



FACILITATION COMMITTEE  
36th session  
Agenda item 17

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**REPORT OF THE FACILITATION COMMITTEE  
ON ITS THIRTY-SIXTH SESSION**

**Table of contents**

<b>Section</b>	<b>Page No.</b>
1 GENERAL – ADOPTION OF THE AGENDA	3
2 DECISIONS OF OTHER IMO BODIES	6
3 CONSIDERATION AND ADOPTION OF PROPOSED AMENDMENTS TO THE CONVENTION	6
4 GENERAL REVIEW AND IMPLEMENTATION OF THE CONVENTION	7
5 ELECTRONIC MEANS FOR THE CLEARANCE OF SHIPS	12
6 FORMALITIES CONNECTED WITH THE ARRIVAL, STAY AND DEPARTURE OF PERSONS	20
7 CERTIFICATES AND DOCUMENTS REQUIRED TO BE CARRIED ON BOARD SHIPS AND FAL FORMS	27
8 SECURING AND FACILITATING INTERNATIONAL TRADE	31
9 SHIP/PORT INTERFACE	36
10 TECHNICAL CO-OPERATION AND ASSISTANCE	38
11 RELATIONS WITH OTHER ORGANIZATIONS	41
12 APPLICATION OF THE COMMITTEE'S GUIDELINES	42
13 REVIEW OF THE ROLE, MISSION, STRATEGIC DIRECTION AND WORK OF THE COMMITTEE	43
14 WORK PROGRAMME	45
15 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2011	47
16 ANY OTHER BUSINESS	47

**LIST OF ANNEXES**

- ANNEX 1 EDI MESSAGE IMPLEMENTATION GUIDELINES FOR TRANSMITTING SECURITY-RELATED INFORMATION TO THE DULY AUTHORIZED OFFICER
- ANNEX 2 SECURITY-RELATED INFORMATION DECLARATION
- ANNEX 3 QUESTIONNAIRE ON ONLINE ACCESS TO CERTIFICATES AND DOCUMENTS
- ANNEX 4 AMENDMENTS TO THE DRAFT REVISED LIST OF CERTIFICATES AND DOCUMENTS REQUIRED TO BE CARRIED ON BOARD SHIPS
- ANNEX 5 FACILITATING SHORE LEAVE AND ACCESS TO SHIPS, REMOVING UNNECESSARY RESTRICTIONS IMPOSED BY DIVERGENCES IN THE IMPLEMENTATION OF THE ISPS CODE
- ANNEX 6 DRAFT FAL RESOLUTION ON REVISION OF THE GUIDELINES ON THE ALLOCATION OF RESPONSIBILITIES TO SEEK THE SUCCESSFUL RESOLUTION OF STOWAWAY CASES
- ANNEX 7 THEMATIC PRIORITIES FOR THE FACILITATION OF INTERNATIONAL MARITIME TRAFFIC FOR INCLUSION IN THE ITCP COVERING THE 2012-2013 BIENNIUM
- ANNEX 8 LIST OF SUBSTANTIVE ITEMS FOR INCLUSION IN THE PROVISIONAL AGENDA FOR THE THIRTY-SEVENTH SESSION OF THE COMMITTEE

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## 1 GENERAL – ADOPTION OF THE AGENDA

### Introduction

1.1 The Facilitation Committee held its thirty-sixth session from 6 to 10 September 2010 under the chairmanship of Mr. Charles Abela (Malta). The Vice-Chairman, Mr. E. Broekema (Netherlands), was also present.

1.2 The session was attended by delegations from the following Member States:

ALGERIA	LIBYAN ARAB JAMAHIRIYA
ANGOLA	LITHUANIA
ARGENTINA	MALTA
AZERBAIJAN	MARSHALL ISLANDS
BAHAMAS	MEXICO
BANGLADESH	MOROCCO
BELGIUM	NETHERLANDS
BELIZE	NIGERIA
BRAZIL	NORWAY
BULGARIA	PANAMA
CAMEROON	PERU
CANADA	PHILIPPINES
CHILE	POLAND
CHINA	PORTUGAL
COLOMBIA	REPUBLIC OF KOREA
CUBA	RUSSIAN FEDERATION
CYPRUS	SAINT KITTS AND NEVIS
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	SAUDI ARABIA
DENMARK	SINGAPORE
ECUADOR	SOUTH AFRICA
ESTONIA	SPAIN
FINLAND	SWEDEN
FRANCE	THAILAND
GEORGIA	TUNISIA
GERMANY	TURKEY
GREECE	TUVALU
INDONESIA	UKRAINE
IRAN (ISLAMIC REPUBLIC OF)	UNITED KINGDOM
ITALY	UNITED STATES
JAPAN	VANUATU
LIBERIA	VENEZUELA (BOLIVARIAN REPUBLIC OF)

and the following Associate Member of IMO:

HONG KONG, CHINA

1.3 The session was attended by representatives from the following United Nations specialized agency:

INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)

1.4 The session was also attended by observers from the following intergovernmental organizations:

WORLD CUSTOMS ORGANIZATION (WCO)  
EUROPEAN COMMISSION (EC)  
MARITIME ORGANIZATION FOR WEST AND CENTRAL AFRICA (MOWCA)  
INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)

and by observers from the following non-governmental organizations in consultative status:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)  
INTERNATIONAL SHIPPING FEDERATION (ISF)  
INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)  
INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)  
BIMCO  
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)  
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)  
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS  
(INTERTANKO)  
INTERNATIONAL GROUP OF P&I ASSOCIATIONS (P&I CLUBS)  
INTERNATIONAL SHIPSUPPLIERS & SERVICES ASSOCIATION (ISSA)  
CRUISE LINES INTERNATIONAL ASSOCIATION (CLIA)  
INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS  
(INTERCARGO)  
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)  
INTERNATIONAL CHRISTIAN MARITIME ASSOCIATION (ICMA)  
THE FEDERATION OF NATIONAL ASSOCIATIONS OF SHIP BROKERS AND  
AGENTS (FONASBA)  
INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)  
THE NAUTICAL INSTITUTE  
WORLD SHIPPING COUNCIL (WSC)

1.5 The session was also attended by Rear Admiral Giancarlo Olimbo (Italy), Chairman of the Technical Co-operation Committee.

### **Opening address**

1.6 In welcoming the participants, Mr. K. Sekimizu, the Director of the Maritime Safety Division speaking on behalf of the Secretary-General, reminded the Committee about this year's World Maritime Day theme, which is "2010: Year of the Seafarer". By choosing this theme, the Council had aimed at giving the Organization, throughout the year, the opportunity, together with the maritime community at large, to pay tribute to the more than 1.5 million seafarers from all over the world for their unique contribution to society and in recognition of the risks they shoulder in the execution of their daily tasks and duties in an often hostile environment.

Among the components of a regulatory nature included in the action plan to celebrate the Year of the Seafarer, the comprehensive review of the STCW Convention and Code stood out as the most important one. The review had been successfully concluded by a Diplomatic Conference, in Manila, Philippines which, in June 2010, adopted by consensus the 2010 Manila Amendments.

Another milestone of the Conference also referred to which was its decision to declare the day on which it adopted the STCW amendments, the 25th of June, as the "Day of the Seafarer" as from 2011.

The Secretary-General's address also highlighted the problems experienced by seafarers denied shore leave in certain ports under certain circumstances – a matter of ongoing concern, which had been recently raised at MSC 87 in May 2010. At that session, concerns were voiced about seafarers, seafarer welfare and other representatives facing difficulties with shore leave or with gaining access to ships, apparently as a result of the way the provisions of SOLAS chapter XI-2 and the ISPS Code were interpreted and implemented in some Member States. The Secretary-General reiterated the view of the Assembly as set out in resolution A.1011(26) on the Strategic Plan for the Organization that makes it imperative that the right balance is struck between security and the facilitation of maritime trade.

In referring to the revision of the Convention, the Secretary-General noted that there had been no specific submissions on the matter but reminded the Committee that it was incumbent upon the Committee to continuously seek to update the Convention by incorporating in it developments in the logistics sector and in multimodal transport. This would ensure that the measures, procedures or documentary requirements for maritime application the Committee adopts, from time to time, were compatible with those used for other modes of transport.

The full text of the Secretary-General's opening address, as delivered by Mr. Sekimizu on his behalf, is reproduced in document FAL 36/INF.6.

### **Chairman's remarks**

1.7 The Chairman, in thanking Mr. Sekimizu, welcomed the information provided and stated that the Secretary-General's words of encouragement as well as his advice and requests would be given every consideration in the deliberations of the Committee and its working and drafting groups.

1.8 Following the Secretary-General's opening address, the delegation of the Marshall Islands, in their capacity as relevant flag State, informed the Committee of a brief summary into the ongoing investigation into the incident involving the tanker **M Star** in the Straits of Hormuz in July this year.

1.9 The delegation of Japan, as an interested party, also expressed their concern at the incident, particularly in view of the high percentage of the World's oil supply transported through the region.

### **Adoption of the agenda**

1.10 The Committee adopted the provisional agenda, set out in document FAL 36/1, as the agenda for the session and noted the provisional timetable for guidance during the session.

### **Credentials**

1.11 The Committee was informed that the credentials of delegations attending the session were in due and proper form.

## 2 DECISIONS OF OTHER IMO BODIES

2.1 The Committee noted the information provided in documents FAL 36/2 and FAL 36/2/Add.1, (Secretariat), FAL 36/2/1 (Secretariat), in relation to the outcomes of the work of A 26; LEG 95; MSC 86; TC 59; MEPC 59; COMSAR 14 and MEPC 60 on matters of relevance to the work of the Committee and decided to consider the various issues which warrant action by the Committee under the respective agenda items. The Committee also noted that the outcomes of C 102, C 104 and MSC 87 would be considered in separate documents under relevant agenda items.

2.2 In particular, the Committee agreed that the provisions of resolution A.1027(26) on Application and revision of the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases (FAL 36/2) would be considered under agenda item 6 and document FAL 36/2/Add.1 in regard to resolution A.1018(26) concerning Further development of the Voluntary IMO Member State Audit scheme would be considered under agenda item 7.

## 3 CONSIDERATION AND ADOPTION OF PROPOSED AMENDMENTS TO THE CONVENTION

3.1 The Committee recalled that FAL 35, on 16 January 2009, in accordance with article VII(2)(a), had unanimously adopted amendments to the Annex to the Convention by resolution FAL.10(35) with regard to the arrival, stay and departure of ships, arrival of persons and facilitation of clearance requirements for passengers, including cruise ship passengers. The Committee noted with satisfaction that no objections had been received from Contracting Governments within the stipulated time period and welcomed the fact that these amendments had come into force in accordance with article VII(2)(b), on 15 May 2010.

3.2 The Committee also noted information from the Secretariat (FAL 36/3) that, subsequent to the consideration of document FAL 35/WP.4 during FAL 35 and consequent upon the deletion of paragraph 2.6.3 of the Convention by the aforesaid amendments as adopted by the Committee, the Secretariat had recognized that a consequential amendment was necessary to paragraph 2.6.4 as follows:

The existing Recommended Practice 2.6.4 is deleted and replaced by:

"2.6.4 **Recommended Practice.** In cases where a ship, serving in a scheduled programme, calls again at the same port at least once within 14 days and where minor changes in the crew have taken place, public authorities should not normally require a new, full Crew List to be submitted but should accept the existing Crew List with the changes indicated."

3.3 The Committee recalled that this amendment had been correctly included in the final report of FAL 35 and resolution FAL.10(35), (see document FAL 35/17, annex 2), but noted that due to a subsequent administrative oversight, it was inadvertently not included in the authentic text of the amendments, circulated in the English and French languages, under a Note Verbale issued on 7 August 2009 (A1/F/2.04 (NV.52)). This consequential amendment was formally drawn to the attention of Contracting Governments by a Note Verbale issued on 15 February 2010 (A1/F/2.04 (NV.53), on which date the amendments were deemed accepted, and came into force with the amendments on the same date as the above amendments, i.e. 15 May 2010.

3.4 The Committee further noted that no amendments to the Annex to the Convention had been proposed for consideration or formal adoption at this session.

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## 4 GENERAL REVIEW AND IMPLEMENTATION OF THE CONVENTION

### Status of the Convention

4.1 The Committee noted the information provided in document FAL 36/INF.2 (Secretariat) and in particular that, since FAL 35, there had been no further accessions to the Convention. The number of Contracting Governments to the Convention remains at 114, the combined merchant fleets of which amount to approximately 90.3% of the world's fleet by tonnage. The Committee further noted that information on the Convention including a list of Contracting Governments is also displayed on the Organization's website ([www.imo.org](http://www.imo.org)).

4.2 The Committee expressed its appreciation to those Member States which had already acceded or succeeded to the Convention, but was disappointed to note that no new accessions had been made since FAL 35.

4.3 The Committee once again urged those Member States which had not yet acceded to the Convention, to consider doing so as soon as possible, particularly in view of the present status of the Committee, in order to assist the Organization's efforts to promote wider acceptance of the Convention and adoption of measures contained therein and work towards the universal implementation of measures to facilitate international maritime traffic.

### Review of Standards and Recommended Practices

4.4 The Committee recalled that FAL 29 in January 2002 had:

- .1 agreed to review those Standards and Recommended Practices to which differences have been registered by Contracting Governments thereto, with a view to determining whether they were outdated or could be amended to make them more universally acceptable; and to provide a mechanism through which parties will be encouraged to review those differences they have registered and other measures taken to align their national requirements and procedures with those of the Convention; and
- .2 agreed that it would be desirable to reduce the number of differences and in order to reach this objective recognized that it was necessary in the first instance to obtain up-to-date information from Contracting Governments concerning differences to the Standards and the implementation of Recommended Practices. This could be achieved by sending a questionnaire to all Contracting Governments requesting them to update the differences they have registered and the implementation of Recommended Practices.

The Committee also recalled that FAL 30 in January 2003 had:

- .1 confirmed the need for the development of such a questionnaire and agreed that the questionnaire should be sent to all Member States not only to address the differences registered by Contracting Governments but also to find out what impediments were being faced by Member States in acceding to the Convention; and
- .2 approved FAL.3/Circ.184 on Review of Standards and Recommended Practices in the Annex to the FAL Convention which annexed the aforesaid questionnaire.

4.5 The Committee further recalled that FAL 34 in March 2007 had reaffirmed its intention to review the Standards to which differences have been registered by Contracting Governments to the Convention and the Recommended Practices which Contracting Governments opted not to implement, with a view to determining whether they are outdated or could be amended to make them more universally acceptable.

4.6 In addition, the Committee recalled the relevant parts of the Convention and, in particular, that:

- .1 article VIII(1) requires any Contracting Government that finds it impracticable to comply with any Standard by bringing its own formalities, documentary requirements or procedures into full accord with it or which deems it necessary for special reasons to adopt formalities, documentary requirements or procedures differing from that Standard, shall so inform the Secretary-General and notify him of the differences between its own practice and such Standard; and
- .2 article VIII(3) urges Contracting Governments to bring their formalities, documentary requirements and procedures into accord with the Recommended Practices in so far as practicable and provides that as soon as any Contracting Government brings its own formalities, documentary requirements and procedures into accord with any Recommended Practice should notify the Secretary-General thereof.

4.7 The Committee recalled that during FAL 35, to mark the first meeting of the Committee following its institutionalization under the Convention on the International Maritime Organization, the Committee had held a special event entitled "The FAL Committee – Future Challenges" on 12 January 2009. The presentations given at that event, which pointed to some of the challenges facing the Committee in the near future were issued under cover of document FAL 35/INF.9.

4.8 The Committee also recalled that FAL 35 having noted that despite repeated requests at subsequent sessions of the Committee, there had been a low level of response to these requests for information from Contracting Governments, and had agreed that the time had come to review the whole Convention, particularly in view of recent developments including, for example, the maritime security-related amendments to SOLAS and the introduction of the ISPS Code; the challenges of disembarkation of persons rescued at sea and illegal migrants. In addition, bearing in mind the Assembly's view in relation to the achievement of the balance between security and facilitation, the question arose as to whether the Convention should be expanded to address contemporary problems such as shore leave and other issues that had arisen in the ship-to-shore interface.

4.9 Accordingly, the Committee further recalled that FAL 35 had agreed to initiate a comprehensive revision of the Convention with a view to ensuring that it adequately addresses the present and emerging needs of the shipping industry as well as for modernization of its provisions taking into account for example and, *inter alia*, developments in the field of the transmission of information and data by electronic means and the Single Window concept.

4.10 The Committee noted information in document FAL 36/4 (Secretariat) that no such specific submissions addressing the review have been received by the Secretariat.



4.11 The delegation of China, supported by several delegations, expressed their support for a comprehensive review of the Convention, including the greater use of electronic business and clearance procedures and updating of several outdated sections of the Convention which would benefit the facilitation of international maritime traffic. Nevertheless, in their view, the Committee needed to be patient in the review, in the light of internal government restructuring necessary to accommodate new concepts.

4.12 Several delegations in supporting the need for the comprehensive review stated that there were some outdated sections of the Convention such as arrival/departure requirements which did not reflect what happens in practice in that some countries were at present adopting or retaining their own specific requirements, which duplicate the procedural requirements. It was considered that the Working Group could initiate the review by identifying such potential outdated sections and that this should be carried on intersessionally by a correspondence group.

4.13 The Committee again invited Contracting Governments and Member States, especially the ones which encounter difficulties in acceding to the Convention, to submit relevant proposals together with associated justification, in terms of the philosophy to be followed when conducting such a review; new issues which might need to be addressed in the Convention; and existing provisions which might warrant amendment.

#### **Development of an Explanatory Manual to the Convention**

4.14 The Committee recalled that FAL 32 in July 2005 had recognized that the development of an explanatory manual could help in interpreting the legal text of the provisions of the Convention that could be complex and at times difficult to understand. An explanation of provisions and best practices, which should be in the form of a practical handbook, could contribute to a better understanding and thus an enhanced implementation of the Convention.

4.15 The Committee, noting that as the proposed manual would be a general document, which would provide interpretations of Standards and Recommended Practices, agreed that the manual could serve as a useful link between the FAL Convention and the preparation of the relevant national legislation. The Committee decided to keep the proposed manual simple and agreed that it need not follow the usual amendment procedure of the Convention.

4.16 The Committee recalled that FAL 35 had re-established a Working Group on General review and implementation of the Convention under the chairmanship of Mr. Eildert Broekema (Netherlands) to continue and finalize the development of an Explanatory Manual to the Convention, taking into account that the manual should be based on the Standards and Recommended Practices and the IMO FAL forms which would be in effect when the 2009 amendments to the Annex to the Convention would enter into force and should:

- .1 encourage and improve the implementation of the Convention;
- .2 include explanations of Standards and Recommended Practices with the view to facilitating their possible implementation by providing technical advice and highlighting best practices;
- .3 lead to a better understanding of the underlying principles of the Convention and promote its implementation;
- .4 assist Contracting Governments in the preparation of their national legislation and other regulatory instruments;

- .5 be non-binding to Contracting Governments and entail no legal obligations; and
- .6 take into consideration the relevant provisions of Annex 9 on Facilitation to the Convention on International Civil Aviation (Chicago, 1944), the Revised Kyoto Convention on Customs procedures, and other relevant UN/ECE Recommendations.

