

FACILITATION COMMITTEE  
42nd session  
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**REPORT OF THE FACILITATION COMMITTEE  
ON ITS FORTY-SECOND SESSION**

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## **1 INTRODUCTION – ADOPTION OF THE AGENDA**

1.1 The forty-second session of the Facilitation Committee was held at IMO Headquarters from 5 to 8 June 2018, chaired by Mr. Yury Melenas (Russian Federation). The Vice-Chair of the Committee, Mrs. Marina Angsell (Sweden), was also present.

1.2 The session was attended by Member States and an Associate Member; a representative from a United Nations specialized agency; observers from intergovernmental organizations with agreements of cooperation; and observers from non-governmental organizations in consultative status, as listed in document FAL 42/INF.1.

1.3 The session was also attended by the Chair of the Legal Committee, Mr. Volker Schöfisch (Germany).

### **Opening address of the Secretary-General**

1.4 The Secretary-General welcomed participants and delivered his opening address, the full text of which can be downloaded from the IMO website at the following link: <http://www.imo.org/MediaCentre/SecretaryGeneral/Secretary-GeneralsSpeechesToMeetings>.

### **Chair's remarks**

1.5 In responding, the Chair thanked the Secretary-General for his opening address and stated that his advice and requests would be given every consideration in the deliberations of the Committee and its working groups.

### **Adoption of the agenda**

1.6 The Committee adopted the provisional agenda (FAL 42/1), and agreed further to be guided in its work by the annotated agenda (FAL 42/1/1).

### **Credentials**

1.7 The Committee noted that the credentials of delegations attending the session were in due and proper form.

### **Condolences**

1.8 The Committee expressed its sincerest sympathy, compassion and condolences to the people of Guatemala on the volcanic eruption that had caused loss of life and significant damage to both property and the environment.

## **2 DECISIONS OF OTHER IMO BODIES**

2.1 The Committee noted the information provided in documents FAL 42/2 and FAL 42/2/1 (Secretariat), in relation to the outcome of the work of A 30, LEG 104, MSC 98, MEPC 71, TC 67, C 118 and C/ES 29 on matters of relevance to the work of the Committee and decided to consider the various issues which warranted action by the Committee under the relevant agenda items.

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

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

#### **Status of the appendices to the FAL Convention**

3.2 The Committee recalled that FAL 41 had considered document FAL 41/3/1 (Secretariat) with the advice of the Legal Affairs and External Relations Division on whether the appendices, and in particular appendix 3, formed an integral part of the FAL Convention.

3.3 The Committee recalled further that FAL 41 had agreed to request the Legal Committee to consider the legal status of the appendices to the FAL Convention and to advise it accordingly, bearing in mind that the final interpretation of whether appendices 1, 2, 3 and 4 were part of the Convention was the prerogative of the Contracting Governments.

3.4 The Committee was advised that LEG 104 had noted that the confusion on the status of the appendices mainly stemmed from the fact that the consolidated version of the FAL Convention adopted by resolution FAL.12(40) in 2016 only contained appendix 1, while the other appendices only appeared in the FAL Convention publication, even though references to appendices 2 and 3 were made in the Convention itself. The Committee noted that LEG 104, after a long discussion, had encouraged Member States to consult informally and intersessionally and to submit relevant information on the status of the appendices to LEG 105.

3.5 The Committee considered the legal advice on the status of the appendices to the FAL Convention as approved by LEG 105, given by the Chair of the Legal Committee (FAL 42/3/1). The full text of the Chair of the Legal Committee's statement is set out in annex 6.

3.6 The Committee noted the view of the Legal Committee that the strongest means of establishing the intent of the Contracting Governments of the FAL Convention in the future would be to amend the Convention through the process detailed in its article VII, to include the appropriate appendices to the annex of the Convention, and in the certified text of the treaty. Other methods of establishing the intent of the Contracting Governments included, in descending order of legal weight:

- .1 a declaration, through a FAL resolution, establishing the intent of the Committee;
- .2 a unified interpretation; and
- .3 a decision of the FAL Committee.

3.7 The Committee also noted that the final interpretation of whether appendices 1, 2, 3 and 4 were part of the Convention was the prerogative of Contracting Governments to the FAL Convention. In the ensuing discussion, the Committee:

- .1 agreed that appendix 1 (IMO FAL Forms referred to in Standard 2.19) was part of the FAL Convention, and no further action was needed to communicate this decision;

- .2 agreed that appendix 2 (Arrival and departure of persons) was not part of the FAL Convention, and no further action was needed to communicate this decision; some delegations expressed the view that the inclusion of this appendix in the annex to the Convention could be considered in a future review of the Convention, bearing in mind the need for further work on the covering letter referred to in the footnote to Standard 3.3.1;
- .3 in relation to appendix 3 (Form of stowaway details referred to in Recommended Practice 4.6.2), the Committee recalled that FAL 41 had agreed to include additional information on "port facility number", together with the port, terminal and berth information, when reporting the place of boarding of stowaways, and in this sense, it had approved the following instruments:
- .1 *Unified interpretation of appendix 3 to the FAL Convention (FAL.7/Circ.1); and*
- .2 *Information on stowaway incidents (FAL.2/Circ.50/Rev.3).*

The Committee agreed that appendix 3 was part of the FAL Convention but it had not been included in resolution FAL.12(40) by mistake. Bearing in mind that the reference to the form of stowaway details had been added in Recommended Practice 4.6.2, the Committee instructed the Secretariat to use the normal procedure for correction, i.e. a correction of the certified copy of resolution FAL.12(40); and

- .4 agreed that Appendix 4 (IMDG Code, amendments 38-16, chapter 5.4 on Documentation) was not part of the FAL Convention, and no further action was needed to communicate this decision.

