned to sail,

AGREEING that the existence of the Guidelines and the FAL provisions on stowaways should in no way be regarded as condoning or encouraging the practice of stowing away and other kinds of illegal migration, and should not undermine efforts to combat alien smuggling or human trafficking incidents,

RECOGNIZING that stowaway incidents should be dealt with humanely by all parties involved, with due regard to the operational safety of the ship and its crew,

URGING national authorities, port authorities, shipowners, shipping companies, ship operators and shipmasters to take all reasonable precautions to prevent stowaways gaining access to vessels,

ALSO RECOGNIZING that a comprehensive revision of the Guidelines may entail their complete replacement and the need eventually to revoke resolution A.871(20),

HAVING CONSIDERED the recommendation made by the Facilitation Committee at its thirty-fifth session:

1. AGREES that the provisions of resolution A.871(20) should henceforth be considered as being of relevance only with respect to:

- (a) Member States which are not Contracting Governments to the FAL Convention;
and
 - (b) Member States which are Contracting Governments to the FAL Convention and
which:
 - (i) have notified the Secretary-General, in accordance with article VIII(1) of the FAL Convention (in relation to the Standards specified in section 4 of the Annex to the FAL Convention) either that they find it impracticable to comply with the aforementioned Standards or of differences between their own practices and those Standards; or
 - (ii) have not yet notified the Secretary-General, in accordance with article VIII(3) of the FAL Convention, that they have brought their formalities, documentary requirements and procedures into accord in so far as practicable with the Recommended Practices specified in section 4 of the Annex to the FAL Convention;
2. ALSO AGREES that there is a need that the Guidelines be revised as a matter of priority and, to that end, requests the Facilitation Committee and the Maritime Safety Committee to work jointly and expeditiously on such a revision;
3. AUTHORIZES the Facilitation Committee and the Maritime Safety Committee to adopt jointly any necessary amendments to the Guidelines resulting from the aforementioned revision and to promulgate them by appropriate means;
4. DECIDES that, as from the date of the joint adoption of the said amendments by the Facilitation Committee and the Maritime Safety Committee, resolution A.871(20) shall be deemed as revoked;
5. INVITES Member States, intergovernmental organizations and non-governmental organizations in consultative status to participate actively in the revision of the Guidelines, as requested above;
6. REQUESTS the Facilitation Committee and the Maritime Safety Committee to report on action taken in compliance with this resolution to the twenty-seventh regular session of the Assembly.
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