4.17 The Committee agreed that it was time to finalize this project this session, so that the manual could be finally edited by the Secretariat then published as a FAL circular and used as originally intended and also as a basis for technical co-operation activities under the Organization's Integrated Technical Co-operation Programme.

*Consideration of the report of the Correspondence Group*

4.18 The Committee considered the report of the Correspondence Group in documents FAL 36/4/1 and FAL 36/4/2 (Netherlands) and noted that after FAL 35 the work on the Explanatory Manual had been continued in the Correspondence Group. The outcome was a final drafting of the complete manual presented in the annex of document FAL 36/4/1 (Part I of the report). The Committee also noted that the Correspondence Group considered that Chapter 3 still needed some extra fine-tuning and that document FAL 36/4/2 contained the result of the additional work of the Correspondence Group (Part II of the report). The additional work consisted of examining the text of Chapter 3 of the Explanatory Manual carefully again in order to improve the text further.

4.19 The Committee noted with appreciation the report of the Correspondence Group and the considerable work done on the development of the manual, in particular by its Vice-Chairman, Mr. Broekema, and approved the report in general. The Committee was of the view that the manual would provide for a greater understanding of the Convention, particularly, in those Member States which are not presently contracting Governments to the Convention.

*Establishment of a Working Group*

4.20 The Committee re-established the Working Group on the development of an Explanatory Manual to the Convention, under the chairmanship of Mr. E. Broekema (Netherlands), and instructed it, taking into account the discussions and decisions in plenary, to:

- .1 finalize the Explanatory Manual to the Annex to the Convention using documents FAL 36/4/1 and FAL 36/4/2 as basic documents taking into account the remarks made in plenary and bearing also in mind that it is intended that the Secretariat will comprehensively edit the whole draft manual after this session, with a view to distribution as a FAL circular intersessionally;
- .2 identify the relevant provisions in the FAL Convention which need to be reviewed and amended and develop draft terms of reference for an intersessional Correspondence Group tasked with the comprehensive review; and
- .3 report to plenary on Thursday, 9 September 2010.

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*Consideration of the report of the Working Group*

4.21 Having received the report of the Working Group (FAL 36/WP.2), the Committee approved it in general and took action as indicated hereunder:

- .1 approved and adopted the finalized Explanatory Manual to the Annex to the Convention with a view to circulate it as a FAL circular and, after editorial review by the Secretariat, bring it to the attention to all parties concerned;
- .2 approved the terms of reference for an intersessional Correspondence Group on the comprehensive review of the Convention;
- .3 noted the Group's view on the apparent out of date provisions of Section 5 part C, Standard 7.4 as well as Recommended Practice 6.2;
- .4 invited the Committee to encourage proposals from Contracting Governments on other apparent provisions that did not reflect common industry practice, in the context of the proposed Review of the Convention;
- .5 noted the Group's concern regarding the review process;
- .6 noted the Group's view to replace, where feasible and practical, paper-based information by electronic information exchange;
- .7 noted the Group's comments on new definitions;
- .8 reiterated its call on Contracting Governments to submit their response to the questionnaire developed for Member States in order to identify areas of differences in the Standards and implemented Recommended Practices; and
- .9 instructed the Secretariat to provide to the Correspondence Group a list of all already available information related to the questionnaire in question.

*Terms of reference of the Correspondence Group on comprehensive review of the Convention*

4.22 The Committee approved the following Terms of reference for the intersessional Correspondence Group on the comprehensive review of the Convention, under the coordination of France\* which should:

- .1 investigate all areas where electronic methods of communication shall replace paper-based information and make available a list of methods of communicating this information;

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\*

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- .2 identify the scope for harmonizing the provisions of the Convention with the current security requirements of relevant IMO instruments;
- .3 take into account the areas of review as identified by the Committee at earlier sessions and which are outlined in document FAL 36/4;
- .4 identify and analyse current information collection practices by various national public authorities requiring information which may warrant electronic messaging and/or updating FAL Forms;
- .5 identify the need to re-structure the Convention in order to pursue the aim of structuring it in a consistent and logical order;
- .6 identify areas where electronic data exchange shall be further enhanced in order to facilitate the security measures, customs, immigration, quarantine and any other relevant port procedures and promote the Single-Window concept;
- .7 identify duplicative requirements of pre-arrival notifications for cargo-security and passenger information purposes and advance arrival/departure notification, and make recommendations for the harmonization of these various requirements;
- .8 identify outdated provisions in the current Standards and Recommended Practices taking into account the incorporated requirements of other international conventions, for example in Section 5 part C, Standard 7.4 and Recommended Practice 6.2; and
- .9 investigate the need to develop new definitions which, *inter alia*, could include definitions for "declarant" or "stuffing of containers" bearing in mind the current globally used industry's terminology.

## **5 ELECTRONIC MEANS FOR THE CLEARANCE OF SHIPS**

### **Revision of the IMO Compendium on facilitation and electronic business and development of EDI messages for transmission of security-related information**

5.1 The Committee recalled that FAL 31 in July 2004, had agreed not to prescribe a form for transmitting the security-related information that a ship may be requested by a SOLAS Contracting Government to submit pursuant to SOLAS regulation XI-2/9.2.1 and, instead, had agreed to develop a standard minimum data set that ships could expect to be required to transmit prior to entry into port. The Committee also recalled that this approach had been endorsed by MSC 79 in December 2004, which developed and agreed the standard data set and promulgated it under cover of MSC/Circ.1130.

5.2 The Committee also recalled that MSC 79 had advised FAL 32 that, even though the standard data set contained in MSC/Circ.1130 was subject to review and amendment by MSC, the Committee should consider commencing the development of an electronic data interchange message (EDI message for security-related information), for joint adoption by MSC and the Committee, and for inclusion in the Compendium, through which the standard data set could be transmitted electronically.

5.3 The Committee further recalled that FAL 34 had intended that the work on the revision of the Compendium should be completed during FAL 35. However, with the inclusion of the EDI message on security-related information required: (1) the allocation of data codes under the UN/CEFACT electronic message scheme; and (2) the joint adoption of the EDI message on security-related information by the MSC, it had become apparent that the completion of the revision of the compendium during FAL 35 was not practically possible.

5.4 The Committee recalled that FAL 35 had re-established a Correspondence Group on Electronic means for the clearance of ships (Correspondence Group) under the Chairmanship of Mr. Roger Butturini (United States).

*Consideration of the report of the Correspondence Group*

5.5 The Committee considered the report of the Correspondence Group in document FAL 36/5 (United States) and noted that after FAL 35 the work on the Explanatory Manual continued in the Correspondence Group. The Committee noted the work done in the intersessional period and that some significant revisions to the Compendium included:

- A Table of Contents had been added;
- All instructions, lists of information, and message implementation guidelines (MIGs) had been numbered to be consistent with the block numbers on the FAL forms;
- The blocks on each FAL form had been annotated to show their relation to their EDI MIGs; and
- The glossary had been expanded to include definitions for all blocks of the FAL forms, including identifying the source of the definition.

5.6 The Committee noted that the Correspondence Group continued development of the implementation guidelines for an Electronic Data Interchange (EDI) message to transmit security-related information shown in MSC/Circ.1130. In response to the Data Maintenance Requests submitted in 2009, the UN/CEFACT revised its data model to add the new data codes needed for security-related information. The Committee further noted that the Group felt it was necessary to create a new SECREP message specifically for transmitting security-related information to the duly authorized officials. Therefore, a Data Maintenance Request to create the SECREP had been submitted to WCO and UN/CEFACT for review.

5.7 The Committee noted with appreciation the close liaison that had been built up between the Group, WCO and UN/CEFACT in particular in relation to security-related information. The Committee also noted that such information was a new concept within UN/CEFACT and that the Code had been only agreed at UN/CEFACT very recently.

5.8 The Committee further noted the view of the United States, as coordinator of the Group, that even small changes in the FAL forms often caused a complex task to change the underlying codes.

5.9 Several delegations expressed their support for the Compendium and that the security-related information needed to reflect the decision of the Maritime Safety Committee in this regard.

5.10 The delegation of Norway expressed the view that the Terms of Reference of the Correspondence Group should be expanded to include items relating to e-Navigation which by definition, was in their view, closely related to the whole concept of electronic clearance.

#### **The use of Single Window concept**

5.11 The Committee recalled that during FAL 32, the Republic of Korea in an effort to simplify, standardize and make effective use of the information on arrival/departure through electronic means, presented an XML-based Single Window System framework which was making it possible to automate and simplify clearance formalities by means of the reusability of information and the Committee invited the Republic of Korea to submit further information to FAL 33 in July 2006.

5.12 The Committee also recalled that FAL 33 discussed a submission by the Republic of Korea which proposed an ebXML collaboration model for an XML-based Single Window System for simplifying clearance formalities and invited Member States and organizations to consider benefiting from the ebXML collaboration model and the Republic of Korea to keep the Committee informed of the relevant updates and new developments in this area.

5.13 The Committee further recalled that FAL 34 discussed a submission by the Republic of Korea which proposed a Single Window UNeDocs Support System which integrates the concept of UN/CEFACT UNeDocs to the ebXML Collaboration Model of Single Window for Marine Transport presented by the Republic of Korea during FAL 33 and invited the Republic of Korea to continue to keep it informed of the relevant updates and new developments in this area.

5.14 The Committee recalled that its Role, Mission, Strategic direction and work of the Committee, and also reflected in resolution A.1012(26) High-level Action Plan of the Organization and priorities for the 2010-2011 biennium *inter alia*, provided that the Committee should encourage the use of information and communication technology to drive continuous improvement and innovation in the facilitation of maritime traffic. In particular, to promote the wider use of the single window concept for pre-arrival information, to allow all the information required by public authorities to be provided by a visiting ship to a port through one point of entry but which is secure and reliable; consider the most appropriate way to facilitate the process of clearing the ship, its cargo, passengers and crew, by using information technology solutions; and to identify possible technical assistance measures to expand information technology and e-business in the area of maritime traffic, particularly in developing countries.

5.15 The Committee further recalled that at FAL 35 the Republic of Korea proposed the development of guidelines as to how to set up and operate the Single Window system in each country's maritime organizations/authorities based on its previous submissions.

5.16 In addition, the Committee recalled that FAL 35 agreed that the Organization should not duplicate the work being done in other organizations, such as UN/CEFACT, WCO, ISO or APEC, in relation to the Single Window but should develop guidelines solely for the maritime area building upon existing international standards, recommendations and guidelines. Accordingly FAL 35 had invited the Republic of Korea to continue to keep the Committee informed of the relevant updates and new developments in this area.

5.17 The Committee also recalled that after discussion FAL established a correspondence group under the coordination of Brazil to continue the work on the development of Guidelines intersessionally.

5.18 The Committee considered document FAL 36/5/1 (Brazil as coordinator of the Group), the Report of the Correspondence group and noted the work of the Correspondence Group on the development of guidelines for setting up a Single Window system in maritime transport and that draft Guidelines were contained at annex of the document.

5.19 In considering document FAL 36/5/2 (Republic of Korea), the Committee noted that the Republic of Korea proposed to develop guidelines, which (1) redefine collaboration processes among the stakeholders of maritime transport and (2) define issues on Single Window Systems including regulatory procedures, legal matters, and system implementation methodologies and which will include both business and technical aspects.

5.20 In document FAL 36/5/6 the Republic of Korea proposed a standard interface between the port authority and various shipping agencies and provides a basis for supporting international interoperability through the interconnection with the Single Window system and the UNEDocs support system already proposed. The Republic of Korea gave a presentation to the Committee on the above two documents.

5.21 The Committee noted information in document FAL 36/5/4 (Islamic Republic of Iran) in regard to a facilitator tool for interchanging FAL forms electronically which could be used by authorities to implement electronic data exchange amongst their internal systems.

5.22 In document FAL 36/5/5, the Islamic Republic of Iran proposed a model for the creation of an integrated Single Window by integrating relevant systems implemented in Member States thus making electronic data interchange in respect of import, export and transit of cargo possible and facilitating the smooth flow of cargo in world trade.

5.23 In document FAL 36/5/7, Sweden provided comments on the report of the aforementioned Correspondence Group on the development of guidelines for setting up a Single Window system in maritime transport (FAL 36/5/1). It also proposed that the Correspondence Group should continue its work on further development of guidelines for setting up a Single Window system in maritime transport based on revised Terms of Reference, which would allocate a possibility for the Correspondence Group to examine some additional aspects.

5.24 The Committee also considered the views of FONASBA in document FAL 36/5/3, that the ship's agent should be recognized as the *de facto* port single window, thus utilizing the experience of the ship's agent as an integral component of the port call process.

5.25 In document FAL 36/5/8, ISO provided information on the status of the ISO/TC 8 work programme on the ISO 28005 series of standards and invited the Committee to take into account future developments and outcomes of the ISO/TC 8 for support in developing the Convention provisions and guidelines related to Electronic Means for Clearance of Ships.

5.26 The delegation of Brazil supported by several other delegations, appreciated the proposal by the Islamic Republic of Iran in FAL 36/5/5, but considered that it was premature at this time to consider an integrated international system of Single Window handling such sensitive information as required for the clearance of ships.

5.27 After further general discussion the Committee decided to forward all documents to the Working Group on Electronic means for the clearance of ships.

5.28 The delegation of the European Commission informed the Committee of a new legislation aiming at simplifying port formalities for vessels arriving at or departing from ports located in the European Union, agreed by the Council of the European Union and the European Parliament in July 2010.

The directive is part of the action plan establishing a European Maritime Transport Space without Barriers, which is a concept to extend the Internal Market to intra-EU maritime transport by simplifying administrative routines with the objective of reducing complex administrative procedures and will support further development of the maritime sector.

A harmonized format will be used for security information to avoid diverging practices at different ports. It will be replaced by the format agreed by the FAL Committee as soon as it will enter into force.

All information will have to be channelled through an electronic National Single Window. At the latest on 15 June 2015, all European ports will have to accept electronic transmission of port formalities. From this date all paper forms should no longer be accepted.

#### *Establishment of a Working Group*

5.29 The Committee re-established the Working Group on Electronic means for the clearance of ships, under the chairmanship of Mr. K. Itoh (Japan), and instructed it taking into account documents FAL 36/5, FAL 36/5/1, FAL 36/5/2, FAL 36/5/3, FAL 36/5/4, FAL 36/5/5, FAL 36/5/6, FAL 36/5/7 and FAL 36/5/8 from item 5 in addition to FAL 36/7 and FAL 36/7/2 from item 7 and the relevant discussions and decisions in plenary, to:

- .1 prepare a final draft of proposed revised Compendium using as a basis document FAL 36/5 for approval by the Committee and submission by the Organization to WCO, UN/CEFACT (TBG) and other organizations for comments; and in this respect ensure that the terminology used in relation to the EDI message on security-related information is consistent with the provisions of SOLAS regulation XI-2/9, ISPS Code paragraphs B/4.37 to B/4.40 and MSC/Circ.1130;
- .2 develop draft guidelines for setting up the Single Window system in maritime transport, if necessary, prepare terms of reference for a correspondence group to commence the needed work intersessionally;
- .3 consider documents FAL 36/7 and FAL 36/7/2 and advise the Committee accordingly;
- .4 identify if there are any outstanding issues within the draft compendium that an intersessional correspondence group needs to consider, bearing in mind that it is intended that the Secretariat will editorially review the whole draft compendium after this session, with a view to final approval at FAL 37; and
- .5 report to plenary on Thursday, 9 September 2010.

#### *Consideration of the report of the Working Group*

5.30 Having received the report of the Working Group (FAL 36/WP.3), the Committee approved it in general, discussed at length the recommendations of the Group and took action as indicated in the following paragraphs.



## **Compendium on facilitation and electronic business**

5.31 The Committee approved, subject to editorial revisions by the Secretariat, the draft revised IMO compendium on Facilitation and Electronic Business and instructed the Secretariat to forward it to WCO, UN/CEFACT (TBG) and other organizations for comments with a view to final approval at FAL 37 (FAL 36/WP.3, annex 1).

### **Security related information**

5.32 The Committee noted the discussion of the Group regarding the use of security-related information and discussed at length whether this message should be included as part of the IMO Compendium on Facilitation and Electronic Business, either as a new message or as part of the CUSREP message. It was noted that the security related information developed by the Group (FAL36/WP.3 annex 2) was based on the CUSREP message.

5.33 After a detailed discussion the majority of those delegations that spoke were of the view that the message should be based on CUSREP and should form a part of the Compendium, but be a separate, stand-alone message, so as to facilitate the reporting by ships but also to provide ease of amendment by the MSC, as it addresses SOLAS provisions, not FAL. Several delegations were additionally of the view that the FAL Committee should decide where the message should best be placed and that in due course it could be included in the FAL Convention as a FAL Form 8, following the same pattern as the present FAL Form 7 Dangerous Goods Manifest, which also is a stand-alone form referenced in SOLAS.

5.34 Finally the Committee amended and approved the draft message from the Group (annex 1) and instructed the Secretariat to forward the draft EDI message implementation guidelines for transmitting security-related information to the duly authorized officer, prepared in response to MSC/Circ.1130, to the MSC for further consideration on security-related issues.

5.35 The Committee noted the discussions of the Group regarding the draft paper form on security-related information declaration prepared by the correspondence group on Electronic means for the clearance of ships (annex 2) in response to the request of MSC 86 (MSC 86/26, paragraph 4.2.3) and instructed the Secretariat to forward this information to the MSC for further consideration.

5.36 The Committee, after discussing the need for such a Group dependent upon the outcome of MSC discussions on the security related information re-established the correspondence group on Electronic Means for the Clearance of Ships, under the coordination of the United States and with terms of reference those set out in paragraph 5.41.

### **Single Window**

5.37 The Committee noted the work done by the Group in relation to the use of a Single Window concept and agreed that the report of the correspondence group on the development of guidelines for setting up a Single Window system in maritime transport (FAL 36/5/1) should be used as the basic document for the further development of Guidelines for setting up a Single Window System for the maritime transport.

5.38 Accordingly, the Committee re-established the correspondence group on the development of guidelines for setting up a Single Window system in maritime transport, under the coordination of Brazil and with terms of reference those set out in paragraph 5.42.

### **E-navigation**

5.39 The Committee, while noting the discussion of the Group regarding E-navigation nevertheless decided not to establish a separate correspondence group on E-navigation, as it was considered unnecessary and would clearly duplicate the extensive work already being carried out by other IMO committees and sub-committees in this respect.

5.40 The Committee noted that the Working Group had noted FAL 36/5/4 and FAL 36/5/5 submitted by the Islamic Republic of Iran but decided it was premature to consider issues relating to a world-wide Single Window system before developing guidelines for the Single Window within national boundaries.

#### *Terms of reference for the Correspondence Group on Electronic Means for the Clearance of Ships*

5.41 The Committee approved Terms of reference for the Correspondence Group on Electronic means for the clearance of ships, under the coordination of the United States\* which should:

- .1 subject to the decisions of MSC 88 and without waiting for any decision from this Committee:
  - .1 if necessary, update the draft revised IMO compendium on Facilitation and Electronic Business, set out in annex 1, with message implementation guidelines for transmitting security-related information; and
  - .2 prepare a final draft paper form on security-related information declaration;
- .2 start working with WCO to develop a subset of GOVCBR EDIFACT message for transmitting security-related information to the duly authorized officer;
- .3 recommend the approach to be taken for advising the users of the Compendium any time that there was a change in the UN/CEFACT Directory or the WCO Data Model used in the Compendium; and
- .4 submit a report for consideration by FAL 37.