3.8 One delegation advised that, although appendices 1 and 3 were considered to be part of the Convention, their legal status was not clear. Also the annex made no reference to appendix 1 but referred to other appendices. The necessary editorial corrections could be addressed during the next revision of the annex to the FAL Convention.

3.9 One delegation expressed the view that the next edition of the FAL Convention should differentiate between those appendices forming an integral part of the Convention and those which did not. The next edition of the FAL Convention should include appropriate appendices to the annex through the process in article VII of the FAL Convention and incorporate those into the certified text of the treaty.

#### **Notifications to IMO in accordance with article VIII of the FAL Convention**

3.10 The Committee, having noted that only one Member State had provided information in accordance with article VIII of the FAL Convention in the FAL module of GISIS since April 2016, encouraged Member States to provide the appropriate information pursuant to article VIII of the Convention via GISIS.<sup>1</sup>

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<sup>1</sup> Details of the module for Facilitation in GISIS were promulgated by Circular Letter No.3476 of 22 July 2014.

## **4 REVIEW AND UPDATE OF THE EXPLANATORY MANUAL TO THE FAL CONVENTION**

4.1 The Committee recalled that FAL 36 had approved the Explanatory Manual to the annex to the FAL Convention, which gave guidance on interpreting the legal text of the provisions of the Convention and examples of best practices with regard to the implementation of Standards and Recommended Practices. The Explanatory Manual was issued as FAL.3/Circ.202 on 11 October 2010.

4.2 The Committee recalled that FAL 41 had considered the outcome of the Working Group for the Review and Update of the Explanatory Manual to the FAL Convention; endorsed the report of the Working Group (FAL 41/WP.4), as the basis for further work; and established a Correspondence Group on the Review of the Explanatory Manual, under the coordination of France.

### **Consideration of the report of the Correspondence Group**

4.3 The Committee noted with appreciation the report of the aforementioned Correspondence Group (FAL 42/4), acknowledging the considerable work done on reviewing the Explanatory Manual, in particular the work carried out by its coordinator, Mr. Joret (France).

4.4 In considering the report in general, the Committee noted the proposals of one delegation that there was a need for the Explanatory Manual to include text on the need for Contracting Governments to comply with Standards and Recommended Practices and to notify the Secretary-General of any differences where national regulations were not aligned thereto. It was also recommended to delete text that simply duplicated the text of Standards and Recommended Practices without adding further value.

4.5 The Committee considered the questions of principle referred to in the report of the Correspondence Group (FAL 42/4, paragraphs 5 to 9), and took the following decisions:

- .1 On whether the Manual should include definitions and guidance on the data elements included in the seven FAL Forms (FAL 42/4, paragraph 5), the Committee noted the view that, as the Compendium was very technical in content, and therefore had limited readership, it would be useful to include definitions in the Explanatory Manual. However, the Committee agreed that such definitions should not be included but that references should be made to the IMO Compendium.
- .2 Regarding the discussion held in the Correspondence Group on whether to incorporate the extended explanations in the Explanatory Manual or to make reference to the IMDG Code (FAL 42/4, paragraph 6), the Committee recalled that FAL 40 had agreed to include in the Manual the information approved by E&T 23, with additional guidance specifying the type and format of information required in each of the columns on FAL Forms (e.g. stowage position as indicated in the stowage plan). The Committee agreed to instruct the Working Group for the Review and Update of the Explanatory Manual to the FAL Convention to take this into account.
- .3 Regarding the issue of the extension of the obligation of a master to treat the information as confidential when a stowaway declared himself or herself to be a refugee, and against whom it applied, as mentioned in Standards 4.6.1 and 4.6.3 (FAL 42/4, paragraph 7), the Committee agreed to advise the Working Group for the Review and Update of the Explanatory Manual to the FAL Convention that such confidential information should not be passed to the country of origin or residence of the stowaway.

- .4 In relation to the question whether to dematerialize the Sanitary Certificates and International Veterinary Certificates (FAL 42/4, paragraphs 8 and 9), the Committee agreed that because these certificates were not covered by a FAL Form, were not included in the IMO Compendium and were regulated through other instruments, Standard 1.3*bis* of the FAL Convention on electronic exchange of information did not apply. However, the Committee also agreed that the electronic transmission of all certificates was to be encouraged. In referring this decision to the Working Group for the Review and Update of the Explanatory Manual to the FAL Convention, the Committee also sought its recommendation on whether to include in the Explanatory Manual's guidance on Recommended Practice 6.3 references to other instruments, such as the WTO Agreement, OIE Animal Health Code, and UNECE standard for electronic sanitary and phytosanitary certificates.

### **Establishment of the Working Group for the Review and Update of the Explanatory Manual to the FAL Convention**

4.6 Having considered the above matters, the Committee established the Working Group for the Review and Update of the Explanatory Manual to the FAL Convention (the Working Group), and instructed it, taking into account documents FAL 42/4 and FAL 42/14, and the comments made and decisions taken in plenary, to:

- .1 further develop the Explanatory Manual to the FAL Convention;
- .2 consider whether it was necessary to re-establish a correspondence group and, if so, prepare terms of reference for consideration by the Committee; and
- .3 prepare additional terms of reference for the correspondence group, if established, on review and update of the annex to the FAL Convention for consideration by the Committee.