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*Terms of reference for the Correspondence Group on the development of guidelines for setting up a Single Window system in maritime transport*

5.42 The Committee approved Terms of reference for the Correspondence Group on the development of guidelines for setting up a Single Window system in maritime transport, under the coordination of Brazil\* which should:

- .1 update and finalize, with a view of approval at FAL 37, the draft guidelines for setting up a Single Window system in maritime transport set out in annex of document FAL 36/5/1. In doing so, the correspondence group should take into consideration the comments provided by the Group and, in particular:
  - .1 include:
    - .1 a definition of Single Window (based on the WCO and UN/CEFACT Recommendation No. 33 definitions);
    - .2 information regarding data protection and legal issues (using as a reference the work being done by the UNCITRAL/WCO Joint Legal Task Force); and
    - .3 cross-references to other existing recommendations or guidelines (e.g., UN/CEFACT Recommendation No. 33, ISO, WCO, etc.);
  - .2 using document FAL 36/5/2 (Republic of Korea):
    - .1 (first paragraph under section 2), review the scope of the draft recommendations and guidelines;
    - .2 (Methodology of Single Window System, from subparagraphs 1 to 3, inclusive), review the existing section 5.6 of the draft recommendations and guidelines; and
    - .3 (Single Window Framework, from subparagraphs 1 to 3, inclusive), insert an annex under the heading of "Best practices";
  - .3 stress the need of using, if possible, existing flows of information and business processes;
  - .4 provide, in paragraph 5, a general outline of the data elements involved in the process, as well as the main users of the system;

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- .5 mention examples regarding the design process (e.g., the exchange of information B2G and back, the creation of a single portal, single risk management one-stop-shop), including general recommendations for a step-by-step implementation;
  - .6 consider the work done by other organizations (e.g., UN/CEFACT, WCO, ISO, UNCTAD, etc.) and provide the necessary steps for implementing a Single Window for maritime transport;
  - .7 include, as annexes to the guidelines, additional information related to the experience of other Contracting Governments that had implemented Single Window Systems;
  - .8 review the contents of the existing section 10.2 regarding the World Health Organization; and
  - .9 identify opportunities for small ports, developing nations and economies to join and take advantage of the development of Single Window Systems for the maritime transport; [and]
- .2 submit a report for consideration by FAL 37.

## **6 FORMALITIES CONNECTED WITH THE ARRIVAL, STAY AND DEPARTURE OF PERSONS**

### **Formalities connected with the arrival, stay and departure of persons: shipboard personnel**

6.1 The Committee noted that for practical purposes, documents and issues raised under this sub-item, in particular matters relating to shore leave and access to ships which are relevant to this item, were to be considered under item 8.

### **Formalities connected with the arrival, stay and departure of persons: stowaways**

#### *Stowaway incidents*

6.2 The Committee noted information from the Secretariat that since FAL 35, the Secretariat had issued FAL.2/Circs.112, 114 to 116, 118 and 119 which are quarterly reports setting out the information reported to the Organization in relation to stowaway incidents. The annual statistics for 2008 are set out in FAL.2/Circ.113 and the annual statistics for 2009 are set out in FAL.2/Circ.117.

6.3 According to these reports 494 stowaway cases were reported to the Organization in 2008, 314 in 2009 and 102 in the second quarter of the first half of 2010. In terms of numbers of stowaways, the cases reported to the Organization involved 2,052 stowaways in 2008; 1,070 in 2009 and 251 in the second quarter of 2010.

6.4 Reports on stowaway's incidents were received by the Organization from nine Member States, one Associate Member and one NGO in 2008; from eight Member States, one Associate Member and one NGO in 2009, and from five Member States and one Associate Member in 2010.

### Stowaway cases and stowaways

Year	2008	2009	2010
Stowaway cases	494	314	102
Stowaways	2,052	1,070	251

### Reporting sources

Year	2008	2009	2010
Member States	9	8	5
Associate Members	1	1	1
NGOs	1	1	0

6.5 The Committee considered document FAL 36/6 (P&I Clubs) which provides an analysis of claims data collated by the International Group of P&I Clubs on stowaway cases from 20 February 2007 to 20 February 2008 in order to facilitate the discussions on stowaways in the FAL Committee.

6.6 The Committee noted the official statistics published by the Organization on stowaway cases which are primarily received from flag States and port States. However, based on a comparison between the data on stowaway cases handled by the P&I Clubs in 2007 and the data published by the Organization for that year, it would seem that the statistics published by the Organization based on reports received apparently under-reports the scale of the problem.

6.7 The Committee noted with concern that the number of stowaway cases reported to the Organization from 1 January 2007 to 1 January 2008 totalled 252 incidents involving 889 stowaways (as recorded in FAL.2/Circ.108). However, the number of stowaway cases collated by the P&I Clubs from 20 February 2007 to 20 February 2008 totalled 842 incidents involving 1,955 stowaways.

6.8 The Committee also noted the comment from P&I Clubs that these 842 stowaways cost the Clubs a total of some US\$14.3 million in costs, including fines imposed by some States not willing to assist in the disembarkation of the stowaways.

6.9 The delegation of South Africa, supported by several delegations, was of the view that the P&I Clubs statistics appeared to be much more of an accurate picture of the scale of the problem worldwide and proposed that it might be possible to obtain regular information in this way from the P&I Clubs in order to enhance the statistics reported to the Organization.

6.10 The delegation of BIMCO suggested that if quarterly statistics could be obtained from the P&I Clubs it would be of great benefit to masters of ships at sea as to what areas to be aware of and that BIMCO could distribute such advice as they had in the past.

6.11 The delegation of China was of the view that while the statistics of the P&I Clubs was more accurate than those of the Organization, they still did not reflect the whole of the international picture.

6.12 The delegation of P&I Clubs pointed out the complexity and cost of compiling such statistics which derived from manual inspection of the claims arising after the incidents, and took the view that quarterly statistics would be too complex to produce from their sources, noting the views of the Committee that there might be some value in the Organization seeking more information on a regular basis in order to enhance the accuracy of the statistics.

6.13 The Committee agreed that the P&I Clubs information was valuable in highlighting the under-reporting of the problem and agreed that the Secretariat should approach other Organizations, such as for example UNHCR and other UN bodies as well as industry sources with a view to further sharing of information and the enhancement of statistics.

*FAL.2/Circ.50/Rev.1 on Reports on stowaway incidents*

6.14 The Committee recalled that FAL 34 had agreed that FAL.2/Circ.50/Rev.1 on Reports on stowaway incidents, which was originally approved by FAL 27, should be reviewed and updated during FAL 35 and invited submissions to this end. No submissions proposing any revised text were received at FAL 35 or to this present session.

6.15 The Committee agreed to forward this aspect on stowaways to the Working Group on securing and facilitating international trade.

**Resolution A.1027(26) on Application and revision of the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution A.871(20))**

6.16 The Committee recalled that FAL 34 noted that a review of the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases (the Guidelines), adopted by resolution A.871(20), clearly showed that these neither make reference to nor reflect any aspects of the provisions which had been included in the Convention in relation to stowaways through the 2002 amendments to the Annex to the Convention. In addition, it was noted that resolution A.871(20) made no reference and took no account of the provisions of SOLAS chapter XI-2 and the ISPS Code.

6.17 The Committee also recalled that FAL 35, being aware that, at present, two regimes appeared to coexist in relation to stowaways, the first had been established by the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution A.871(20)) and the other had been introduced through the provisions, which had been included in the FAL Convention in relation to stowaways, and that the Committee had agreed that the revision of the aforementioned Guidelines should be done in cooperation with the Maritime Safety Committee in order to avoid further uncertainties and to provide guidance equivalent to that provided through the 2002 amendments to the Annex to the FAL Convention. To this end, the Assembly adopted resolution A.1027(26) on Application and revision of the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution A.871(20)).

6.18 Accordingly, the Committee noted in resolution 1027(26), pending the revision of the Guidelines, the Assembly to decided that resolution A.871(20) should be followed only by:

- .1 those Member States which are not Contracting Governments;
- .2 those Member States which are Contracting Governments and have notified, in accordance with article VIII(1), the Secretary-General, in relation to the Standards specified in section 4 on Stowaways of the Annex to the Convention, that they find it impracticable to comply with the aforesaid

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Standards or of differences between their own practice and the said Standards; and

- .3 those Member States which are Contracting Governments which have not yet notified, in accordance with article VIII(3), the Secretary-General 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 Convention.

6.19 The Committee further noted that the resolution also stated that the revision of the Guidelines should be done in co-operation with the MSC and in order to avoid the uncertainties which transpired; and so as to provide guidance equivalent to that provided through the 2002 amendments to the Annex to the Convention, it was necessary to find a way to promulgate and make available the revised Guidelines before the twenty-seventh regular session of the Assembly which was expected to take place in the autumn of 2011.

6.20 The Committee noted that this aspect on stowaways would be referred to the Working Group on securing and facilitating international trade.

6.21 On receipt of the report of the Working Group (FAL 36/WP.4) the Committee took action as follows:

- .1 supported the interpretation of the Working Group that resolution A.1027(26) had requested the Committee and the MSC to work jointly on revised Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases and to adopt jointly any necessary amendments to the Guidelines resulting from the aforementioned revision. The Committee agreed that precedent had been set by resolution A.985(24) on Revision of the guidelines for the prevention and suppression of the smuggling of drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic, by which the Assembly, *inter alia*, authorized the Facilitation Committee and the Maritime Safety Committee to adopt jointly the necessary amendments to the Guidelines and to promulgate them by appropriate means. Consequently, the Committee approved the draft FAL resolution on Revised Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases, and agreed to submit it to MSC 88 for consideration; and
- .2 approved the revised circular FAL.2/Circ.50/Rev.2 on reports of stowaway incidents.

#### *IMO Stowaway Focal Point*

6.22 The Committee recalled that FAL 34 following an exchange of views on a variety of salient issues, had requested the Secretary-General, to the extent existing resources allowed, to establish within the Secretariat an IMO Stowaway Focal Point on a trial experimental basis. FAL 34 agreed that the primary function of such an IMO Stowaway Focal Point was to provide assistance for the successful resolution of stowaway cases only when the parties concerned had been unable to resolve such issues within the means available to them. In this respect, FAL 34 approved terms of reference for the conduct of such trials and agreed to review the experience gained during FAL 35 before taking any further actions.

6.23 The Committee noted in particular that the terms of reference stated *inter alia* that the Stowaway Focal Point should provide assistance towards the successful and expeditious resolution of stowaway cases by facilitating communications and fostering co-operation between the relevant public authorities of the Governments of the Member States and with the Company and the master of the ship concerned. Member States, international organizations and non-governmental organizations in consultative status may seek the assistance of the IMO Stowaway Focal Point. Requests for assistance should be restricted to the absolute minimum and only when the circumstances of the case or the developments appear to suggest that such assistance may be warranted and should be accompanied by relevant records of the Stowaway Details (set out in appendix 3 of the Convention) or a completed Stowaway Details Note (set out in the appendix to the annex to resolution A.871(20)).

6.24 The Committee recalled also that FAL 35 had also noted that the Secretariat had been requested to assist in only a very limited number of cases of stowaways on board ship, with a view to the effective disembarkation of such stowaways at the next port. In view of the limited results of the trials and as the number of stowaway incidents report to the Organization for 2007 were higher than those for 2006, FAL 35 had requested the Secretariat to continue the trial of the IMO Stowaway Focal Point and to report to FAL 36 the experience gained; and agreed to review the experience gained during FAL 36 before taking any further action.

6.25 The Committee noted oral information from the Secretariat that since the IMO Stowaway Focal Point was established in the Secretariat in accordance with the terms of reference agreed by FAL 34, the Secretariat has again been requested to assist in only very limited number of cases of stowaways on board ship, with a view to assisting in the process of disembarkation of such stowaways at the next port. The Secretariat has passed on these requests through the diplomatic or any other channels which were available to the Secretariat. However as the majority of stowaway incidents are handled at the local level, the success or otherwise of IMO intervention cannot be quantified. The establishment of the IMO Stowaway Focal Point did focus attention on the ongoing problem of stowaways and hopefully led to somewhat better liaison with relevant organizations such as the P&I Clubs.

6.26 After considerable discussion, while recognizing that the presence of stowaways on board ships still remains a major problem for international maritime traffic, the Committee noted the limited results of the trials and the day to day practicalities of stowaway incidents, i.e. that in the great majority of cases the incidents are mainly handled at local level by relevant authorities and representatives of the P&I Clubs and that therefore there is little or no role for the Secretariat in the incidents. Nevertheless the Committee decided that there was value in continuing with the trials and agreed to continue the trial of the IMO Stowaway Focal Point especially in the light of proposals to seek further information from other Organizations. The Committee noted as such that the Secretariat will be available to assist Member States where considered necessary towards the successful and expeditious resolution of stowaway cases.

### **Formalities connected with the arrival, stay and departure of persons: illegal migrants**

#### *Illegal migrants incidents*

6.27 The Committee recalled that FAL 35 had taken the view that the current system of recording the reports on illegal migrants needed to be reconsidered so as to enable preparation of statistical information on a systematic basis, for example, on year-by-year and thus contribute towards the establishment of reliable data for use in connection with the Performance indicators to be used to monitor the performance of the Organization against the Strategic Plan for the Organization and the High-level Action Plan and priorities of the Organization. However, the issue needs to be considered and resolved by the MSC under



whose purview is MSC/Circ.896/Rev.1 on Interim measures for combating unsafe practices associated with the trafficking or transport of migrants by sea, which forms the basis for the reporting.

6.28 The Committee noted information from the Secretariat in relation to the illegal migrants' incidents which have been reported to the Organization.

Since FAL 35, the Secretariat has issued MSC.3/Circ.16, which covered the annual statistics for 2008 on unsafe practices associated with the trafficking or transport of migrants by sea; and MSC.3/Circ.17 and MSC.3/Circ.18, biannual reports for the period 30 January 2009 to February 2010.

Fifty-five incidents of illegal migrants transported by sea were reported to the Organization in 2008 and 381 incidents were reported in 2009.

6.29 In terms of numbers of illegal migrants, the cases reported to the Organization involved 1,266 illegal migrants in 2008 and 8,747 in 2009. For 2010 so far, the Organization has received 82 reports of illegal migrants transported by sea, involving 1,706 migrants.

6.30 The total number of incidents related to unsafe practices associated with the trafficking or transport of migrants by sea reported to the Organization for the period between 1 January 1999 and 30 June 2010 is 1,703 and it involves 72,409 illegal migrants.

6.31 In a number of cases the Organization had received reports which included information on previous years, for example, in some cases the information received during 2009 were going back to incidents which occurred as early as 2008 and this creates an erroneous impression under the current system of recording the reports.

#### **Formalities connected with the arrival, stay and departure of persons: persons rescued at sea**

6.32 The Committee noted that since FAL 35, this issue had been extensively discussed in the MSC and COMSAR Sub-Committee in particular, the outcomes of which is contained in the reports of the MSC and COMSAR Sub-Committee as follows:

MSC 86/26, paragraphs 8.26, 13.19 and 13.20;  
COMSAR 14/17, paragraphs 10.1 to 10.26; and also  
MSC 87/26, paragraphs 14.18 to 14.21.

6.33 The Committee recalled that in August 2001, the Assembly had adopted resolution A.920(22) on the Review of safety measures and procedures for the treatment of persons rescued at sea. Subsequently, after considerable complex negotiations MSC 78 in 2004 adopted amendments to the 1974 SOLAS and 1979 SAR Conventions so that the obligation of the master to render assistance should be complemented by the corresponding obligation of parties to the SOLAS and SAR Conventions to coordinate and co-operate in relieving the master of the responsibility to provide follow up care of survivors and to deliver the persons rescued at sea to a place of safety. These amendments entered into force on 1 July 2006.

6.34 The Committee further recalled that MSC 78 also adopted associated guidelines, contained in resolution MSC.167(78). The purpose of these amendments and the guidelines was to help ensure that persons in distress are assisted, to ensure that in every case a place of safety is provided within a reasonable time, while minimizing the inconvenience to assisting ships and ensuring the continued integrity of SAR services.

6.35 The Committee recalled also that the 2005 Amendments to the Annex to the FAL Convention introduced the words "persons rescued at sea" in section 2H Standard 2.20 in regard to special measures of facilitation for ships calling at ports to put ashore sick or injured crew members, passengers, persons rescued at sea or other persons for emergency medical treatment and in Section C Miscellaneous Provisions Standard 7.8 in regard to emergency assistance.

6.36 In addition, the Committee recalled that FAL 33 established the Correspondence Group on Administrative procedures for disembarking persons rescued at sea which only received contributions from two Member States. FAL 34 then re-established the group, which reported to FAL 35.

6.37 The Committee also recalled that FAL 35 considered the report of the correspondence group and after considerable discussion issued a further circular FAL.3/Circ.194 on Principles relating to Administrative procedures for disembarking persons rescued at sea.

6.38 The Committee noted information as follows from the Secretariat on developments in IMO and relevant activities of the Secretariat since FAL 35 in relation to the issue as follows:

In the past years, the problem of persons rescued at sea, many of whom turn out to be trafficked and undocumented migrants has continued in several areas of the world. In the Mediterranean region, particularly in the summer months, the problem is especially severe on the routes from North Africa particularly towards Southern Europe. Member States in the region have made strenuous efforts in the rescue of persons in distress and have rescued many thousands of such persons.

At MSC 83, the delegation of Spain reported that it was experiencing a great flood of migrants from Africa towards Europe and had rescued, in 2006 alone, 30,493 migrants from the sea. Member States in the region have reported severe problems in the on-shore processing of such large numbers of undocumented migrants, under their relevant immigration policies.

Considerable discussions on these aspects have continued at MSC 84, MSC 86, FAL 35, COMSAR 13 and COMSAR 14, while FSI 17 has also been involved to a small extent from the implementation aspects.

At COMSAR 14 in March 2010, further discussion took place and the matter remained unresolved. After a long debate and following a suggestion from the floor that the Secretary-General should be asked to offer his good offices to take the matter forward, the Secretary-General responded that he would be pleased if he could assist in the devising of a satisfactory arrangement that would enable Members to make progress on a delicate and sensitive issue, which, among others, had humanitarian connotations, especially affecting the safety of life at sea.

6.39 The Committee also noted that a meeting between relevant Member States had taken place as a result of the outcome of COMSAR 14 in an effort to resolve the situation, the matter is ongoing and that the Committee would be informed in due course of any relevant outcomes of these meetings.

6.40 The Committee further noted that in regard to UN Inter-agency co-operation, while there had been no formal inter-agency meetings since FAL 35 the Secretariat had continued to liaise closely with UNHCR in particular and with other relevant agencies in incidents involving the rescue of persons at sea who subsequently turn out to be undocumented

migrants. Such an inter-agency effort focusing on State responsibilities for non-rescue issues, such as immigration and asylum that are beyond the competence of IMO, is an essential complement to IMO efforts.

6.41 In addition the Committee noted that since 2004, the Secretariat had also participated in several conferences organized by UNHCR in order to promote the interest of commercial shipping involved in such incidents, thus fulfilling their obligations under SOLAS but who subsequently have problems in disembarking such persons and the effect that this has on the integrity of the maritime SAR systems.

6.42 The Committee recalled that the UNHCR and IMO had compiled a guidance leaflet on Rescue at sea: A guide to principles and practice as applied to migrants and refugees, which was intended to be distributed to ship masters as a quick guide to principles and practice as applied to migrants and refugees and this leaflet had been published and distributed widely late in 2006 and also reprinted and distributed in 2009.

6.43 The Committee agreed with the Chairman's view that the crux of the problem was not just an ordinary search and rescue incident which were taken care of in normal operational procedures, but was in reality the disembarkation of large numbers of persons rescued at sea who turn out to be undocumented migrants or asylum seekers after being transported/trafficked often in small unseaworthy boats. This has considerable effects on the facilitation of international maritime traffic and as such, while the issue is very complex, the FAL Convention might be the best instrument to assist in regard to the disembarkation of such people.

6.44 The Committee also agreed with the Chairman's view that in the light of experience, the very minor changes to the Convention in the 2005 Amendments as mentioned above had not focussed on the actual crux of the matter and were clearly insufficient to enable effective disembarkation of such persons, bearing in mind the complexity of the problem.

6.45 Accordingly the Committee invited Contracting Governments to the Convention to consider the matter intersessionally and submit proposals and comments to FAL 37 as to if and how the FAL Convention could be strengthened in this regard especially in the context of the review of the Convention.

6.46 The delegation of Spain expressed the view that it might be better to await the outcome of the Regional meeting mentioned above as a result of COMSAR 14 before amending any other international instrument.

## **7 CERTIFICATES AND DOCUMENTS REQUIRED TO BE CARRIED ON BOARD SHIPS AND FAL FORMS**

### **List of certificates and documents required to be carried on board ships**

7.1 The Committee recalled that FAL 19 in May 1990, originally developed a list of certificates and documents required to be carried on board ships together with a brief description of the purpose of the certificates and other relevant documents. This work was carried out in connection with the provisions of section 2 of the Annex to the Convention concerning formalities required of shipowners by public authorities on the arrival, stay and departure of ships.

7.2 The Committee reiterated the view of FAL 19 which considered that these provisions should not be read as precluding a requirement for the presentation for inspection by the appropriate authorities of certificates and other documents carried by the ship pertaining to its registry, measurement, safety, manning, classification and other related matters.

7.3 The Committee noted that the list was considered and approved by the MSC and the MEPC, at their respective sessions in 1990, and was circulated under cover of a MSC/MEPC/FAL circular. The list was later revised in 1995, 2000 and 2004 following the entry into force of amendments to the various treaties which govern the certificates and documents which are required to be carried on board, so as to take account of the relevant provisions.

7.4 The Committee also recalled that the presently available revised list of certificates and documents required to be carried on board ships, as approved by FAL 31 (July 2004), MEPC 52 (October 2004) and MSC 79 (December 2004), had been issued as FAL.2/Circ.87-MEPC/Circ.426-MSC/Circ.1151.

7.5 The Committee noted document FAL 36/7/1 which contained a draft revised list of certificates and documents required to be carried on board ships, as prepared by the Secretariat for the consideration of the Committee.

7.6 The Committee noted that the list had been revised to take account of the relevant provisions of the amendments to the 1974 SOLAS Convention, as amended, and MARPOL 73/78, as amended. The revised list of certificates and documents required to be carried on board ships could be approved by FAL 36, then MEPC 61 (27 September to 1 October 2010) and MSC 88 (24 November to 3 December 2010).

7.7 The Committee further noted that the certificates and documents listed in this circular are only those required under IMO instruments and that it does not include certificates or documents required by other international organizations or governmental authorities.

7.8 The Committee noted that while FAL 19 originally initiated this document and FAL has usually been the Committee to initiate the revisions as above, by far the great majority of certificates included in it refer to SOLAS and MARPOL certificates and documents. Accordingly, the Committee questioned whether it is still appropriate for the FAL Committee to initiate these revisions of the circular, especially now in the light of resolution A.973(24) the Code for the Implementation of Mandatory IMO Instruments, which was adopted by the twenty-fourth Assembly just before FAL 35 and sets out at annex similar lists of mandatory documents.

7.9 The Committee noted that resolution A.973(24) also requests the MSC and the MEPC to keep the Code under review and, in coordination with the Council, to propose amendments thereto to the Assembly.

7.10 The Committee established a drafting Group on the list of certificates and documents required to be carried on board ships under the chairmanship of Mr. N. Smith (Saint Kitts and Nevis) to finalize the draft list from the FAL point of view.

7.11 On receipt of the report of the drafting Group (FAL 36/WP.5) the Committee approved the amendments to the list of certificates and documents and instructed the Secretariat to forward to MSC and MEPC, as appropriate for their consideration (annex 4).

7.12 The Committee considered that future revisions of the document may well be more effectively initiated by the MSC and in particular from one of its sub-committees such as the FSI Sub-Committee. Accordingly, the Committee instructed the Secretariat to bring this to the attention of the MSC and invited that Committee to consider whether it would be prepared to keep the circular under review in this way.

*Online access to certificates and documents required to be carried on board ships*

7.13 The Committee recalled that FAL 33 noted that MSC 81 had considered the outcome of FAL 32 and MEPC 54 on the issue and the proposal by INTERTANKO (MSC 81/24/9), regarding the online access to certificates and documents required to be carried on board ships and, having discussed the matter, had agreed with the decision of MEPC 54 that the Committee should explore the matter further, including the reliability and security of databases on online access to ships' certificates and documents, and urged Member States and organizations to submit relevant proposals for consideration by the Committee.

7.14 The Committee also recalled that MSC 81, being conscious of the potential of an online access to certificates and documents and having duly noted the technical feasibility of a system, had recommended that a step-by-step approach should be applied and the emphasis should be given to the facilitation aspects of such a system. Concerning the potential use of such a system in port State control activities, MSC 81 noted the view that an electronic access to certificates would not be considered as an alternative to the physical inspection of the certificates and could, possibly, serve in the context of the prioritization of port State control inspections.

7.15 The Committee further recalled that FAL 33 having concurred with the above views of MEPC 54 and MSC 81 and having considered the proposal by ICS (FAL 33/11/1) reiterating that the validation and examination of many mandatory certificates and documents currently required to be carried on board ships could be better achieved through online access to databases of issuing administrations, and after a preliminary discussion on the matter, established the Correspondence Group on Electronic access to IMO certificates and documents under the coordination of ICS.

7.16 The Committee also recalled that FAL 35, after discussion, had reiterated its view that on-line access to certificates and documents required to be carried on board ships was still a long-term project and objective and agreed that, before engaging further on the development of the project for online access to certificates and documents required to be carried on board ships, it was necessary to identify the certificates and documents in question and, for such a system to be of use, MSC, MEPC and LEG would need to clearly indicate whether they favoured the development of the system and whether they were prepared to adopt the necessary amendments to the various instruments under their respective purview through which, *inter alia*, the existence of certificates and documents in an electronic format would be accepted as an alternative to the paper printed ones, in a similar manner as the Committee had done with respect to the IMO FAL forms. FAL 35 noted that identification of the certificates and documents in question was the first step in the discussions and developments of an online access system since this would identify under whose control the authoritative electronic version of each one of these were maintained and where the related databases were located. In this respect the Committee agreed to point out to the other Committees, with a view to enabling them to conduct structured discussions, that a provisional list of certificates and documents was provided in the annex to document FAL 34/9.

7.17 The Committee recalled also that FAL 35 had recognized that this was especially important as, during MSC 81, a number of Member States expressed the view that an electronic access to certificates would not be considered as an alternative to the physical inspection of the certificates and could, possibly, serve in the context of the prioritization of port State control inspections.

7.18 The Committee recalled further that FAL 35 had agreed to invite the MSC, MEPC and LEG Committees to consider the issue further and to determine their positions on the matter. The Committee noted that the MSC, MEPC and LEG Committees should be prepared to make the necessary amendments to the various instruments under their purview, so as to establish the framework which would yield the benefits of having such a system in place. The Committee did not need to develop such a system for the purposes of facilitation of maritime traffic and travel, as the existing provisions of the Convention and those of the Compendium recognized and regulated the provision of the required information through electronic means. The Committee agreed to advise the MSC, MEPC and LEG Committees that in terms of technology the establishment of an online system was possible and to consider the issue in terms of the certificates and documents listed in the annex to document FAL 34/9.

7.19 The Committee recalled that FAL 35 also agreed to re-establish the Correspondence Group on Online access to certificates and documents required to be carried on board ships under the coordination of Saint Kitts and Nevis.

*Consideration of the report of the Correspondence Group*

7.20 The Committee considered the report of the Correspondence Group in document FAL 36/7 (Saint Kitts and Nevis) and noting the information contained therein, approved the report in general.

7.21 The Committee reiterated its view that the matter of online certificates and documents was a vital component in the more efficient clearance of ships and the advantage of utilizing such methods. The legal issues must be considered and this would be reflected in the response of PSC Officers in relation to online certificates.

7.22 The Committee decided to refer the report to the Working Group on Electronic clearance for ships.

7.23 On receiving the report of the Working Group, document FAL 36/WP.3, the Committee discussed the issue and requested the Secretariat to forward the questionnaire on Online access to Certificates and Documents to the MSC and the MEPC for further consideration and seek their opinion on making available electronic copies of documents and certificates on board ships for facilitation purposes (FAL 36/WP.3, annex 3).

*Further development of the Voluntary IMO Member State Audit Scheme (resolution A.1018(26))*

7.24 In considering document FAL 36/2/Add.1 (Secretariat), the Committee noted the outcome of the twenty-sixth Assembly with respect to resolution A.1018(26) on Further development of the Voluntary IMO Member State Audit Scheme.

7.25 The Committee noted in particular that this resolution, *inter alia*, states that the Assembly:

"Endorsed the decision of the Council for a phased-in introduction of the Organization's Audit Scheme as an institutionalized process through the inclusion of

appropriate requirements in the IMO instruments specified and in any other IMO instrument which may be included in the future;

Approved the time frame and schedule of activities for the consideration and introduction of an institutionalized IMO Member State Audit Scheme, as set out in the annex to the present resolution;"

7.26 The Committee further noted that in operative paragraph 3, the resolution requested the Maritime Safety Committee, the Marine Environment Protection Committee, the Technical Co-operation Committee and the Facilitation Committee, as necessary, under the coordination of the Council, to take appropriate action to develop and establish the IMO Member State Audit Scheme in its institutionalized form within the established time frame.

7.27 The Committee noted that the FAL Convention is not presently included in the Voluntary Member State Audit Scheme, which in the main refers to the responsibilities and obligations of Parties to instruments aimed at promoting maritime safety and security and protection of the marine environment, such as SOLAS, MARPOL, STCW and others. The Committee also noted that the FAL Convention was not mentioned in the list of relevant instruments in the resolution.

7.28 The Committee noted the term "as necessary" was included in operative paragraph 3 of resolution A.1018(26), and accordingly duly noted the resolution at this time. The Committee agreed to keep the provisions of resolution A.1018(26) in mind for future reference, such as if the FAL Convention is included in the Audit Scheme at some time in the future, as anticipated in operative paragraph 1, or in relation to the Integrated Technical Co-operation Programme.

7.29 In considering the further development of the Voluntary IMO Member State Audit Scheme, the Committee agreed with the Chairman's view that in future the FAL Convention could, at some time, be included in the Voluntary IMO Member State Audit Scheme as a relevant instrument, given that one of the goals of the Organization is to ensure the consistent and effective implementation of IMO instruments globally and compliance with their requirements, although this could only ever apply to the application of the Convention "Standards" and not the "Recommended Practices".

## **8 SECURING AND FACILITATING INTERNATIONAL TRADE**

### **Shore leave and access to ships**

8.1 In considering document FAL 36/8 (Secretariat) the Committee noted that MSC 87 had noted the concerns raised by several observer delegations that seafarers, seafarers' welfare and other organizations continued to face difficulties in connection with shore leave and gaining access to ships as a result of the manner in which the provisions of SOLAS chapter XI-2 and the ISPS Code were being interpreted and implemented in some Member States.

8.2 The Committee further noted that MSC 87 approved MSC.1/Circ.1342 on Reminder in connection with shore leave and access to ships (FAL 36/8, annex) which superseded MSC/Circ.1112, and had requested the Secretariat to bring the issue to the attention of the FAL Committee for consideration.

8.3 In considering document FAL 36/8/1 (Marshall Islands, Panama, Ukraine and ITF), the Committee noted the views of the co-sponsors that in their opinion in regard to the denial of shore leave and access to ships, it was evident that the prime reason for such denial was due to discrepancies in interpreting the requirements of SOLAS chapter XI-2 and of the ISPS Code.

8.4 In particular the Committee noted that the issue of shore leave was one of the important concerns raised at the Young Seafarer's Focus Group 2009, a three-day workshop organized early last year by INTERTANKO and ITF for young seafarers of different nationalities to express their views on a career at sea and on what attracts or detracts young people to the shipping industry.

8.5 The Committee expressed its concern that this was clearly an ongoing problem and recalled that the 2002 SOLAS Conference which adopted the International Ship and Port Facility Security Code (ISPS Code) also adopted Conference resolution 11 on Human element-related aspects and shore leave for seafarers which *inter alia*:

"urged Governments to take the human element, the need to afford special protection to seafarers and the **critical** importance of shore leave into account when implementing the provisions of chapter XI-2 of the Convention and the International Ship and Port Facility Security (ISPS) Code."

8.6 The Committee also recalled that MSC issued circular MSC/Circ.1112 in June 2004 which stated, and which also was repeated in the new circular MSC.1/Circ.1342, *inter alia*:

"That from a practical perspective, it is also important that port facilities seek a balance between the needs of security and the needs of the ship and its crew. A port facility operator should ensure coordination of shore leave for ship personnel or crew change-out, as well as access through the port facility for visitors to the ship, including representatives of seafarers' welfare and labour organizations and those concerned with the maintenance of ships' equipment and safe operation, with ship operators in advance of the ship's arrival. A singular focus on the security of the port facility is contrary to the letter and spirit of the ISPS Code and will have serious consequences for the international maritime transportation system that is a vital component of the global economy."

8.7 The Committee further recalled that in resolution A 1011(26) the Strategic Plan for the Organization for the six-year period 2010-2015, the twenty-sixth Assembly reiterated the view of previous Assembly that:

"the challenge for IMO is to promote the effective implementation of the security measures, and to instil a security consciousness in ship and port facility operations, at the same time ensuring that the right balance is struck in trade facilitation and that the flow of seaborne trade continues to be smooth and efficient."

8.8 In addition the Committee recalled further that FAL 35 in relation to similar matters concerning shore leave, expressed the view that while security considerations are of vital importance and the associated issues are complex involving many different agencies, such considerations should not be used as an excuse to deny seafarers the equally vital shore leave and their access to welfare organizations. There is a fine balance to strike between security and the facilitation of maritime trade.



8.9 The Committee recalled also the provisions of the High-level Action Plan and Priorities for this biennium which states in relation to the FAL Committee's role fulfilling the Organization's aims and objectives, in section 8.0.2.2, that the FAL Committee will consider "procedures to facilitate seafarer's access in and out of a port facility during shore leave".

8.10 The Committee noted resolution 18, "Year of the Seafarer", of the recent STCW Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) which was held in Manila, Philippines in June this year, and in particular that the resolution as adopted, states, *inter alia*, that the Conference "being concerned at reported instances in which seafarers were unfairly treated when their ships were involved in accidents; were abandoned in foreign ports; were refused shore leave for security purposes; and were subjected to serious risks while their ships were sailing through piracy-infested areas and to potentially harmful treatment while in the hands of pirates, urges further Governments and the shipping industry to take appropriate action to implement:

- .1 the International Ship and Port Facility Security (ISPS) Code;
- .2 the Guidelines adopted and promulgated by IMO to prevent and suppress acts of piracy and robbery against ships; and
- .3 the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988 (1988 SUA Convention) and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, 1988 (1988 SUA Protocol), as amended by the 2005 Protocol to the 1988 SUA Convention and the 2005 Protocol to the 1988 SUA Protocol,

in a manner that, while ensuring that maximum protection is afforded to seafarers, does not subject them to any unfair treatment and unnecessary inconvenience."

8.11 The Committee agreed, that notwithstanding that the implementation of the ISPS Code is within the SOLAS Convention and hence under the responsibility of the MSC, this particular issue of shore leave and access to ships is very clearly within the mandate of the Committee as a facilitation matter within the provisions of the Convention, in particular section 3.G of the Convention, in relation to Further measures of facilitation for foreigners belonging to the crews of ships engaged in international voyages – shore leave, and that this should be addressed in the context of the review of the Convention.

8.12 The Committee discussed the issues raised in MSC.1/Circ.1342 and document FAL 36/8/1 and agreed that the problems experienced in relation to shore leave and access to ships were still considerable in some Member States with some nationalities being treated differently to others and different ports and terminals applying different standards. The Committee fully supported the proposal.

8.13 The delegation of the ITF supported the circular and expressed the view that MSC 87 had missed the opportunity of promoting the awareness of the importance of shore leave and access to ships whilst drafting the Guidelines on security-related training and familiarization for port facility personnel (reproduced in FAL 36/INF.5). This FAL circular should include this point. The Committee instructed the Secretariat to bring this issue to the attention of the MSC as a comment from the Committee.

8.14 After discussion, the Committee decided to refer the draft circular to the Working Group on Securing and Facilitating International Trade.

### **Safe Framework of Standards**

8.15 In FAL 36/8/2, the delegation of the WCO informed the Committee of the current status of implementation of the World Customs Organization's SAFE Framework of Standards. The SAFE Framework is a global supply chain security initiative, developed at the WCO by WCO Member Customs administrations in partnership with the international trade community, which incorporates the dual aim of both securing and facilitating global trade. The SAFE Framework was also designed to align the strategies of the Customs community to United Nations security resolutions and the work being undertaken in other international institutions such as the IMO and ICAO.

### **Trade recovery initiatives**

8.16 In FAL 36/8/3 and FAL 36/INF.4, the delegation of the WCO informed the Committee that the WCO SAFE Framework and efforts to strengthen supply chain security have thus far focused on preventing disruptions to the supply chain. Such preventive measures are not fail-safe and an incident could adversely impact on the international flow of goods. If such a disruption to the global supply chain was prolonged, it could have a significant economic impact, with the economic costs of the disruption rising exponentially over time.

Trade recovery is a process for coordination among Customs administrations together with relevant public and private sector stakeholders. Trade recovery is intended to facilitate and resume the international flow of goods in as efficient and timely a manner as possible, following the occurrence of an incident that results in major disruption of the movement of goods internationally and that affects one or more countries for a period long enough to have an economic effect.

Trade recovery by its very nature requires the close cooperation of all stakeholders in both the public and private sectors and for all modes of transport. For that reason the WCO wishes to bring this work to the attention of major sister organizations such as IMO in order that they can examine the issue in their own context and contribute to future developments in this important area.

### **ISO RFID Standard**

8.17 The delegation of China invited the Committee to note the latest development of the RFID Standard by the ISO and the important role of RFID applications in promoting facilitation and enhancing the security of international maritime trade.

### **Guidelines on security related training and familiarization for port facility personnel**

8.18 In considering FAL 36/INF.5 (Secretariat) the Committee noted that MSC 87 having considered the need to enhance maritime security and encourage consistent and harmonized implementation of SOLAS chapter XI-2 and the ISPS Code and the related provisions of the ILO/IMO Code of practice on security in ports and the IMDG Code, had approved Guidelines on security-related training and familiarization training for port facility personnel.