### **Report of the Working Group**

4.7 Having considered the report of the Working Group (FAL 42/WP.6) and noted the progress made, the Committee approved it in general and took action as indicated hereunder.

4.8 The Committee noted that the Working Group had agreed to include the extended explanations relating to the Dangerous Goods Manifest (Standard 2.8.1), developed by E&T 24 (FAL 40/4, annex 3), in the Explanatory Manual. However, taking into account that the inclusion of the expanded explanation in the Manual would mean that FAL Form 7 was addressed differently than the other forms, the Committee agreed that if this extended explanation was included in the IMO Compendium, once finalized, the information could be deleted in the Explanatory Manual.

4.9 The Committee invited Member States and international organizations to submit proposals for the Explanatory Manual to FAL 43 relating to:

- .1 Standard 4.6.3;
- .2 Recommended Practices 6.3 and 6.11, in particular, on "how certificates and documents should be simple and widely publicized"; and
- .3 Recommended Practice 7.11.

4.10 Regarding paragraph 4.9.1 above, and taking into account its sensitive nature, the Committee instructed the Secretariat to seek advice from the Office of the United Nations High Commissioner for Refugees (UNHCR) on confidentiality when a stowaway declared himself or herself to be a refugee.

4.11 The Committee instructed the Secretariat to make editorial corrections to the draft Explanatory Manual as set out in document FAL 42/WP.6, annex 1, and prepare a clean text as the basis for approval by FAL 43.

4.12 The Committee agreed not to re-establish the correspondence group on the review and update of the Explanatory Manual to the FAL Convention.

### **Establishment of a correspondence group**

4.13 The Committee, having recalled that it had approved a new output on “Review and update of the annex to the FAL Convention” (see paragraph 14.1), established the Correspondence Group on the Review and Update of the Annex to the FAL Convention under the coordination of France,<sup>2</sup> and instructed it to:

- .1 initiate a review of the annex to the FAL Convention and draft amendments for further consideration by FAL 43, considering, inter alia, the following:
  - .1 whether the principle of non-duplication of the transmission of data should be made explicit;
  - .2 whether the use of single windows should be made a Standard and if an obligation for the public authorities to introduce single window should be established;
  - .3 whether a reference to the IMO Compendium on Facilitation and Electronic Business should be included;
  - .4 clarify the functions of the seven FAL documents as described in the annex to the FAL Convention in the context of electronic transmission;
  - .5 clarify Standard 2.16.1, which related to signature, and in particular if it would be more appropriate to include in the annex to the FAL Convention an independent standard expressing the principle that there should be no residency requirement for transmitting electronic information;
  - .6 further examine the notion of pre-arrival and pre-departure information, especially in relation to how customs pre-arrival and pre-departure information could be combined with other reporting formalities, and what might be the potential implications for IMO FAL Form 2;

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<sup>2</sup>

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- .7 further examine whether some current standards and Recommended Practices were relevant only in a paper environment but not in the case of exchanging information electronically;
  - .8 whether Recommended Practice 7.12 should be made a Standard;
  - .9 consider the recommendations on stowaways included in the annex of document FAL 42/10/1, as appropriate; and
  - .10 identify other areas where amendments might be needed in order to ensure a harmonized and more effective application of the annex to the FAL Convention.
- .2 Submit its report in time for consideration by the next session of the Committee.

## **5 APPLICATION OF SINGLE WINDOW CONCEPT**

### **IMO project on the development of a prototype maritime single window**

5.1 The Committee recalled that FAL 40 had considered the following options for the development of the prototype maritime single window (MSW):

- .1 to develop a prototype MSW reusing one of the systems offered by the donors and/or parts of different systems; or
- .2 to develop a completely new prototype taking into account the experience of others in the development and implementation of MSW systems; or
- .3 not to develop a prototype but to recommend the use of one or more existing systems, for instance, from among those offered so far, and any other that might be offered in the future.

5.2 The Committee recalled that FAL 41 had noted that the obligation to create systems for the electronic interchange of information established by Standard 1.3*bis* did not refer to the MSW, and that Contracting Governments could use systems other than MSW to comply with this obligation; and had agreed that there was no need to complete the project by 9 April 2019.

5.3 The Committee also recalled that FAL 41 had considered a proposal by the Working Group on Electronic Business to request the Secretariat to report to the next session on the main deliverables, budget implications, schedule, and how the project would help the recipient nations to meet the scope, concepts and guidance in FAL.5/Circ.36 and other fundamental single window goals by the effective date of 2019. However, the Committee had agreed not to leave this work to the Secretariat; had invited Member States and international organizations to provide this information to FAL 42; and requested the Secretariat to consider the information received and to advise FAL 42 as appropriate.

5.4 The Committee considered document FAL 42/5/1 (ICS) providing a perspective on the development of a prototype MSW by the Organization, with a more holistic approach and less emphasis on technology solutions.

5.5 The Committee was informed by the Secretariat that no other comments had been received since FAL 41, and that more guidance on how to proceed with the project was needed.