8.19 The Committee noted information provided in document FAL 36/INF.4 (Secretariat) in respect of the outcome of C 104 on matters relating to securing and facilitating international trade. In particular regarding the support provided to the Cooperative Mechanism for the Straits of Malacca and Singapore through the IMO Straits Fund; the implementation of the Djibouti Code of Conduct and the issue of piracy and armed robbery against ships in waters off the coast of Somalia; and document C 104/14/1, on an informal meeting on piracy held by the United Nations General Assembly on 14 May 2010, the Committee noted that the Council had:

- (i) noted, with appreciation, the contributions received from China and Germany and pledged by Norway to the IMO Malacca and Singapore Straits Fund;
- (ii) invited Member States and the industry to continue contributing to the projects under the Cooperative Mechanism; the Aids to Navigation Fund; and the IMO Straits Fund;
- (iii) noted, with appreciation, the continuing efforts of the United Nations, IMO, other organizations and the maritime community at large to repress the incidence of piracy off the coast of Somalia and in the Gulf of Aden;
- (iv) noted that the Comoros, Jordan, Mauritius, Saudi Arabia and the Sudan had, since the Council's twenty-fifth extraordinary session, in November 2009, signed the Djibouti Code of Conduct;
- (v) noted the establishment, within the Maritime Safety Division, of a Project Implementation Unit, funded by the Djibouti Code Trust Fund, to undertake the delivery of various activities relating to the implementation of the Djibouti Code of Conduct;
- (vi) invited Member States and the industry to continue contributing to the Djibouti Code Trust Fund;
- (vii) noted the continued engagement of the Secretariat in the activities of the Contact Group on piracy off the coast of Somalia and its working groups;
- (viii) reiterated its deep appreciation to those Governments, and their navies, which had provided warships and military aircraft to protect ships sailing off the coast of Somalia and in the Gulf of Aden; and encouraged them – as well as other Governments and navies – to assist in the attainment of the set objectives; and
- (ix) noted, with appreciation, the work of the Secretariat in relation to the protection of shipping lanes of strategic importance and significance and, in particular, its work concerning piracy and armed robbery against ships in waters off the coast of Somalia.

8.20 The Secretariat provided the Committee with an oral update on piracy incidents both globally and in the waters off Somalia and the status of anti-piracy efforts by the Secretariat and other relevant organizations.

## **Establishment of Working Group**

8.21 The Committee established the Working Group on Securing and facilitating international Trade under the chairmanship of Mr. Philip White (United Kingdom) with the following terms of reference:

The Working Group, taking into account the discussions and decisions of plenary and the following documents for item 8; FAL 36/8, FAL 36/8/1 and FAL 36/8/4 and for item 6, FAL resolution A.1027(26), FAL 36/6, FAL.2/Circ.50/Rev.1, the Working Group is to provide for the consideration of the Committee:

- .1 a draft FAL Circular in relation to the facilitation aspects of Denial of Shore leave and access to ships and the implementation of the ISPS Code;
- .2 comments and proposals in regard to the ongoing work required in relation to the facilitation aspects of maritime security, where the FAL Committee could contribute under its own mandate or jointly to the ongoing work in the MSC;
- .3 in accordance with resolution 1027(26), a draft Assembly resolution on Revised Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases;
- .4 a revised draft cover text, and reporting format if considered necessary, for Circular FAL.2/Circ.50/Rev.1 on reports of stowaway incidents; and
- .5 report to plenary on Thursday, 9 September 2010.

8.22 On receipt of the Report of the Working Group (FAL 36/WP.4), the Committee took action, in addition to that reported in paragraph 6.21, as follows:

- .1 approved FAL circular, FAL.3/Circ.201 in relation to the Facilitation Aspects of Denial of Shore Leave and Access to Ships and the Implementation of the ISPS Code, noting that the circular was written in recognition of the importance of the human element, without prejudice to the immigration procedures of Member States, and supporting the emphasis made by the Working Group that should be encouraged reporting of unfair and selective practices toward providing shore leave and access to the shore-based facilities in foreign ports; and
- .2 noted the discussions related to the issue of ongoing work and supported development of a FAL circular at FAL 37 that would provide a consolidated list of facilitation-related codes, recommendations, guidelines and other facilitation-related non-mandatory instruments; but did not agree to the suggestion of a joint MSC/FAL Working Group at this time.

## **9 SHIP/PORT INTERFACE**

9.1 The Committee noted that under this specific agenda item no written submissions had been received. The Committee invited comments and proposals on this item to the next session, especially in view of the review of the Convention.

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*Facilitation of shipments of dangerous cargoes*

9.2 The Committee recalled that FAL 34 had noted that operative paragraph 7 of resolution A.984(24) on Facilitation of the carriage of IMDG Code class 7 radioactive materials, including those in packaged form used in medical or public health applications, requested the Secretary-General to explore the possibility of establishing an *ad hoc* mechanism within the Organization to co-ordinate efforts to speedily resolve difficulties in the carriage of the IMDG Code class 7 radioactive materials, in close cooperation with the IAEA.

9.3 The Committee recalled further that FAL 34:

- .1 approved, in principle and subject to results of a **trial**, a mechanism within Secretariat for the resolution of difficulties in the carriage of IMDG Code class 7 radioactive materials;
- .2 requested the Secretariat to conduct a trial of the proposed mechanism and report on its experience to FAL 35 for evaluation of results of the trial; and
- .3 requested the Secretariat to continue to co-operate with IAEA, ILO and other UN bodies on issues surrounding the delays and denials of shipments of class 7 radioactive materials.

9.4 The Committee also recalled that FAL 35 agreed that, in view of the results of the trials of the mechanism for the resolution of difficulties in the carriage of IMDG Code class 7 radioactive materials, including those in packaged form used in medical or public health applications, it was obvious that the issue of denial of shipments had not yet been resolved. As a result, the Committee agreed to request the Secretary-General to continue the trials of the mechanism within the IMO Secretariat for the resolution of difficulties in the carriage of IMDG Code class 7 radioactive materials and instructed the Secretariat to report the results of the experience gained to FAL 36 with a view to enabling the Committee to determine the actions to be taken.

9.5 The Committee noted oral information from the Secretariat on the latest developments in relation to the shipment of class 7 materials to the effect that since the establishment of the focal point, the Secretariat has taken an active role in assisting to resolve such difficulties. The Secretariat has attended all the meetings of the International Steering Committee on the denial of shipments of radioactive material.

9.6 The Committee also noted that the IAEA had made considerable efforts in addressing the issues surrounding delays and denials of class 7 shipments and had conducted a number of training sessions and regional seminars with the objective of facilitating such shipments. The Secretariat had been instrumental in setting up a Dangerous Goods Denial Database and so far there were 190 reports in the database. The IMO database continued to be accessible to IAEA and ICAO and a synopsis of the database showed that out of the 190 reports, there were 139 relating to sea-mode, 48 to air-mode and 3 to land-mode.

9.7 Finally, the Committee further noted the development of a computer-based training package on class 7 e-learning which had been developed and is functional on [www.class7elearning.com](http://www.class7elearning.com) and was available free of cost to all non-commercial users.

9.8 The delegation of IAEA gave a presentation to the Committee on the procedures established under the IAEA and the International Steering Committee, which emphasized the importance of training and building knowledge of the shipmasters, and co-operation amongst the relevant agencies and a program of regional workshops.

9.9 The Committee, while recognizing that due to the sensitive nature of the information in the database, details of the information were not made public, expressed appreciation to the IAEA for their ongoing efforts in addressing the issues surrounding delays and denials of class 7 shipments and invited the Secretariat to continue:

- .1 to cooperate with relevant agencies and organizations on issues surrounding the delays and denials of shipments of IMDG Code classified cargoes and in particular of IMDG Code class 7 radioactive materials, including those in packaged form used in medical or public health applications and to report accordingly to FAL 37; and
- .2 the trials of the mechanism established by FAL 34 and report on its experience to FAL 37 for evaluation of results of the trial.

## **10 TECHNICAL CO-OPERATION AND ASSISTANCE**

10.1 The Committee noted the information provided in document FAL 36/10 (Secretariat) on the status of activities relevant to the implementation of the Convention conducted under the ITCP, being that during 2009, four regional or sub-regional seminars on facilitation issues and the Single Window concept had been held in Viet Nam, Ghana, Argentina and Guatemala and that in 2010 a regional seminar on the Single Window concept had been held in the Republic of Korea. The activities could be broadly grouped into four categories, namely, seminars which might be regional, sub-regional and national; needs assessment; and follow-up and advisory missions. No needs assessment missions were conducted during the period under review or were scheduled for 2010. The schedule of seminars and advisory missions was set out in the annex to the document.

10.2 The Committee also noted that the objectives of the seminars were to:

- .1 fully acquaint the participants with the Convention;
- .2 make participants fully aware of the institutional and economic advantages and benefits to be derived from the acceptance and implementation of the Convention;
- .3 provide guidelines on follow-up measures concerning the practical implementation of the Convention including the use of the IMO FAL Forms;
- .4 advise on the functions of a national facilitation committee; and
- .5 provide participants with other information relevant to the seminar.

10.3 The Committee noted with appreciation in particular that under the ITCP during 2010 a sub-regional seminar on the Single Window had been held in Seoul from 24 to 27 May 2010 hosted by the Government of the Republic of Korea, with a total of 10 participants from Bangladesh, Myanmar, the Maldives, Pakistan and Sri Lanka.

10.4 The delegation of Argentina also drew the attention of the Committee to the very successful regional seminar on FAL matters, which had been held in Argentina from 20 to 24 July 2009 under the Integrated Technical Co-operation Programme involving 13 ROCRAM Member States, 11 of whom have ratified the FAL Convention. This seminar also included implementing techniques for electronic clearance of ships and was very valuable for the region.

10.5 The Committee expressed its appreciation to the Governments of the Member States for their willingness to host these events and the Secretariat and Consultants for organizing and successfully conducting the missions.

10.6 The Committee also expressed the view that it was important to continue these technical co-operation activities in relation to facilitation aspects in order to assist in fulfilling the provisions of the Strategic Plan and High-level Action Plan (resolutions A.1011(26) and A.1012(26) which, *inter alia*, seek to promote wider acceptance of the Convention and adoption of measures contained therein, to assist the Committee's effort and work towards the universal implementation of measures to facilitate international maritime traffic.

10.7 In this respect the Committee invited Member States and international organizations to provide proposals on possible actions which might be pursued in cooperation with the Technical Co-operation Committee (TCC).

#### *Trade facilitation*

10.8 The Committee noted that the Technical Co-operation Committee at its fifty-ninth session (TC 59) in June 2009 considered document TC 59/4/3 submitted by the Netherlands, South Africa and Sweden which proposed a stronger role for the Organization in trade facilitation, particularly in developing countries. The Committee further noted the discussion on the matter at TC 59 and that as requested by the TCC, document TC 59/4/3 had been forwarded to the Committee for consideration under cover of document FAL 36/10/1 (Secretariat). The Committee appreciated the information prepared by the Secretariat in document FAL 36/10/1 on the relevant mandates of other organizations involved in trade matters.

10.9 In this respect the Committee also considered proposals by Angola, Canada, Nigeria and Sweden (FAL 36/10/2) proposing that trade facilitation is included as a thematic priority in the ITCP for the biennium 2012-2013, with the intention to be also a priority the following biennium. The document also proposed to identify trade facilitation in the ITCP as a global programme with regional implementation and requested the Committee to instruct the Secretariat to draft an implementation programme on trade facilitation to be included in the ITCP for 2012-13 to be presented to TC 61, and other relevant IMO bodies. The delegation of Sweden gave a presentation to the Committee on Trade Facilitation and Maritime Transport: The Development Agenda.

10.10 Subsequently the Committee had a wide-ranging discussion on the proposal in regard to the Committee and the implications of the term "trade facilitation" within the IMO mandate.

10.11 The delegation of Italy, supported by several other delegations, agreed with the proposal to include trade facilitation as a Thematic Priority in the ITCP for the benefit of the developing countries. In their view the facilitation of international maritime traffic and the work of FAL, which was obviously within the IMO mandate, was an integral part of the trade facilitation and was already in the Strategic Plan of the Organization.

10.12 The delegation of Cyprus, supported by other delegations, was of the view that without defining what was meant by trade facilitation, it could include items which fell under the responsibility of other bodies such as WTO or UNCTAD. They considered that the IMO interest in trade facilitation to be very limited and there was a clear need to stay within the competence of the Organization.

10.13 After a lengthy discussion, the majority of those delegations that spoke clearly supported the proposal to include trade facilitation in the ITCP in line with the Organization's Strategic Plan.

10.14 The delegation of Cyprus reserved its position on the issues.

### **Thematic Priorities for the Integrated Technical Co-operation Programme (ITCP) covering the 2012-2013 biennium**

10.15 In considering document FAL 36/10/3 (Secretariat) the Committee recalled that at FAL 35 it had approved thematic priorities for the Integrated Technical Co-operation Programme (ITCP) in relation to FAL matters for the 2010-2011 biennium (FAL 35/17, annex 7). Subsequently the Technical Co-operation Committee, at its fifty-ninth session in 2009, approved the ITCP for 2010-2011, which was based on the thematic priorities agreed by the Committees and the corresponding needs of developing countries.

10.16 The Committee recalled that the Assembly, at its twenty-fifth session, adopted on 20 November 2007 resolution A.1006(25) on The Linkage between the Integrated Technical Co-operation Programme (ITCP) and the Millennium Development Goals (MDGs). This resolution requested the Technical Co-operation Committee to give high priority to those activities, which not only promote the early ratification and effective implementation of IMO instruments but also contribute to the attainment of the MDGs, taking into account the special needs of the Least Developed Countries (LDCs) and Small Island Developing States (SIDS), and the particular maritime transport needs of Africa, and ensure that these needs are reflected in the ITCP. That resolution also recognized the important role that a safe, secure and environmentally sound shipping and port sector plays in the sustainable development of all States and the achievement of the MDGs including effective inter-modal access to ports.

10.17 The Committee also recalled that the Assembly in resolution A.1011(26) had reiterated that the Integrated Technical Co-operation Programme (ITCP) is crucial for assisting developing countries to implement IMO instruments for safer and more secure shipping, enhanced environmental protection and facilitation of international maritime traffic. In addition, the ITCP makes a contribution to assisting developing countries to achieve relevant MDGs. The importance of the ITCP increases further with amendments to existing and the development of new instruments by IMO, in which the particular needs of, and impact on, SIDS and LDCs countries should be taken into account.

10.18 The Committee noted that the Technical Co-operation Committee at its forthcoming sixty-first session in June 2011 is expected to consider and approve the ITCP for the 2012-2013 biennium and reviewed the thematic priorities for the ITCP covering the next biennium as prepared by the Secretariat covering the 2010-2011 biennium, with draft proposed amendments, as set out in the annex to document FAL 36/10/3.

10.19 The Committee after discussion amended and agreed the Thematic Priorities in regard to facilitation for the 2012-2013 biennium as at annex 7 and instructed the secretariat to forward these to the Technical Co-operation Committee for consideration for inclusion in the ITCP.



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## 11 RELATIONS WITH OTHER ORGANIZATIONS

### Relations with non-governmental organizations

#### *General*

11.1 In considering document FAL 36/11 and FAL 36/11/Add.1 (Secretariat), the Committee noted the relevant decisions of C 102 and C 104 in respect of relations with non-governmental organizations which had been recently granted consultative status or referred to the Committee with a view to advising the Council as to whether they should be granted consultative status.

#### *Applications by non-governmental organizations for consultative status*

11.2 The Committee noted in particular that, since FAL 35, the Council at its 102nd session had decided:

With regard to new applications for consultative status:

- (i) to refer the application of the Bureau International des Containers et du Transport Intermodal (BIC) for further screening by the MSC and the FAL Committee;
- (ii) to grant consultative status to the:
  - Nautical Institute (NI);
  - World Shipping Council (WSC);
  - NACE International; and
  - International Association of Airport and Seaport Police (IAASP);
- (iii) to grant consultative status to the Hot Briquetted Iron Association (HBIA) on a provisional basis, for no more than two years, after which a review should be conducted.

11.3 The Committee also noted that the Council at its 102nd session also expressed strong concern over any activities, which are incompatible with the conditions under which non-governmental organizations have been granted consultative status; and to request that Friends of the Earth International (FOEI) and Greenpeace International refrain, in the future, from acting in a manner that may shed a negative light on the Organization.

11.4 The Committee also noted that the Council at its 104th session had decided:

- (i) to grant consultative status to Pacific Environment, on a provisional basis, for no more than two years, after which a review should be conducted to consider, *inter alia*, potential duplication with other non-governmental organizations in consultative status with IMO;
- (ii) to grant consultative status to the Clean Shipping Coalition (CSC), on a provisional basis, for no more than two years, after which a review should be conducted to consider, *inter alia*, potential duplication with other non-governmental organizations in consultative status with IMO;

With regard to applications previously considered by the Council, the Council decided:

- (i) to defer its decision on the application by the Bureau International des Containers et du Transport Intermodal (BIC), pending receipt of the FAL Committee's advice; and
- (ii) to grant consultative status to the Superyacht Builders Association (SYBAss) on a provisional basis, for no more than two years, at the end of which time its status should be reviewed.

### **New applications for consultative status**

11.5 In accordance with the request from the Council at its 102nd session, the Committee considered the application from Bureau International des Containers et du Transport Intermodal (BIC) (C 102/18(d)).

11.6 The Committee was satisfied with the information provided and decided to recommend to the Council that consultative status be granted to BIC, on a provisional basis since this organization was found to meet the requisite criteria and, in particular, because they were assessed to be able to contribute directly to the Committee's work and did not seem to have access to IMO through other organizations.

### **World Maritime Day 2011**

11.7 The Committee noted that C 104 had endorsed the Secretary-General's proposal that the theme for World Maritime Day 2011 should be:

**"Piracy: orchestrating the response".**

## **12 APPLICATION OF THE COMMITTEE'S GUIDELINES**

### **Adoption of amendments to the Guidelines on the organization and method of work of the Committee**

12.1 The Committee recalled that FAL 35 having reviewed the Committee's Guidelines on the organization and method of work (the Guidelines) in the light of experience gained with their application and with a view to harmonizing them as much as possible with those of the MSC and the MEPC (the MSC/MEPC Guidelines), had approved revised Guidelines, which were subsequently disseminated by means of FAL.3/Circ.195 on 5 March 2009.

12.2 The Committee considered further proposed draft revised Guidelines on the organization and method of work of the Facilitation Committee and associated draft FAL circular (FAL 36/12 and FAL 36/12/Add.1) which had been prepared by the Secretariat to align them, as much as possible, with the provisions of the Guidelines on the application of the Strategic Plan and the High-level Action Plan of the Organization, adopted by the twenty-sixth Assembly as resolution A.1013(26). The Committee noted that they also took into account the previous decision of the Committee, that they should be harmonized as much as possible with the Guidelines of the MSC and the MEPC as above and also included the further relevant decisions of MSC 87 in May 2010.

12.3 The Committee also noted that, following the inclusion of the relevant provisions of the Guidelines on the application of the Strategic Plan and the High-level Action Plan of the Organization, in the Committee's Guidelines, the existing terms "new work programme item" and "work programme" have been replaced by the new terms "unplanned output", "biennial agenda" and "post-biennial agenda", as appropriate and modifications have been made to the respective sections of the Guidelines on the organization and method of work.

12.4 The Committee in particular noted the procedures for the Assessment of implications of capacity-building requirements when developing new, or amending existing mandatory instruments, as specified in resolution A.1013(26) and contained in Annex 1 of the revised Guidelines. Such procedures aim at:

- .1 promoting universal ratification and compliance with newly adopted IMO instruments;
- .2 improving the level and quality of implementation of new and/or amended instruments; and
- .3 promoting as far as possible a balanced level of implementation of new instruments.

12.5 After some discussion, the Committee approved the revised Guidelines for circulation after MSC 88 by means of a new FAL.3 Circular, which will incorporate the approved amendments and supersede the existing Guidelines as set out in FAL.3/Circ.195 and instructed the Secretariat accordingly.

### **13 REVIEW OF THE ROLE, MISSION, STRATEGIC DIRECTION AND WORK OF THE COMMITTEE**

13.1 The Committee recalled that, at its thirty-second session (FAL 32) (4 to 8 July 2005), it approved the Role, mission, strategic direction and work of the Committee, as set out in annex 4 to document FAL 32/22 and agreed that the "Strategic Direction" of the Committee should clearly be consistent with the "Strategic Direction" of the Organization, as then contained in resolution A.944(23) on Strategic Plan for the Organization (for the six-year period 2004 to 2010) which was adopted in November 2003.

13.2 The Committee also recalled that FAL 35 recognized, as was the case with FAL 32, that the "Strategic Direction" of the Committee should clearly be consistent with the "Strategic Direction" of the Organization, as then contained in resolution A.944(23). In addition, FAL 35 had recalled that it had not carried out, since FAL 32, any review of the Role, mission, strategic direction and work of the Committee to ensure that it is consistent with the Strategic Plan for the Organization which is in effect.

13.3 FAL 35 had also recognized that by FAL 36, five years would have lapsed since the Committee had approved the current Role, mission, strategic direction and work of the Committee and considered that the time had come for its review and updating, especially in view of the institutionalization of the Committee and the expectations henceforth.

13.4 As a result, FAL 35 agreed that, at FAL 36, it would carry out, in addition to the review of the Convention, a comprehensive review of the Role, mission, strategic direction and work of the Committee with a view to ensuring that it adequately responds to current and emerging needs in terms of facilitation of maritime traffic and in relation to the enhancement of maritime security.

13.5 The Committee also recalled that in resolution A.1011(26) the Assembly approved the Strategic Plan for the Organization for the six-year period 2010 to 2015, comprising:

- (a) a mission statement;
- (b) the trends, developments and challenges in the shipping and maritime world that the Organization is anticipated to face over the aforementioned period;

- (c) the strategic directions for the Organization, based on the emerging trends, developments and challenges; and
- (d) performance indicators for assessing the performance of the Organization;

13.6 The strategic directions (SDs) for enabling IMO to achieve its mission objectives in the years ahead can be considered under three broad categories:

- .1 enhancing the status and effectiveness of the Organization;
- .2 developing and maintaining a comprehensive framework for safe, secure, efficient and environmentally sound shipping; and
- .3 enhancing the profile of shipping and instilling a quality culture and environmental conscience.

13.7 The Committee further recalled that the Strategic Plan is complemented in great detail by resolution A.1012(26), the High-level Action Plan of the Organization and priorities for the 2010-2011 biennium, in which the Assembly, *inter alia*:

"Requested the Council, the Maritime Safety Committee, the Legal Committee, the Marine Environment Protection Committee, the Technical Co-operation Committee, the Facilitation Committee and the Secretariat, when reporting on their work to the Assembly at its twenty-seventh regular session, and to the Council at its sessions during the 2010-2011 biennium, to ensure that they report progress towards fulfilling the Organization's aims and objectives using the framework of the strategic directions, high-level actions and planned biennial outputs;"

13.8 The Assembly "also requested the Council, the Committees and the Secretariat, when considering proposals for unplanned outputs, to ensure that, in accordance with resolution A.1013(26) and the guidelines for the organization and method of their work, as appropriate, the issues to be addressed are those which fall within the scope of the Strategic Plan and the High-level Action Plan;"

13.9 The Committee noted that in 2005, FAL was the only IMO Committee which had taken the initiative to create its own Role, mission, strategic direction and work. This was appropriate at that time, as it followed on from the entry into force, on 1 July 2004, of the special measures to enhance maritime security and their implications on the role of the Committee and, in particular, those relating to the balance between security and facilitation, which have now been accepted by the Assembly.

13.10 However, in the light of experience and the enhanced emphasis now being placed by the Assembly on matters concerning coordination of the work of the Committees by the Council, and taking into account the views of the Committees on their priorities and responsibilities for substantive technical and legal matters, the Committee agreed that it would seem somewhat incongruous for FAL to persist with its own Role, mission and strategic direction, which inevitably will differ at times, even if only by virtue of the time lapse, from the overall Strategic Directions and High-level Action Plans adopted by the Assembly. As above, the Committee now has a clear obligation to report progress towards fulfilling the Organization's aims and objectives using the framework of the strategic directions, high-level actions and planned biennial outputs.

13.11 The Committee agreed that it should discontinue its own Role, mission, strategic direction and work of the Committee, having been superseded by the enhanced overall Strategic Plan of the Organization and the importance placed by the Assembly on the coordination of work by the Committees.

## **14 WORK PROGRAMME**

### *General*

14.1 The Committee noted that the Assembly had adopted resolution A.1011(26) on the Strategic Plan for the Organization (for the six-year period 2009-2015) and resolution A.1012(26) on High-level Action Plan of the Organization and priorities for the 2010-2011 biennium.

14.2 The Committee also noted the requirement contained in resolution A.1012(26) when considering proposals for unplanned outputs, to ensure that, in accordance with resolution A.1013(26) and the guidelines for the organization and method of their work, as appropriate, the issues to be addressed are those which fall within the scope of the Strategic Plan and the High-level Action Plan.

### *Substantive items for inclusion in the provisional agenda for FAL 37*

14.3 In considering document FAL 36/WP.1/Rev.1 (Chairman) and on the basis of the progress made during the session, the Committee amended and approved the list of substantive items to be included in the provisional agenda for FAL 37, as set out in annex 8.

### *Establishment of working and drafting groups during FAL 37*

14.4 The Committee, taking into account the decisions made under various agenda items, agreed that working groups on the following items may be established at FAL 37:

- .1 General review and implementation of the Convention;
- .2 E-business possibilities for the facilitation of maritime traffic; and
- .3 Ensuring security in and facilitating international trade.

14.5 The Committee also agreed that, at this stage, it was not possible to predict the exact needs for the establishment of drafting groups at FAL 37.

14.6 The Committee further agreed that, should the need arise, FAL 37 should determine any other working or drafting groups which might need to be established when considering the various agenda items. The Committee instructed the Secretariat, in consultation with the Chairman, to prepare and circulate the provisional timetable for FAL 37 and a list of the likely working or drafting groups which might need to be established for consideration by FAL 37.

14.7 The Committee, following its discussion on "trade facilitation" within item 10, agreed that in its provisional agenda for FAL 37, the agenda item which was presently termed "Securing and facilitating international trade" could be, in certain circumstances, open to misunderstanding and should be clarified by being replaced with the term "Ensuring security in and facilitating international trade". The Committee instructed the Secretariat to reflect this term accordingly in future agenda.

### **Scheduling of FAL meetings**

14.8 The Committee expressed the strong view that as it was now fully institutionalized, in future it should endeavour to meet at least once a year, in accordance with Article 50 of the IMO Convention and Rule 2 of its own Rules of Procedure. The Committee expressed its understanding that sometimes conflicting IMO programme priorities and budget requirements meant that provisional dates of meetings had to be changed, such as happened in the case of FAL 36. Nevertheless the Committee was of the view that the FAL Committee should now be treated in the same way as other Committees and be seen to have its own clearly defined and regular calendar period in the IMO programme of meetings, such as in early September. This would enable delegations to prepare their FAL work plans and budgets accordingly and give a distinct focus from meeting to meeting. The Committee was of the view that the dates of its meetings should only be moved from this period as a last resort.

14.9 In the view of the Committee, the long periods of time between the last few meetings, i.e. with FAL 34 in March 2007, then some 22 months before FAL 35 in January 2009, followed by a further 20 months to FAL 36, and the constant recent moving around the calendar, were unfortunate. This had clear adverse effects for the Committee in that it reduced the focus on FAL matters and did little for the continuity of delegations or to encourage active participation and interest in the work of the Committee and its future role and challenges in the facilitation of international maritime traffic.

### **Proposals for meeting weeks for the biennium 2012-2013**

14.10 With a view to enabling the Secretary-General to prepare relevant budgetary proposals for the biennium 2012-2013 for consideration by the twenty-seventh regular session of the Assembly in November 2011, the Committee proposed, taking into account that, in accordance with Article 50 of the IMO Convention and Rule 2(a) of the Rules of Procedure, it shall meet in regular session at least once a year, one meeting week during 2012 and one meeting week during 2013.

### **Date and venue of the next session**

14.11 The Committee noted that FAL 37 had been tentatively scheduled to take place from 5 to 9 September 2011 at the IMO Headquarters, 4 Albert Embankment, London, United Kingdom.

### **Outcome of the twenty-sixth Assembly**

14.12 The Committee recalled that, in the context of resolution A.1012(26) – *High-level Action Plan of the Organization and priorities for the 2010-2011 biennium*, along with the other Committees, it was requested that:

- .1 when reporting on its work to the Assembly at its twenty-seventh regular session and to the Council at its sessions during the 2010-2011 biennium, to ensure that it reports progress towards fulfilling the Organization's aims and objectives using the framework of the strategic directions, high-level actions and planned biennial outputs;
- .2 when considering proposals for unplanned outputs, to ensure that, in accordance with this resolution and the Committee's Guidelines on the organization and method of work, as appropriate, the issues to be addressed are those which fall within the scope of the Strategic Plan and the High-level Action Plan;

- .3 to submit to the Council, for endorsement, the unplanned outputs, the Committee may approve during the 2010-2011 biennium, for inclusion in the High-level Action Plan for that biennium;
- .4 to ensure that the high-level actions and related outputs, especially those involving amendments to existing conventions (particularly those which have been in force for a short period) take fully into account the directives in resolution A.500(XII); and that due attention is given to the requirement that a well-documented compelling need must be demonstrated for the development and adoption of new or revised standards; and
- .5 to review and revise, during the 2010-2011 biennium, the Committee's Guidelines on the organization and method of work.

14.13 The Committee noted that, in the context of resolution A.1013(26) – *Guidelines on the application of the Strategic Plan and the High-level Action Plan*, the Committee was to review and revise, during the 2010-2011 biennium, the Committee's Guidelines on the organization and method of work, taking account of the Guidelines on the application of the Strategic Plan and the High-level Action Plan, and that the matter was already discussed under item 12 (Application of the Committee's Guidelines).

14.14 The Committee also noted that, in the context of resolution A.1018(26) – *Further development of the Voluntary IMO Member State Audit Scheme*, the Committee was requested to take appropriate action, along with MSC, MEPC, and TC under the coordination of the Council, to develop and establish the IMO Member State Audit Scheme in its institutionalized form within the established time frame, for the Council to report developments to the twenty-seventh regular session of the Assembly. That had been considered under item 7.

14.15 The Committee was of the view that the best way forward on this was to instruct the Secretariat to prepare, on the basis of the report of this session, the information on progress made on items indicated in the High-level Action Plan for the 2010-2011 biennium as well as proposals for the High-level Action Plan and priorities, including planned output, for the 2012-2013 biennium in accordance with resolution A.1013(26) and then to authorize the Chairman to approve these on behalf of the Committee.

14.16 The Committee approved the post-biennium agenda for the 2012-2013 biennium.

## **15 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2011**

15.1 The Committee, in accordance with its Rules of Procedure, unanimously re-elected Mr. Charles Abela (Malta) to the post of Chairman and Mr. Eildert Broekema (Netherlands) to the post of Vice-Chairman for 2011.

## **16 ANY OTHER BUSINESS**

16.1 The Committee noted that there were no documents submitted on this item.

### ***Bulk carrier B Atlantic***

16.2 The delegation of the Ukraine informed the Committee of the recent sentencing to nine years imprisonment by a Venezuelan court of two Ukrainian nationals, the master and the second officer of the Cayman Islands-flagged bulk carrier **B Atlantic** on the charge of drug smuggling.

On 12 August 2007, Venezuelan divers in the port of Maracaibo had found 128 kg of cocaine clamped to the underwater part of the ship's hull while it was moored in Lake Maracaibo in the border area with the neighbouring Colombia. The officers were arrested and a trial followed which ended in sentencing in August 2010.

Following close consultations between Ukrainian and Venezuelan ministries, agreement has now been reached to start the process of repatriating the officers back to Ukraine.

#### *Best Practices in transportation security clearance*

16.3 The delegation of Canada informed the Committee of a document submitted to MSC 88, being document MSC 88/4/1, which summarized best practices in transportation security clearance and credentialling programmes to provide guiding principles to enhance the efficiency and effectiveness of such programmes while providing adequate protection for the privacy and rights of individuals.

#### *Information from Contracting Government*

16.4 The delegation of Cameroon advised the Committee that his country which was strategically located for trade in Central Africa had ratified the FAL Convention in 1997 and a national facilitation committee had been in operation since 1998. The mandate of this national committee had recently been extended to cover all modes of transport, not just maritime.

#### **Expressions of appreciation**

16.5 The Committee expressed appreciation to the following delegates and members of the Secretariat, who had recently relinquished their duties, or were transferred to other duties or were about to retire, for their invaluable contribution to its work and wished them a long and happy retirement or, as the case might be, every success in their new duties:

- Mr. Ichiro Shimizu (Japan) on returning home
- Captain Raja Malik Saripulazan (Malaysia) on retirement
- Mr. Jean-Pierre De Buck (Belgium) on retirement
- Mrs. Monica Mbanefo (Secretariat, Director of the Technical Co-operation Division) on retirement
- Mr. Alexander Petrov (Secretariat) on retirement
- Mr. Nicolaos Charalambous (Secretariat) on return home
- Mr. Graham Mapplebeck (Secretariat, Secretary to the Facilitation Committee) on retirement

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**ANNEX 1**

**EDI MESSAGE IMPLEMENTATION GUIDELINES FOR TRANSMITTING  
SECURITY-RELATED INFORMATION TO THE DULY AUTHORIZED OFFICER**

Information	Segment Group	Segment	Qualifier	Data Element 1	Data Element 2	Remarks
1.1 IMO number	SG9	TDT		C222:8212, C001:8179 (Transport means Identification name identifier)		UN Rec.10
1.1 Name of ship	SG9	TDT	8051=20 (main-carriage transport)	C222:8213 (Transport means identification name)		UN Rec.28
1.3 Certificate of Registry: port	SG4	LOC	3227= 89 (Location function code qualifier)			UN/Rec. 16
1.4 Flag State of ship	SG9	TDT		C222:8453 (Transport means nationality code)		UN Rec. 3 (IS 3166 Country code) to be used.
1.5 Type of ship	SG9	TDT	8051=20 (main-carriage transport)	C001:8179 (Transport means description code = Type of ship)		U.N. Rec 28
1.6 Call sign	SG7	COM		C076: 3148 (Call sign)	3155= TBD	*Call sign to be added as a Com. means type code
1.7 Inmarsat number	SG7	COM		C076: 3155 Communications means type code AV=Inmarsat	3148 Communication address identifier	an..512
1.8 Gross tonnage	Header Section	MEA	6311=AAN (Weight of conveyance)	C502: 6313 = AAM (Transport means gross weight)	C174:6411 (measurement unit code): 6314 (measure)	UN/Rec.20 to be used.
1.9 Company Name	SG10	NAD	3035 DFJ=ISPS responsible party	3036=Party name		an..35
1.9 Company number	SG10	NAD	3055 54=IMO (Party issuing the identifier)	3039=Party identifier (IMO number)		

Information	Segment Group	Segment	Qualifier	Data Element 1	Data Element 2	Remarks
1.10 Company Security Officer	SG6	NAD	3035 DFB= Company security officer	3036=Party name		an..70
1.10 Company Security Officer 24-hour contact details	SG7	COM		C076: 3155 Communication means type code (e.g., L=Cellular phone)	3148 Communications address identifier	an...512
2.1 Port of Arrival	SG3	LOC	3227=60 (POA)	C517: 3225 (UN/LOCODE)	3224 (location name)	UN/Rec.16
2.1 Port of arrival facility where the ship is to berth	SG3	LOC	3227=164 (Berth)	C517:3225 (Location identifier)	1331/3055 (User codes)	
2.2 Date and time of arrival	SG3	DTM	C507: 2005= 132 (ETA)	C507:2380 (Date or time or period text)	2379 = 203 (CCYYMMDD HHMM)	
2.3 Primary purpose of call	SG10	TDT		8025 Conveyance call purpose description code		
3.1 ISSC type	SG4	DOC		1001=Document name code 536=ISSC 537=Interim ISSC	C503: 1004 (Document identifier)	
3.1.1.ISSC issuer	SG6	NAD	3035 Party function code DFQ=Security certificate issuer	3055=Responsible agency code	3039=Party identifier	an..35
3.1.1 ISSC expiry date	SG4	DTM	C507: 2005 36=Expiry	2379=Date format 102=CCYYMMDD	2380 Date or time or period text	
3.1.2 Reasons ISSC is not aboard	SG4	DOC		C503:1373= Document status (e.g., 11= Document not available)		
3.1.2 Further explanation of reasons ISSC not aboard	Header section	FTX		4451=ACG (Absence declaration)	4440 (Literal text)	an...256
3.1.2.1 Is the approved vessel security plan aboard	SG4	DOC		1001=Document name code 552=Ship security plan		
3.2 Current security level	Header section	STS		9015=Status category code	4405 Status description code 139=Level 1 140=Level 2 142=Level 3	

Information	Segment Group	Segment	Qualifier	Data Element 1	Data Element 2	Remarks
3.2.1 Ship location at time of report	Header section	GPO	6029 Geographical position code qualifier (New code for reporting position TBD)	6000 Latitude	6002 Longitude	
3.3 Previous port call period	SG10	DTM	2005 163=Processing start 164=Processing end	2379 Period format code 718=CCYYMM DD-CCYYMM DD		
3.3 Previous port call port	SG10	LOC	3227 94= previous port of call	3225 Location identifier UN/Rec. 16 UNLOCODE	3224 Location name	an..256
3.3 Previous port call country	SG10	LOC	3223 First related location	C519 Related location: 1131 Code list identification code	3055 Responsible agency code	UN/Rec.3 Country code
3.3 Previous port call facility	SG10	LOC	3233 Second related location	C553: 1131	3055 Responsible agency code	
3.3 Previous port call security level	SG10	STS	9015= 11 (transport means security status)	4405 Status description code 139=Level 1 140=Level 2 142=Level 3		
3.3.1/3.3.2 Did the ship take any special or additional security measures	SG10	STS	9015= 11 (transport means security status)	4405 Status description code 144=special or additional security measures taken		
3.3.2 Explain additional security measures taken	SG10	FTX	4451 BLT = Security information	C108:4440 (Explanation)		an...512
3.4 Ship-to-ship activity period	SG10	DTM	2005 163=Processing start 164=Processing end	2379 Period format code 718=CCYYMM DD-CCYYMMDD		
3.4 Ship-to-ship activity position	SG10	GPO	6029 4=ship-to-ship activity	6000= Latitude	6002= Longitude	
3.4 Ship-to-ship activity	SG10	FTX	4451 BMC=Ship-to-ship activity information	C108: 4440 (Explanation)		an..512