5.6 The following views were expressed:

- .1 developing a global system was not possible;
- .2 the prototype should be simple and focused on FAL Convention requirements;
- .3 the prototype should be user-driven;
- .4 the approach to develop the prototype should be holistic and focus less on technology solutions;
- .5 the prototype was intended to reduce the administrative burden on crew, and it would improve efficiency of transport;
- .6 the prototype was an important project for the Organization, which would support developing countries, least developed countries and small island developing States to comply with the requirements of Standard 1.3*bis*;
- .7 the characteristics detailed below should be taken into account when developing the prototype:
  - .1 conformity with the Standard 1.6 that public authorities shall limit the information they require from shipowners and other parties concerned to that required by the FAL Convention;
  - .2 notwithstanding paragraph 7.1 above, where additional information may be required to eliminate duplication of reporting requirements by public authorities, ports (including port community systems (PCS)) and other stakeholders, this information is part of a single, standardized reporting procedure and format; in this regard, the single window should incorporate the recommended practice in Standard 1.3*quin*, in particular:
    - .1 the extent of the reporting requirements is defined in an agreed maximum harmonized list of data reporting requirements, which is valid in every port and meets the needs of all public authorities, ports (including PCS) and other stakeholders;
    - .2 the harmonized maximum list of data reporting requirements should be periodically reviewed to ensure that it represents the absolute minimum reporting requirement that can be achieved;
    - .3 the maximum list of data reporting requirements determines the content of the standardized single window reporting format;
    - .4 in conformity with the principle of reuse of submitted information, there should be no need for additional information to be provided by the ship or the company to any other national or local reporting system; and

- .5 measures should be in place for amending reporting procedures, data structures and formats; this should include notification of changes, including systems requirements, to the shipping industry well in advance of the changes becoming effective; this would be in accordance with Standard 1.3*ter*;
- .3 the single window should use a reporting procedure and format which embodies "report once" reporting by the ship and/or the Company; it should use a centralized information management system that:
  - .1 ships and companies report to (one-to-many), and receive communications regarding decisions and other information from public authorities, ports (including PCS) and other stakeholders; and
  - .2 all public authorities, ports (including PCS) and other stakeholders receive reports from, reuse and transmit communications regarding decisions and other information;
- .4 port single window (PSW) and PCS should not be mandated as the only gateway to the single window; likewise, it should not be possible for any stakeholder to implement a reporting procedure or format which runs in parallel to, or duplicates, any element of the single window;
- .5 the single window should:
  - .1 be technology neutral and capable of evolving with technological developments which may further enhance the efficiency of maritime trade;
  - .2 be provided with a robust means of ensuring ships and companies can determine the extent to which information, particularly sensitive information and information not required by the FAL Convention, is shared through the single window;
  - .3 incorporate information security measures, taking into account international standards, national legislation and guidance on information and cyber security;
  - .4 incorporate backup arrangements to ensure that any failure or malfunction of the single window does not prevent ships from efficiently reporting or hinder clearance processes; and
  - .5 be interoperable with other single windows, internationally, in the future.

5.7 The Committee agreed on the need for a more holistic approach for the implementation of the prototype MSW, to put less emphasis on the technology aspects; and referred the matter to the Working Group on Electronic Business.

#### **Facilitation of automated ship reporting based on the single window concept**

5.8 When considering document FAL 42/5 (Norway), providing a possible way forward to achieve a more holistic approach to the MSW concept for ship reporting, and to facilitate future automatic reporting, the Committee noted that the majority of delegations agreed on the importance of reporting data and sharing information.

5.9 The Committee agreed to review the ongoing work of the Organization on automated ship reporting as it could affect the work of the Committee on MSW; the standardization and harmonization of electronic ship reporting; and automated collection of onboard data for reporting, in order to avoid duplication of efforts; and referred the matter to the Working Group on Electronic Business.

#### **Study of ship-to-shore information exchange for efficient electronic port clearance**

5.10 In considering document FAL 42/INF.3 (Republic of Korea), the Committee noted the information provided on progress on the technical standardization of maritime digital communication technology and on the future standardization plan to digitalize ship-to-shore information exchange, to facilitate the ships' port clearance process, and the intention of the submitters to provide further information to the next session of the Committee.

#### **Guidelines for the use of electronic certificates**

5.11 The Committee recalled that FAL 40 had approved the *Guidelines for the use of electronic certificates* (FAL.5/Circ.39/Rev.2).

5.12 In this regard, the Committee noted that, since FAL 41, the Governments of the Bahamas, France, Malta, Norway, Portugal and the United Kingdom had informed the Secretary-General of their decision to issue electronic certificates. This information had been disseminated by means of Circular Letters Nos.3730, 3785, 3794, 3813, 3821 and 3822, respectively.

5.13 The Committee recalled that the Secretariat had developed a tool on "Survey and Certification" in the GISIS module to provide information and consult e-certification verification website information, but that only the Bahamas, Denmark, France, Germany, Liberia, Malta, the Marshall Islands and Sierra Leone had confirmed the availability of their websites for verification of e-certificates via GISIS.

5.14 The Committee noted that the Secretariat had decided to discontinue the issue of circular letters related to the issuance of electronic certificates, in compliance with resolution A.1074(28), to encourage the use of GISIS to share the information on electronic certificates. Following this decision, the Secretariat had received information from Singapore and Saint Vincent and the Grenadines related to the issue of electronic certificates to ships under their flags.

5.15 The Committee urged Member States to use GISIS<sup>3</sup> to provide their e-certification verification website information.