Information	Segment Group	Segment	Qualifier	Data Element 1	Data Element 2	Remarks
3.4.1 Ship-to-ship activity security measures maintained	SG10	STS	9015= 11 (transport means security status)	4405 142= Security measures from approved plan not maintained 143=Security measures from approved plan maintained		
3.4.2 Ship-to-ship activity additional security measures	SG10	FTX	9015= 11 (transport means security status)	4405 Status description code 144=special or additional security measures taken	C108: 4440 (Explanation)	an...512
3.5 General description of cargo	SG2	GDS		7085 Cargo type classification code (Use codes other than 11 and 16)		
3.5.1 Is the ship carrying any dangerous substances as cargo	SG2	GDS		7085 Cargo type classification code 11=Hazardous 16=Non-hazardous		
3.5.1 Is the ship carrying any dangerous substances as cargo	SG2	FTX	4451=AAA	C108: 4440 (Further explanation)		an...512
3.5.2. Dangerous goods manifest attached						Not required for EDI
3.6 Passenger List attached						Not required for EDI
3.7 Crew List attached						Not required for EDI
4.1 Are there other security matters to report	SC10	FTX	4451=BLT (security information)	4405 145=Security matter to report	C108:4440 (Explanation)	an...512
5.1 Name of agent at port of arrival	SG6	NAD	3035 Party function code CG=Carrier agent	3055=Code list responsible agency code 372=Agent of ship at intended port of arrival	3036 Party name	an..70
5.1 Contact details (telephone no.) of agent at port of arrival	SG7	NAD		3155 communications type code TE=Telephone	3148 Communications address identifier	an..512

**Not needed for electronic transmission**

Information	Segment Group	Segment	Qualifier	Data Element 1	Data Element 2	Remarks
6.1/6.2 Name of person preparing report Title or position	SG6	NAD	3035 (e.g., CPE= Transport means master)	3036 Party Name		an..70
Location of person reporting	SG3	LOC	3227 172=Reporting location	3224 Location name		an..256
Time and Date	SG12	DTM	C507:2005=78 Event date/time/period	2379=303 CCYYMMDD HHMMZZZ	2380 Date or time or period text	an...35

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**ANNEX 2**

**SECURITY-RELATED INFORMATION DECLARATION**  
(As required by SOLAS 74, chapter VII, and MARPOL 73/78, annex III)

Note: The block numbers identify the relevant section numbers of MSC/Circ.1130

Page no. (e.g., 5 of 7)

1.1 IMO number	1.2 Ship's name		1.3 Port of registry	1.4 Flag State	1.5 Type of ship
1.6. Call sign	1.7 Inmarsat numbers	1.8. Gross Tonnage	1.10 Name and 24-hour contact details of Company Security Officer		
1.9 Name of company/IMO number					
2.1. Port of arrival and port facility where the ship is to berth			2.2 Date/Time of arrival	2.3 Primary purpose of call	
3.1. The ship is provided with a valid ISPS certificate <input type="checkbox"/> Yes <input type="checkbox"/> No Interim ISPS certificate <input type="checkbox"/> Yes <input type="checkbox"/> No		3.1.1. Certificate issuer/expiry date		3.1.2 If no, state reasons a certificate is not aboard	
3.1.2.1. Does the ship have an approved security plan on board? <input type="checkbox"/> Yes <input type="checkbox"/> No		3.2 Current security level <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3		3.2.1 Location of the ship at time the report is made	
<b>3.3 Last ten port calls (ship/port interface conducted) – Chronological order beginning with most recent</b>					
Number of port call	Period		Port, country, port facility, and UNLOCODE	Security level <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3	3.3.1 Did the ship take any special or additional security measures? <input type="checkbox"/> No <input type="checkbox"/> 3.3.2 Yes, explain details below
	From	To			
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
<b>3.4 Most recent ship-to-ship activities during the period of 3.3 – Chronological order beginning with most recent</b> ( <input type="checkbox"/> Not applicable)					
Number (from 3.3)	Period		Location or latitude and longitude	Ship-to-Ship activity	3.4.1 Have security measures from the approved security plan been maintained? <input type="checkbox"/> Yes <input type="checkbox"/> 3.4.2 No, explain security measures in lieu below
	From	To			

3.5 General description of cargo	3.5.1 Is the ship carrying any dangerous substances as cargo? <input type="checkbox"/> Yes, see DGM <input type="checkbox"/> No	Attached Documents <input type="checkbox"/> 3.5.2 DGM <input type="checkbox"/> 3.6 Passenger list <input type="checkbox"/> 3.7 Crew list		
4.1 Are there other security matters to report? <input type="checkbox"/> No <input type="checkbox"/> 4.1.1 Yes, provide details:				
5.1 Name and contact details of the agent at port of arrival		6.1 Name of person preparing the report		
6.2 Title or position	6.3 Signature	Location of person reporting	Time	Date

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**ANNEX 3**

**QUESTIONNAIRE ON ONLINE ACCESS TO CERTIFICATES AND DOCUMENTS**

No.	Question
1	Do you consider that online access to ships' certificates should remain a goal of the Organization?
	Yes/No
2	If the Organization continued with the already stated goal of online access to ships' certificates, what timescale do you think the Organization should adopt?
3	Would you accept transmission of ships' certificates by electronic means or access to an online database to facilitate clearance of ships?
	Yes/No
4	Would you accept transmission of ships' certificates by electronic means or access to an online database to facilitate targeting of ships by your port State enforcement officers?
	Yes/No
5	Do you or would you accept electronic versions of ships' certificates and/or access to an online database as a replacement for paper certificates?
	Yes/No
6	Do you or would you accept electronic signatures (or other authentication methods) on ships' certificates?
	Yes/No
7	Does your national legislation allow the use of electronic certificates?
	Yes/No
8	Does your national legislation allow the use of electronic signatures (or other authentication methods) on certificates?
	Yes/No
9	If your answer to any of the two previous questions was "No", do you know whether there are plans to allow its/their use?
	Yes/No
10	Would your national legislation need to be changed to accept or supply either electronic certificates or electronic signatures on certificates?
	Yes/No
11	Administrations have reported resistance by port States to the use of electronic signatures. Do you consider an IMO Circular is needed to give guidelines or instructions on the use of electronic versions of ships certificates and electronic signatures?

12	Do you consider current certificates that you issue, whether based on Convention templates or national legislation, would need to be changed to allow them to be more "IT-user friendly"?
	Yes/No
	If yes, please list or give examples
13	Do you know if any of your national legislation would not allow the sharing of data and ships' certificates for port clearance and PSC purposes?
	Yes/No
14	Who do you believe should have access to an online database of ships' certificates (e.g., public access, restricted access, etc.)?
	If restricted, restricted to who (e.g., other Administrations, ROs, etc.)?
15	Do you consider an online system should be run by:
.1	individual Administrations?
	Yes/No
.2	IMO (e.g., via GISIS)?
	Yes/No
.3	a commercial third party (e.g., IHS-Fairplay (formerly Lloyd's Register-Fairplay))?
	Yes/No
16	The ultimate responsibility for the information in such a database would be the Administrations. Would you allow third parties (e.g., ROs) issuing certificates on your behalf to enter information into such a database?
	Yes/No
17	What steps do you consider are necessary to replace paper ships' certificates and provide online access to certificates and documents?
18	Do you have other ideas or suggestions how to make information from paper certificates electronically available? Examples for technical solutions are:  1) send a scanned copy of the certificate electronically; 2) access to a central database to check its validity; and 3) access to specific databases of certifying organizations such as intergovernmental agencies and/or recognized organizations.

Additional comments

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## ANNEX 4

### AMENDMENTS TO THE DRAFT REVISED LIST OF CERTIFICATES AND DOCUMENTS REQUIRED TO BE CARRIED ON BOARD SHIPS (refers to document FAL 36/7/1, annex)

Page 2

1 Add "[to which the referenced convention applies]" after the title of section 1 "All ships".

2 In the descriptive text for **Coating Technical File**, add the words "of 150 m in length and upwards" after "double-side skin spaces of bulk carriers" in the fourth line.

3 In the descriptive text for **Construction drawings**, add the word "any" after "other plans showing" in the second line.

4 In the reference for **Construction drawings**, add "II-1/" before "3-7" in the second line.

Page 3

5 Replace the descriptive text for **Ship Construction File** with new text that reads "A Ship Construction File with specific information should be kept on board oil tankers of 150 m in length and above and bulk carriers of 150 m in length and above, constructed with single deck, top-side tanks and hopper side tanks in cargo spaces, excluding ore carriers and combination carriers:

- .1 for which the building contract is placed on or after 1 July 2016;
- .2 in the absence of a building contract, the keels of which are laid or which are at a similar stage of construction on or after 1 July 2017; or
- .3 the delivery of which is on or after 1 July 2020 shall carry a Ship Construction File containing information in accordance with regulations and guidelines,

and updated as appropriate throughout the ship's life in order to facilitate safe operation, maintenance, survey, repair and emergency measures."

6 In the reference for **Ship Construction File**, add "II-1/" before "3-10" in the second line.

Page 4

7 In the descriptive text for **Maintenance Plans**, add "the necessary information about" after "the maintenance plan shall include" and delete "at least" in the first line.

Page 5

8 In the reference for **Training manual**, replace "regulation III/36" with "regulation III/35".

9 In the descriptive text for **Nautical charts and nautical publications**, add "for the intended voyage shall be adequate and up-to-date." after "nautical publications" in the first line and delete "to plan and display the ship's route for the intended voyage and to plot and monitor positions throughout the voyage."

10 In the reference for **Nautical charts and nautical publications**, add ".2.1.4" after "regulations V/19".

11 In the descriptive text for **Records of navigational activities** add "including drills and pre-departure tests" after "navigational activities and incidents" in the second line and delete "which are of importance to safety of navigation and which must contain sufficient detail to restore a complete record of the voyage, taking into account the recommendations adopted by the Organization."

12 In the reference for **Records of navigational activities**, replace "regulation V/28" with "regulations V/26 and 28.1".

13 Delete the new entry for **Log-book entries**.

Page 6

14 Replace the descriptive text for **Record of hours of rest** with "Records of daily hours of rest of seafarers shall be maintained on board" and replace footnote with "Amendments to part A of the STCW Code shall enter into force on 1 January 2012 unless more than one third of Parties or Parties the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant shipping of ships of 100 gross register tons or more have notified the Secretary-General that they object to the amendments prior to 1 July 2011."

15 In the reference for **Record of hours of rest**, replace the last reference with "IMO/ILO Guidelines for the development of tables of seafarers' shipboard working arrangements and formats of records of seafarers' hours of work or hours of rest".

Page 9

16 In the descriptive text for **International Air Pollution Prevention Certificate**, delete the first paragraph and the word "also" in the eighth line.

17 Add new entry titled **LRIT conformance test report** at the end of section 1 as follows:

<b>LRIT conformance test report</b> A Conformance test report should be issued, on satisfactory completion of a conformance test, by the Administration or the ASP who conducted the test acting on behalf of the Administration and should be in accordance with the model set out in appendix 2 of MSC.1/Circ.1307.	SOLAS 1974 regulation V/19-1 MSC.1/Circ.1307
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Page 10

18 Move descriptive text and reference for **Exemption Certificate** to section 1 before **LRIT conformance test report**.

19 Replace footnote with "SLS.14/Circ.115, Add.1, Add.2 and Add.3 refer to the issue of exemption certificate" and move to section 1 together with descriptive text and reference for **Exemption Certificate**.

Page 12

20 Add new entry after **Certificate of insurance or other financial security in respect of civil liability for oil pollution damage** as follows:

<p><b>Certificate of insurance or other financial security in respect of civil liability for bunker oil pollution damage</b> Certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship of greater than 1,000 GT after the appropriate authority of a State Party has determined that the requirements of Article 7, paragraph 1 have been complied with. With respect to a ship registered in a State Party such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. A State Party may authorize either an institution or an organization recognized by it to issue the certificate referred to in paragraph 2.</p>	<p>Bunker Convention 2001 Article 7</p>
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Page 13

21 Keep entry titled **Record of oil discharge monitoring and control system for the last ballast voyage** and replace descriptive text with "Subject to the provisions of paragraphs (4) and (5) of regulation 3 of MARPOL Annex I, every oil tanker of 150 gross tonnage and above shall be equipped with an oil discharge monitoring and control system approved by the Administration. The system shall be fitted with a recording device to provide a continuous record of the discharge in litres per nautical mile and total quantity discharged, or the oil content and rate of discharge. The record shall be identifiable as to time and date and shall be kept for at least three years." and reference with "MARPOL Annex I, regulation 31".

22 Remove new entry for **Material Safety Data Sheets (MSDs)** because as far as can be determined there is no recommendation as to the period these should be kept on board.

23 Delete entry for **Ship Construction Drawings** because this is already included previously on page 2.

Page 14

24 Delete entry for **Coating Technical File** because this is already included previously on page 2.

Page 15

25 Move entry for **Oil Discharge Monitoring and Control (ODMC) Operational Manual** to page 13 after **Record of oil discharge monitoring and control system for the last ballast voyage**.

Page 16

26 In the descriptive text for **Cargo record book**, delete the words "Cargo Record Book for" in the first line.

Page 19

27 Delete new entry for **Document of compliance** because this is already included previously on page 18.

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**ANNEX 5**

Ref. T3/2.02

FAL.3/Circ.201  
27 September 2010

**FACILITATING SHORE LEAVE AND ACCESS TO SHIPS, REMOVING  
UNNECESSARY RESTRICTIONS IMPOSED BY DIVERGENCES  
IN THE IMPLEMENTATION OF THE ISPS CODE**

The Facilitation Committee, at its thirty-sixth session, from 6 to 10 September 2010, considered the matter of shore leave and access to ships, and approved the circular on Facilitating shore leave and access to ships, removing unnecessary restrictions imposed by divergences in the implementation of the ISPS Code, as set out in the annex.

The Committee remains concerned about the potential adverse effects of inappropriate references to the ISPS Code when deciding the shore leave status of ship's personnel during the entry formalities of a Member State. The Committee again draws attention to the need to recognize the human element and the importance of shore leave and appropriate access to ships, without prejudice to the immigration procedures of Member States.

Member States are urged to bring this circular to the attention of all parties concerned, including, but not limited to, public authorities, administrations, ports and terminals.

ANNEX

**FACILITATING SHORE LEAVE AND ACCESS TO SHIPS, REMOVING  
UNNECESSARY RESTRICTIONS IMPOSED BY DIVERGENCES  
IN THE IMPLEMENTATION OF THE ISPS CODE**

1 The Facilitation Committee, at its thirty-sixth session (6 to 10 September 2010), was informed of difficulties encountered by seafarers who had been refused shore leave, access to shore-based facilities, and complications related to crew personnel changes and the gaining of access to ships by representatives of seafarers' welfare, labour organizations, and other authorized personnel. The problems stem mainly from divergences in the implementation of the IMO instruments adopted to ensure uniform interpretation and execution of SOLAS chapter XI-2 and the ISPS Code.

2 The Committee noted discussions which took place at the twenty-sixth session of the IMO Assembly and at the eighty-seventh session of the Maritime Safety Committee (MSC) with relation to the shore leave of seafarers. The Committee also noted with appreciation MSC.1/Circ.1342 on Reminder in connection with shore leave and access to ships, adopted by the MSC at its eighty-seventh session which once again draws the attention of SOLAS Contracting Governments to the necessity to give full effect to existing IMO instruments and guidance which regulate implementation of the ISPS Code whilst ensuring that adequate consideration is given to the human element.

3 The Committee agreed, however, that further work is necessary in this area, especially regarding the practice of providing less favourable treatment based upon the flag of the vessel or restrictions based upon the nationalities of individual crew members. The Committee further agreed that improvements in terms of uniformity in formalities, documentary requirements and procedures would provide for the consistent application of port security measures, provided that such uniformity does not bypass or eliminate the authority of Member States.

4 The Committee acknowledged that port States, while giving effect to the special measures envisaged to prevent security incidents affecting ships or port facilities and to exercise control over access to their territories, have to recognize that shore leave for seafarers constitutes their right – not a privilege. The Committee further acknowledged the necessity of access by authorized personnel to the ship.

5 The Committee encourages IMO Member States to establish measures and procedures to provide better coordination and co-operation among public authorities, administrations, ports and terminals to enable the full implementation of conventions and other instruments, and the IMO and ILO recommendations which define conditions and procedures related to shore leave for seafarers, and to promote a balanced approach towards ISPS Code-prescribed security measures and the right of seafarers to satisfy their social needs and requirements, especially the right for access to the shore-based social facilities and shore leave.

6 Towards the establishment of a balanced approach to the ISPS-related issues and the giving of due attention to the fulfilment of the rights of seafarers through an ongoing tripartite social dialogue, the Committee invites SOLAS Contracting Governments, while ensuring the needs of seafarers for shore leave and ship-shore communications, to envisage the effective functioning of mechanisms for approval and review of Port Facility Security Plans, especially in establishing national procedures for examining complaints, including those filed by seafarers' and shipowners' representative organizations and other



representatives of authorized personnel, with regard to discrepancies in the implementation of the ISPS Code.

7 As provided in Conference resolution 11 of the 2002 SOLAS Conference, Contracting Governments are urged to take the human element need to afford special protection to the rights of seafarers and the critical importance of shore leave into account when implementing the provisions of SOLAS chapter XI-2 and the ISPS Code. The Committee urges SOLAS Contracting Governments to ensure that adequate training is provided for the ISPS-responsible personnel in ports/terminals so as to be fully aware of the necessity to provide an adequate protection of seafarers' rights, the great significance of shore leave in relation to the human element and its influence on maritime safety and security while implementing provisions of SOLAS chapter XI-2 and the ISPS Code.

8 States should endeavour to establish standard practices regarding requirements related to the identity documents which provide public authorities with information about the individual member of the crew seeking access to the shore-based facilities. States are invited to consider whether seafarers' identity documents serve for better facilitation and unification of requirements related to seafarers' identification in the international maritime trade.<sup>1</sup>

9 Administrations should pay particular attention to ensuring unbiased and non-discriminatory practice in exercising control and allowing access to shore, irrespective of vessels' flags and nationalities of individual crew members. Member States, representative organizations of seafarers and shipowners are encouraged to inform the FAL and MSC Committees of unfair and selective practices in providing shore leave and access to the shore-based facilities in foreign ports.

10 IMO Member States are urged to bring this circular to the attention of all parties concerned, including, but not limited to, public authorities, administrations, ports and terminals.

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<sup>1</sup> Refers, *inter alia*, to the ILO Convention No. 185, Seafarers' Identity Documents Convention (Revised), 2003 (No. 185).



**ANNEX 6**

**DRAFT FAL RESOLUTION**

**RESOLUTION FAL.[...](37)  
adopted on [...] September 2011**

**REVISION OF THE GUIDELINES ON THE ALLOCATION OF RESPONSIBILITIES TO  
SEEK THE SUCCESSFUL RESOLUTION OF STOWAWAY CASES**

THE FACILITATION COMMITTEE,

HAVING CONSIDERED the general purposes of the Convention on Facilitation of International Maritime Traffic, 1965, as amended, and in particular article III thereof,

RECALLING the provisions of resolution A.1027(26) in relation to the revision of the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases,

RECALLING ALSO that the International Convention Relating to Stowaways, 1957, which attempted to establish an internationally acceptable regime for dealing with stowaways, has not yet come into force,

RECALLING FURTHER 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, which introduced 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"), and which entered into force on 1 May 2003,

RECALLING in addition that, for the purposes of this resolution, a stowaway is defined as a person who is secreted on a ship or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the master or any other responsible person, and who is detected on board after the ship has departed from a port and reported as a stowaway by the master to the appropriate authorities,

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,

NOTING ALSO 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
- (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,

RECALLING that resolution A.1027(26) expressed conviction 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,

TAKING INTO ACCOUNT that some stowaways may be asylum-seekers and refugees, which should entitle them to such relevant procedures as those provided by international instruments and national legislation,

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 the appropriate authorities,

AGREES that the existence of such guidance should in no way be regarded as condoning or encouraging the practice of stowing away and other illegal migration, and should not undermine efforts to combat the separate problems of alien smuggling or human trafficking,

AGREES FURTHER that the provisions of this resolution should, in accordance with resolution A.1027(26), 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,

BELIEVING that, at present, stowaway cases can best be resolved through close co-operation among all authorities and persons concerned,

BELIEVING FURTHER that, in normal circumstances, through such co-operation, stowaways should, as soon as practicable, be removed from the ship concerned and returned to the country of nationality/citizenship or to the port of embarkation, or to any other country which would accept them,

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

WHILST URGING national authorities, port authorities, shipowners and masters to take all reasonable precautions to prevent stowaways gaining access to vessels,

[NOTING that the Maritime Safety Committee, at its eighty-eighth session, adopted resolution MSC.[...](88) on Revision of the guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases,]

1. ADOPTS the Revised guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases, set out in the Annex to the present resolution;
2. URGES Governments to implement in their national policies and practices the amended procedures recommended in the annexed Guidelines;
3. URGES ALSO Governments to deal with stowaway cases in a spirit of co-operation with other parties concerned, on the basis of the allocation of responsibilities set out in the annexed Guidelines;
4. INVITES shipping companies, shipowners and ship operators to take on the relevant responsibilities set out in the annexed Guidelines and to guide their masters and crews as to their respective responsibilities in stowaway cases;
5. INVITES Governments to develop, in co-operation with the industry, comprehensive strategies to prevent intending stowaways from gaining access to ships;
6. REQUESTS the Facilitation Committee to continue to monitor the effectiveness of the annexed Revised guidelines on the basis of information provided by Governments and the industry, to keep them under review and to take such further action, including the development of a relevant binding instrument, as may be considered necessary in the light of developments;
7. REQUESTS ALSO the Assembly to endorse the action taken by the Maritime Safety Committee and the Facilitation Committee and to revoke resolution A.871(20).

ANNEX

**GUIDELINES ON THE ALLOCATION OF RESPONSIBILITIES TO SEEK THE  
SUCCESSFUL RESOLUTION OF STOWAWAY CASES**

1 Masters, shipowners\*, port authorities, national administrations, and other bodies including security operators all have a responsibility to co-operate to prevent illegal access to a vessel while it is in port. However, no matter how effective routine port and ship security is, there will still be occasions when stowaways gain access to vessels, either secreted in the cargo or by surreptitious boarding.

2 For the purposes of the Guidelines a stowaway is defined as a person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the master or any other responsible person, and who is detected on board after the ship has departed from a port and reported as a stowaway by the master to the appropriate authorities.

3 The resolution of stowaway cases is difficult because of different national legislation in each of the several potentially involved countries: the country of embarkation, the country of disembarkation, the flag State of the vessel, the country of apparent, claimed or actual nationality/citizenship of the stowaway, and countries of transit during repatriation.

4 There are, however, some basic principles which can be applied generally. These are as follows:

- .1 A recognition that stowaways arriving at or entering a country without the required documents are, in general, illegal entrants. Decisions on dealing with such situations are the prerogative of the countries where such arrival or entry occurs.
- .2 Stowaway asylum-seekers should be treated in accordance with international protection principles as set out in international instruments, such as the provisions of the United Nations Convention relating to the Status of Refugees of 28 July 1951 and of the United Nations Protocol relating to the Status of Refugees of 31 January 1967 and relevant national legislation.
- .3 Public authorities, port authorities, shipowners and their representatives and shipmasters, should co-operate to the fullest extent possible in order to prevent stowaway incidents and to resolve stowaway cases expeditiously and secure that an early return or repatriation of the stowaway will take place. All appropriate measures should be taken in order to avoid situations where stowaways must stay on board ships indefinitely.
- .4 Shipowners and their representatives on the spot, masters, port authorities and national administrations should have security arrangements in place which, as far as practicable, will prevent intending stowaways from getting aboard a ship or, if this fails, will detect them before a ship arrives at port.

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\* Including any persons or party acting on behalf of the owner of the vessel.

- .5 All Parties should be aware that an adequate search, in accordance with the provisions of the International Ship and Port Facility Security Code (ISPS Code), may minimize the risk of having to deal with a stowaway case and may also save the life of a stowaway who may, for example, be hiding in a place which is subsequently sealed and/or chemically treated.
- .6 Countries should admit returned stowaways with full nationality/citizenship status of that country or a right of residence.
- .7 The country of the original port of embarkation of a stowaway should accept the return of such a stowaway for examination pending final case disposition.
- .8 Every effort should be made to avoid situations where a stowaway has to be detained on board a ship indefinitely. In this regard countries should co-operate with the shipowner in arranging the return of a stowaway to an appropriate country.
- .9 Stowaway incidents should be dealt with consistent with humanitarian principles, including those mentioned in paragraph 4.2. Due consideration must always be given to the operational safety and security of the ship and to the safety and well-being of the stowaway.

5 As a first step in addressing the issue, a framework of the various responsibilities, rights and liabilities of the parties involved needs to be identified and agreed. The following allocation of responsibility is suggested:

**.1 The master**

- .1.1 to make every effort to determine immediately the port of embarkation of the stowaway;
- .1.2 to make every effort to establish the identity, including the nationality/citizenship of the stowaway;
- .1.3 to prepare a statement containing all information relevant to the stowaway, in accordance with information specified in the appendix to these Guidelines, for presentation to the appropriate authorities;
- .1.4 to notify the existence of a stowaway and any relevant details to his shipowner and appropriate authorities at the port of embarkation, the next port of call and the flag State; with the understanding that when a stowaway declares himself/herself to be a refugee, this information shall be treated as confidential to the extent necessary for the security of the stowaway;
- .1.5 not to depart from his planned voyage to seek the disembarkation of a stowaway to any country unless repatriation has been arranged with sufficient documentation and permission given for disembarkation, or unless there are extenuating security or compassionate reasons;
- .1.6 to ensure that the stowaway is presented to the appropriate authorities at the next port of call in accordance with their requirements;
- .1.7 to take appropriate measures to ensure the security, general health, welfare and safety of the stowaway until disembarkation;

.1.8 to ensure that stowaways are not made to work on board the ship, except in emergency situations or in relation to the stowaway's accommodation on board;

.1.9 to ensure that stowaways are treated humanely, consistent with the basic principles articulated in paragraph 4.9.

**.2 The shipowner or operator**

.2.1 to ensure that the existence of, and any relevant information on, the stowaway has been notified to the appropriate authorities at the port of embarkation, the next port of call and the flag State;

.2.2 to comply with any removal directions made by the competent national authorities at the port of disembarkation.

**.3 Country of first scheduled port of call after discovery of the stowaway (port of disembarkation)**

.3.1 to accept the stowaway for examination in accordance with the national laws of that country and, where the competent national authority considers that it would facilitate matters, to allow the shipowner or his nominated representative and the competent or appointed P&I Club correspondent to have access to the stowaway;

.3.2 to favourably consider allowing disembarkation and provide, as necessary and in accordance with national law, secure accommodation which may be at the expense of the shipowner or agents, where:

.1 a case under .3.1 is unresolved at the time of sailing of the ship, or

.2 the stowaway is in possession of valid documents for return and the public authorities are satisfied that timely arrangements have been or will be made for repatriation and all the requisites for transit fulfilled, or

.3 other factors make it impractical to remove the stowaway on the ship at arrival; such factors may include but are not limited to cases where a stowaway's presence on board would endanger the safe and secure operation of the vessel, the health of the crew or the stowaway;

.3.3 to make every effort to co-operate in the identification of the stowaway and the establishment of his or her nationality/citizenship;

.3.4 to make every effort to co-operate in establishing the validity and authenticity of a stowaway's documents and, when a stowaway has inadequate documents, to whenever practicable and to an extent compatible with national legislation and security requirements, issue a covering letter with a photograph of the stowaway and any other important information. The letter, authorizing the return of the stowaway either to his/her country of origin or to the point where the stowaway commenced his/her journey, as appropriate, by any means



- of transportation and specifying any other conditions imposed by the authorities, should be handed over to the operator effecting the removal of the stowaway. This letter will include information required by the authorities at transit points and/or the point of disembarkation;
- .3.5 to give directions for the removal of the stowaway to the port of embarkation, country of nationality/citizenship or to some other country to which lawful directions may be made, in co-operation with the shipowner or his nominated representative;
- .3.6 to inform the shipowner on whose ship the stowaway was found, or his nominated representatives, as far as practicable, of the level of cost of detention and return of the stowaway, if the shipowner is to cover these costs. In addition, public authorities should keep such costs to a minimum, as far as practicable, and according to national legislation, if they are to be covered by the shipowner, as well as keeping to a minimum the period during which shipowners are held liable to defray costs of maintenance of a stowaway by public authorities;
- .3.7 to consider mitigation of charges that might otherwise be applicable when shipowners have co-operated with the control authorities to the satisfaction of those authorities in measures designed to prevent the transportation of stowaways; or where the master of the ship has properly declared the existence of a stowaway to the appropriate authorities in the port of arrival, and has shown that all reasonable preventive measures had been taken to prevent stowaways gaining access to the ship;
- .3.8 to issue, if necessary, in the event that the stowaway has no identification and/or travel documents, a document attesting to the circumstances of embarkation and arrival to facilitate the return of the stowaway either to his country of origin, to the country of the port of embarkation, or to any other country to which lawful directions can be made, by any means of transport;
- .3.9 to provide the document to the transport operator effecting the removal of the stowaway;
- .3.10 to take proper account of the interests of, and implications for, the shipowner or agent when directing detention and setting removal directions, so far as is consistent with the maintenance of control, their duties or obligations to the stowaway under the law, and the cost to public funds;
- .3.11 to report incidents of stowaways to the Organization as per FAL.2/Circ.50/Rev.2;
- .3.12 to co-operate with flag State authorities in identifying the stowaway and their nationality, to assist in removal of the stowaway from the ship, and to make arrangements for removal or repatriation;
- .3.13 if disembarkation is refused, to notify the flag State of the ship the reasons for refusing disembarkation.

**.4 Subsequent ports of call**

- .4.1 when disembarkation of a stowaway has not been possible at the first port of call according to the voyage plan, the disembarkation port is to follow the guidance contained in paragraph 5.3.

**.5 The country of the original port of embarkation of the stowaway (i.e. the country where the stowaway first boarded the ship)**

- .5.1 to accept any returned stowaway having nationality/citizenship or right of residence;
- .5.2 to accept a stowaway back for examination where the port of embarkation is identified to the satisfaction of the authorities of the receiving country; the public authorities of the state of embarkation should not return such stowaways to the country where they were earlier found to be inadmissible;
- .5.3 to apprehend and detain the stowaway, where permitted by national legislation, if the stowaway is discovered before sailing either on the vessel or in cargo due to be loaded; to refer the intended stowaway to local authorities for prosecution, and/or, where applicable, to the immigration authorities for examination and possible removal: no charge to be imposed on the shipowner in respect of detention or removal costs, and no penalty to be imposed;
- .5.4 to apprehend and detain the stowaway, where permitted by national legislation, if the stowaway is discovered while the vessel is still in the territorial waters of the country of the port of his embarkation, or in another port in the same country (not having called at a port in another country in the meantime) no charge to be imposed on the shipowner in respect of detention or removal costs, and no penalty to be imposed;
- .5.5 to report incidents of stowaways to the Organization as per FAL.2/Circ.50/Rev.2.

**.6 The apparent or claimed country of nationality/citizenship of the stowaway**

- .6.1 to make every effort to assist in determining the identity and nationality/citizenship of the stowaway and to document the stowaway, accordingly once satisfied that he or she holds the nationality/citizenship claimed;
- .6.2 to accept the stowaway where nationality/citizenship is established;
- .6.3 to report incidents of stowaways to the Organization as per FAL.2/Circ.50/Rev.2.

**.7 The flag State of the vessel**

- .7.1 to be willing, if practicable, to assist the master/shipowner or the appropriate authority at the port of disembarkation in identifying the stowaway and determining his or her nationality/citizenship;
- .7.2 to be prepared to make representations to the relevant authority to assist in the removal of the stowaway from the vessel at the first available opportunity;
- .7.3 to be prepared to assist the master/shipowner or the authority at the port of disembarkation in making arrangements for the removal or repatriation of the stowaway;
- .7.4 to report incidents of stowaways to the Organization as per FAL.2/Circ.50/Rev.2.

**.8 Any countries of transit during repatriation**

- .8.1 to allow, subject to normal visa requirements, the transit through their ports and airports of stowaways travelling under the removal instructions or directions of the country of the port of disembarkation.

APPENDIX

**Form of stowaway details referred to in Recommended Practice 4.6.2 of the  
Convention on Facilitation of International Maritime Traffic 1965, as amended**

<p><b>SHIP DETAILS</b></p> <p><i>Name of ship:</i></p> <p><i>IMO number:</i></p> <p><i>Flag:</i></p> <p><i>Company:</i></p> <p><i>Company address:</i></p> <p><i>Agent in next port:</i></p> <p><i>Agent address:</i></p> <p><i>IRCS:</i></p> <p><i>INMARSAT number:</i></p> <p><i>Port of registry:</i></p> <p><i>Name of Master:</i></p> <p><b>STOWAWAY DETAILS</b></p> <p><i>Date/time found on board:</i></p> <p><i>Place of boarding:</i></p> <p><i>Country of boarding:</i></p> <p><i>Date/time of boarding:</i></p> <p><i>Intended final destination:</i></p> <p><i>Stated reasons for boarding the ship:*</i></p> <p><i>Surname:</i></p> <p><i>Given name:</i></p> <p><i>Name by which known:</i></p> <p><i>Gender:</i></p> <p><i>First language:</i></p> <p><i>Spoken:</i></p> <p><i>Read:</i></p> <p><i>Written:</i></p>	<p><i>Date of birth:</i></p> <p><i>Place of birth:</i></p> <p><i>Claimed nationality:</i></p> <p><i>Home address:</i></p> <p><i>Country of domicile:</i></p> <p><i>ID-document type, e.g., Passport No.:</i></p> <p><i>ID Card No. or Seaman's Book No.:</i></p> <p><i>If yes,</i></p> <p><i>When issued:</i></p> <p><i>Where issued:</i></p> <p><i>Date of expiry:</i></p> <p><i>Issued by:</i></p> <p><i>Photograph of the stowaway:</i></p> <div data-bbox="820 1178 1078 1473" style="border: 1px solid black; padding: 10px; text-align: center;"><p>Photograph if available</p></div> <p><i>General physical description of the stowaway:</i></p> <p><i>Other languages:</i></p> <p><i>Spoken:</i></p> <p><i>Read:</i></p> <p><i>Written:</i></p>
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\* If the stowaway declares himself to be a refugee or an asylum seeker, this information shall be treated as confidential to the extent necessary to the security of the stowaway.

**Other details:**

- 1) *Method of boarding, including other persons involved (e.g., crew, port workers, etc.), and whether the stowaway was secreted in cargo/container or hidden in the ship:*
  
- 2) *Inventory of the stowaway's possessions:*
  
- 3) *Statement made by the stowaway:*
  
- 4) *Statement made by the master (including any observations on the credibility of the information provided by the stowaway):*

*Date(s) of interview(s):*

*Stowaway's signature:*

*Master's signature:*

*Date:*

*Date:*

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## ANNEX 7

### THEMATIC PRIORITIES FOR THE FACILITATION OF INTERNATIONAL MARITIME TRAFFIC FOR INCLUSION IN THE ITCP COVERING THE 2012-2013 BIENNIUM

- 1 Enhancing the facilitation of international maritime traffic within the context of trade facilitation, in line with the Organization's Strategic Plan;
- 2 fostering the wider acceptance of the FAL Convention and its effective and efficient implementation for the facilitation of international maritime traffic;
- 3 contributing to capacity-building in Member States in respect of the responsibilities and quality standards relating to the FAL Convention;
- 4 encouraging and supporting Member States in the use of information and communication technology to drive continuous improvement and innovation in the facilitation of maritime traffic including electronic data processing and interchange techniques, such as Single Window; based on internationally accepted relevant standards to facilitate the clearance of ships, crews, passengers and cargo, effective port operation and vessels' turnaround;
- 5 supporting the training of personnel involved in ship/port interface activities with the aim of raising awareness and understanding of their responsibilities and improving communication and cooperation between all parties involved at the ship/port interface, in respect of the facilitation of international maritime traffic, including inter-modal access to ports;
- 6 assisting Member States in addressing the severe problems caused to international maritime traffic, in particular, by stowaways and the transportation of illegal migrants;
- 7 facilitating shipments of dangerous cargoes, including IMDG Code class 7 radioactive materials; and
- 8 promoting the early ratification and effective implementation of IMO instruments while also addressing the special needs of Least Developed Countries (LDCs) and Small Island Developing States (SIDS) and, in particular, the maritime transport needs of Africa.

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## ANNEX 8

### LIST OF SUBSTANTIVE ITEMS FOR INCLUSION IN THE PROVISIONAL AGENDA FOR THE THIRTY-SEVENTH SESSION OF THE COMMITTEE

Decisions of other IMO bodies

Consideration and adoption of proposed amendments to the Convention

General review of the Convention, including harmonization with other international instruments:

- .1 status of the Convention
- .2 comprehensive review of the Convention

E-business possibilities for the facilitation of maritime traffic:

- .1 electronic means for the clearance of ships, cargo and passengers
- .2 revision of the IMO Compendium on facilitation and electronic business
- .3 development of guidelines for setting up the Single Window system

Formalities connected with the arrival, stay and departure of persons:

- .1 shipboard personnel
- .2 stowaways
- .3 illegal migrants
- .4 persons rescued at sea

Certificates and documents required to be carried on board ships and FAL Forms:

- .1 list of certificates and documents required to be carried on board ships
- .2 online access to certificates and documents required to be carried on board ships
- .3 implementation of IMO FAL Forms 1 to 7

Ensuring security in and facilitating international trade:

- .1 shore leave and access to ships
- .2 trade recovery

Ship/port interface:

- .1 facilitation of shipments of dangerous cargoes

Technical co-operation and assistance

Relations with other organizations

Application of the Committee's Guidelines

Role, mission, strategic direction and work of the Committee

Work programme

Election of Chairman and Vice-Chairman for 2012

Any other business

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