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<sup>3</sup> <https://gisis.imo.org/Public/SURCERT/Certificates.aspx>

## **Establishment of the Working Group on Electronic Business**

5.16 Having considered the above matters, the Committee established the Working Group on Electronic Business and instructed it, taking into account the comments made and decisions taken in plenary, to:

- .1 consider the proposals in document FAL 42/5, in particular the pre-arrival information using the single window concept and the need for an overview of ongoing work in IMO that could have relevance to the single window concept, and advise accordingly; and
- .2 consider the proposals in document FAL 42/5/1, and advise the Committee on the way forward for the MSW prototype system.

## **Report of the Working Group**

5.17 Having received the report of the Working Group (FAL 42/WP.5), the Committee noted the report, approved it in general and took action as indicated hereunder.

### *Collection of information and reporting*

5.18 The Committee noted the general support in the Group for creating an inventory of all requirements for collection of information and reporting under the Organization's various instruments to help reveal the scope for the Committee's potential involvement in advising on facilitation aspects, particularly with regard to information related to the single window concept.

5.19 The Committee requested the Secretariat to review the final report of the Ad Hoc Steering Group for Reducing Administrative Requirements (SG-RAR) established by the Council (C 113/11), the Inventory of administrative requirements in IMO mandatory instruments (C 108/INF.2) and the list of outputs of the committees, as a starting point to identify elements relevant to implementation of the single window concept.

5.20 The Committee requested further the Secretariat to notify the other IMO committees of the intention to undertake this work and to share the results.

### *The maritime single window prototype*

5.21 The Committee, recalling the decision referred to in paragraph 5.7 above, agreed to put in abeyance the Committee's further work on the MSW prototype project until FAL 45 or such time when a request was made by a Member State to recommence the work, and noted that this did not prevent ongoing initiatives and discussions on the prototype by other committees, such as the Technical Cooperation Committee.

## **6 REVIEW AND REVISION OF THE IMO COMPENDIUM ON FACILITATION AND ELECTRONIC BUSINESS**

6.1 The Committee recalled that FAL 41, when considering document FAL 41/5/1 (WCO), which reported on the progress of the work made intersessionally on the harmonization of data definitions and mapping relationships between data elements, had noted the importance of the standardization of definitions of data elements referred to in the FAL Forms, because this would have a positive impact on the work of the Committee on interoperability, MSW, implementation of electronic certificates and e-navigation.

6.2 The Committee also recalled that FAL 41 had approved a new output on "Review and revision of the IMO Compendium on Facilitation and Electronic Business", with two sessions needed to complete the item.

6.3 The Committee further recalled that the World Customs Organization (WCO) had coordinated an informal correspondence group, working on reviewing and revising the IMO Compendium since FAL 39.

6.4 The Committee considered document FAL 42/6 (WCO), which provided information on the progress made intersessionally to harmonize data definitions and map relationships among data elements related to the ongoing review and revision of the IMO Compendium on Facilitation and Electronic Business, and thanked WCO for its role as coordinator of the work, through its Data Model Project Team Focus Group on "IMO FAL Compendium Technical Maintenance". The Committee also thanked the United Nations Economic Commission for Europe (UNECE) and the International Organization for Standardization (ISO) for their commitment to the harmonization of the various data models, and the other organizations and Member States for participating in the intersessional work.

6.5 One delegation expressed the view that the instruments used by the informal correspondence group for their work on security information and notification for waste delivery had not been updated, and that it should refer to MSC/Circ.1305 and MEPC.1/Circ.834/Rev.1, rather than MSC/Circ.1130 and MEPC.1/Circ.644/Rev.1, respectively.

#### **Instructions to the Working Group**

6.6 The Committee instructed the Working Group on Electronic Business, taking into account the comments made and decisions taken in plenary, to:

- .1 consider document FAL 42/6 and provide comments and advice on the concepts and goals described therein and any other considerations or actions that should be taken to revise the IMO Compendium, as appropriate; and
- .2 consider the new format of the IMO Compendium included in the annex of document FAL 42/6, and include discussion of the scope and expectations expressed in document FAL 42/14/1 if time permitted, and advise as appropriate.

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

6.7 Having received the relevant part of the Working Group's report (FAL 42/WP.5), the Committee took action as indicated in the ensuing paragraphs.

6.8 The Committee approved the new format of the IMO Compendium as set out in the annex to document FAL 42/6, and, noting the concerns expressed in the Group about the future maintenance of the IMO Compendium, recognized that this topic would be a topic for further consideration at FAL 43.

6.9 The Committee invited WCO to continue hosting the informal correspondence group, open to all interested parties, and to report on its progress to FAL 43 as appropriate.

6.10 The Committee agreed that the scope of the work of the informal group should be limited to the existing Compendium, and it should not work intersessionally in any future development due to the extension of the existing output for the review of the IMO Compendium (see paragraph 14.5).

## **7 DEVELOPING GUIDANCE FOR AUTHENTICATION, INTEGRITY AND CONFIDENTIALITY OF CONTENT FOR THE PURPOSE OF EXCHANGE VIA MARITIME SINGLE WINDOW**

7.1 The Committee recalled that FAL 41 had agreed that the preferred option to promulgate the need for automatic machine-to-machine solutions for the future MSW was in the Explanatory Manual to the FAL Convention, rather than by a circular.

7.2 The Committee also recalled that FAL 41 had approved a new output on "Developing guidance for authentication, integrity and confidentiality of content for the purpose of exchange via maritime single window", with two sessions needed to complete the item.

7.3 The Committee noted that no documents had been submitted under this agenda item to this session.

7.4 The delegation of ISO informed the Committee that it had been working on guidelines in this regard, but had been unable to complete them in time for submission to FAL 42, and would submit them to FAL 43.

## **8 UPDATE THE GUIDELINES FOR SETTING UP A SINGLE WINDOW SYSTEM IN MARITIME TRANSPORT**

8.1 The Committee recalled that FAL 41 had agreed to review the *Guidelines for setting up a single window system in maritime transport* (FAL.5/Circ.36), to reflect the amendments in the guidelines since their approval, and specifically to review annex A in order to update the list of existing MSWs, to facilitate bilateral cooperation for promoting their implementation.

8.2 The Committee recalled that FAL 41 had included in the 2017-2018 biennial agenda of the Committee and the provisional agenda for FAL 42 an output to "Update the guidelines for setting up a single window system in maritime transport", with a target completion year of 2019; and established a correspondence group under the coordination of Japan.

8.3 The Committee noted with appreciation the report of the correspondence group (FAL 42/8), supported by 28 countries and organizations and, in particular, the work carried out by its coordinator, Mr. Junya Iida (Japan).

8.4 The Committee noted the proposals of the correspondence group on the new structure for the guidelines; the need to reduce the volume of text of the guidelines; the need to keep technical guidelines generic in the face of rapid change; and the need for Member States to provide information on national MSWs.

8.5 The Committee noted further the discussions in the correspondence group on the need to focus on an MSW as opposed to a trade single window (TSW).

8.6 The Committee supported working towards a wider TSW.

## Instructions to the Working Group

8.7 The Committee instructed the Working Group on Electronic Business, taking into account document FAL 42/8 and the relevant discussions and decisions in plenary, to:

- .1 continue the review of the *Guidelines for setting up a single window system in maritime transport* (FAL.5/Circ.36); and
- .2 consider whether it was necessary to re-establish the correspondence group to continue the review of the Guidelines and, if so, prepare terms of reference for consideration by the Committee.

## Consideration of the report of the Working Group

8.8 Having considered the relevant part of the Working Group's report (FAL 42/WP.5), the Committee took action as indicated in the ensuing paragraphs.

8.9 The Committee agreed to incorporate the concepts of a holistic approach for establishing an MSW expressed in document FAL 42/5/1 (ICS) into the *Guidelines for setting up single window system in maritime transport* (FAL.5/Circ.36).

8.10 The Committee noted the work done by the Group to guide the updating FAL.5/Circ.36 on resolution of the highest priority outstanding issues identified in FAL 42/8, and agreed to change the title of the circular to "Guidelines for setting up a maritime single window". The Committee agreed further to change the description of the agenda item of the Committee accordingly.

8.11 The Committee encouraged Member States with MSWs in place to fill in the template given in FAL 42/8, annex 1, annex A, and to submit it to FAL 43.

## Terms of reference of the Correspondence Group to Amend the Guidelines for Setting up a Maritime Single Window

8.12 The Committee re-established the Correspondence Group to Amend the Guidelines for Setting up a Maritime Single Window, under the coordination of Japan,<sup>4</sup> and instructed it to:

- 1 continue its review of FAL.5/Circ.36 taking into account the FAL Convention, as amended, comments made in Plenary, documents FAL 42/5/1 and FAL 42/8 and current practices; and
- .2 prepare a completed draft revised FAL.5/Circ.36 for consideration by the Committee at FAL 43.

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<sup>4</sup>

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## **9 UNSAFE MIXED MIGRATION BY SEA**

### **Background**

9.1 The Committee noted that at MSC 98, while considering the proposals of the International Chamber of Shipping (ICS) in response to the migrant crisis in the central Mediterranean region (MSC 98/16), Member States and international organizations had affirmed their concern for the humanitarian situation and the loss of life, and agreed that the way forward was to promote appropriate and effective action at the United Nations.

9.2 The Committee also noted that the Global Compact for Safe, Orderly and Regular Migration (global compact for migration) was a three-phase approach that could culminate in a United Nations-wide approach to address the issue and that the consultation phase had taken place from April to November 2017. The Committee had encouraged Member States and international organizations in consultative status to participate in that process.

9.3 The Committee further noted that the Secretary-General had been in contact with the International Organization for Migration (IOM) to organize a meeting among the relevant United Nations agencies to share views and to find possible measures to solve this complex problem, bearing in mind the remit of the Organization.

### **Inter-agency Meeting on Mixed Migration**

9.4 The Committee considered document FAL 42/9 (Secretariat), containing information on the Inter-agency Meeting on Mixed Migration, held at IMO Headquarters on 30 October 2017, following the invitation of the Secretary-General to the Heads of concerned international organizations and main stakeholders of the maritime industry.

9.5 The Committee noted that the record of views included in the annex to document FAL 42/9 had been submitted to the Special Representative of the Secretary-General for International Migration and to the Permanent Representatives of Mexico and Switzerland to the United Nations (the two co-facilitators to lead the intergovernmental consultations and negotiations on issues related to the global compact for migration), for their consideration at the stocktaking meeting held in Puerto Vallarta, Jalisco, Mexico, from 4 to 6 December 2017.

9.6 The Committee also noted that the Special Representative of the Secretary-General for International Migration wrote a letter to the Secretary-General on 25 January 2018, thanking him for the information, expressing her hopes that this topic would "feature prominently during the upcoming intergovernmental negotiations", and drawing attention to the United Nations Secretary-General's report "Making migration work for all".

9.7 The Committee further noted that the intergovernmental negotiations on the global compact for migration to be held at the United Nations Headquarters in New York would conclude by July 2018, in accordance with resolution 71/280, and the Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration would be held in Morocco, from 10 to 11 December 2018.

9.8 The Committee noted the outcome of the discussions at MSC 99, relevant to this agenda item, when it considered document MSC 99/18 (Secretariat), as set out in document MSC 99/22, paragraphs 18.9 to 18.11.

9.9 The Committee invited the Secretariat to inform FAL 43 of the progress made with the global compact for migration and the global compact on refugees.

## 10 CONSIDERATION AND ANALYSIS OF REPORTS AND INFORMATION ON PERSONS RESCUED AT SEA AND STOWAWAYS

### **Review of the Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution FAL.11(37)).**

10.1 The Committee recalled that FAL 41 had agreed to review the *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases* (resolution FAL.11(37)), to reflect the amendments to section 4 of the FAL Convention adopted by resolution FAL.12(40).

10.2 The Committee also recalled that FAL 41 had agreed that this matter could be treated as a minor correction without requiring a new output, and had requested the Secretariat to prepare a revised version of the Guidelines for consideration at this session. FAL 41 had also invited the Maritime Safety Committee to effect consequential minor amendments to resolution MSC.312(88).

10.3 In this regard, the Committee noted that MSC 99 had adopted resolution MSC.448(99) on *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases*.

10.4 When considering document FAL 42/10 (Secretariat), the Committee noted the following additional proposals on how to amend the resolution:

- .1 regarding stowaways who declared themselves as refugees:
  - .1 the need for inclusion of a new definition of refugee; and
  - .2 further guidance related to the confidentiality of this information;
- .2 further information regarding the general state in which the stowaway was found; and
- .3 statement of the master, including any observations on the credibility of the information provided by the stowaway.

10.5 The Committee instructed the Secretariat to prepare a document with a revised version of the new resolution, including the amendments made in plenary, for the consideration of the Committee on Friday, 7 June (FAL 42/WP.6).

10.6 The Committee agreed not to amend the resolution further than the editorial changes to the resolution, to reflect the amendments to the FAL Convention as agreed by FAL 41.

10.7 The Committee recalled that it had approved a new output on "Review and update of the annex to the FAL Convention" (see paragraph 14.1), and the changes proposed should be discussed during the review of the annex to the FAL Convention. The Committee therefore invited proposals in this regard to FAL 43.

10.8 The Committee adopted the *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases* (resolution FAL.13(42)), as set out in annex 1, which complement the Guidelines adopted by the Maritime Safety Committee by resolution MSC.448(99) and supersede the Guidelines set out in resolution FAL.11(37), and agreed to inform the Maritime Safety Committee accordingly.

### Findings of the Yaoundé seminar on stowaways

10.9 The Committee recalled that FAL 39 had considered the outcome of the Regional Seminar on Stowaways in West and Central Africa, held in Abidjan in March 2014, organized by IMO in close cooperation with the Port Management Association of West and Central Africa, and, while recognizing the value of the information provided, had agreed not to include the conclusions of the seminar under the process of general review of the FAL Convention, which was completed at FAL 40 with the adoption of resolution FAL.12(40).

10.10 The Committee considered document FAL 42/10/1 (Cameroon et al.), reporting on the outcome of a seminar on stowaways held in Yaoundé, Cameroon, and invited Member States and international organizations to submit proposals for amending the annex to the FAL Convention based on the recommendations adopted in the seminar in Yaoundé to the Correspondence Group on the Review and Update of the Annex to the FAL Convention (see paragraph 4.14) or to FAL 43.

10.11 The delegation of the Islamic Republic of Iran stressed the importance of these types of seminars, and offered to host a future regional seminar on stowaways.

### Consideration and analysis of reports and information on stowaways

10.12 The Committee noted that, in accordance with the amendments to the FAL Convention adopted by resolution FAL.12(40), public authorities had to report all stowaway incidents of which they became aware to the Secretary-General.

10.13 In terms of numbers of stowaways, the cases reported to the Organization were set out in the following table:

Year	2010	2011	2012	2013	2014	2015	2016	2017
Stowaway cases	253	73	90	70	61	28	55	63
Stowaways	721	193	166	203	120	80	163	157

10.14 The Committee noted that the total number of reports received by the Organization up to 31 December 2017 was 4,577, which involved 14,270 stowaways; and the fact that, despite the new facility provided in GISIS, the downward trend of notifications to IMO was pronounced, and the number of reports submitted was very low and, therefore, the statistics were not very reliable.

10.15 The Committee recalled resolution A.1074(28) on *Notification and circulation through the Global Integrated Shipping Information System (GISIS)*, and urged Member States and international organizations to provide timely and accurate information on stowaway cases to the Organization, making use of the GISIS module in accordance with Standard 4.7.1 of the FAL Convention.

10.16 The observer of the P&I Clubs noted that, following the provision of information to FAL 36 (FAL 36/6) and FAL 38 (FAL 38/6/2), a third data collection exercise had been carried out for the policy year from 20 February 2014 to 20 February 2015 ("2014/15"). The table below provides a summary of the data collected by the P&I Clubs:

Period of collection	Number of incidents	Number of stowaways	Total cost
2007/2008	842	1,955	\$14.3 million
2011/2012	774	1,640	\$15.3 million
2014/2015	503	1,274	\$9.3 million

10.17 The P&I Clubs noted that the total cost to the Clubs included fines imposed by some States not willing to assist in the disembarkation of the stowaways but that the total cost of stowaways to shipowners was even higher.

10.18 The P&I Clubs informed the Committee that a fourth data collection exercise, for the policy year 2017/18, had recently been initiated, the results of which should indicate whether or not there had been any improvement in the situation as a result of the two regional seminars organized by IMO in 2014.

10.19 The Committee expressed appreciation to the P&I Clubs for this information.

#### **Consideration and analysis of reports and information on persons rescued at sea**

10.20 The Committee noted that since the date of the launch of the Inter-agency platform for information-sharing on migrant smuggling by sea in GISIS<sup>5</sup> on 6 July 2015, only six incidents had been entered in the database.

10.21 Having noted the low level of reporting of migrant incidents at sea and on suspected smugglers and vessels, as requested by the *Interim measures for combating unsafe practices associated with the trafficking, smuggling or transport of migrants by sea* (MSC.1/Circ.896/Rev.2), the Committee encouraged Member States to provide and update the information included in the appendix via the Inter-agency platform for information-sharing on migrant smuggling by sea in GISIS.

### **11 TECHNICAL COOPERATION ACTIVITIES RELATED TO FACILITATION OF MARITIME TRAFFIC**

11.1 The Committee recalled that TC 67 had approved the Integrated Technical Cooperation Programme (ITCP) for 2018-2019, which included several activities relevant to the FAL Convention, to be implemented during the biennium.

11.2 The Committee noted that "Connecting ships, ports and people" had been selected as the World Maritime Day theme for 2017. The technical cooperation activities related to facilitation of maritime traffic were intended to contribute significantly to prosperity and stability ashore through promoting trade by sea, and enhancing the port and maritime sector as wealth creators both on land and, through developing a sustainable blue economy, at sea. By reducing paperwork and simplifying formalities and procedures associated with the arrival, stay and departure of ships on international voyages, ships, cargo and passengers should be able to transit smoothly from port to port. These activities also encouraged the use of modern information and communication technology and, in particular, electronic information exchange between ships and ports. The resulting efficiency would have a clear beneficial impact on trade facilitation, the economy and on the achievement of several Sustainable Development Goals.

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<sup>5</sup> Refer to Global Integrated Shipping Information System (GISIS) – Inter-agency platform for information-sharing on migrant smuggling by sea (Circular Letter No.3569).

11.3 The Committee considered document FAL 42/11 (Secretariat), reporting on the status of activities relevant to the implementation of the FAL Convention, as amended, conducted under ITCP in the period from December 2016 to December 2017, and noted that:

- .1 one regional seminar had been held in Thailand;
- .2 two national seminars had been held in Montenegro and Togo to promote accession to the FAL Convention, and to encourage better implementation of the FAL Convention; these seminars offered a better understanding of the FAL Convention and electronic means for the clearance of ships and the use of the single window concept and focused on improving the coordination between public authorities and the private sector in ports; and
- .3 two feasibility studies to expand NEAL-NET, as a logistics information framework using standard technology, had been carried out in Cambodia and Myanmar; these studies were completed between February and September 2017, co-funded by IMO and China; recipient countries could present the feasibility studies to international funding organizations, such as the World Bank or the Asian Development Bank, asking for finance coverage to establish the NEAL-NET system in countries.

11.4 The Committee noted the information provided by the Secretariat on the project to implement an MSW in Antigua and Barbuda, an initiative of Norway that provided in-kind and financial support. It noted in particular that the first mission to Antigua and Barbuda had taken place in October 2017 and further information on the project would be presented at FAL 43. In expressing their gratitude, the delegation of Antigua and Barbuda expressed its hope that this MSW system would be fit for purpose and replicated throughout the Caribbean.

11.5 The Committee further noted that a national seminar on the facilitation of international maritime traffic had been held in Mozambique in March 2018.

11.6 The delegation of Cameroon provided an update on progress made since a facilitation-related activity previously reported to FAL 39. Cameroon had implemented recommendations on information portals and established two online trade portals named "Cameroon Trade Hub" ([www.cameroontradedhub.cm](http://www.cameroontradedhub.cm)) and "Cameroon Trade Portal" ([www.cameroontradeportal.cm](http://www.cameroontradeportal.cm)), which provided online, in the two official languages of the country, which were French and English, complete and updated information concerning importation, exportation and transit procedures including port, airport and other entry-point procedures such as road. The portals also provided information on the fees, charges, taxes, forms and documents required. The delegation of Cameroon informed further that the "Cameroon Trade-Up" system, a commercial single window system supporting vessels visiting Cameroon, was now online. Further information would be provided to TC 68.

## **12 RELATIONS WITH OTHER ORGANIZATIONS**

### **Relations with non-governmental organizations**

12.1 In considering document FAL 42/12 (Secretariat), the Committee noted the relevant decisions of C 118 and C/ES.29 in respect of relations with non-governmental organizations and applications for consultative status and related matters.

### **13 APPLICATION OF THE COMMITTEE'S PROCEDURES ON ORGANIZATION AND METHOD OF WORK**

#### **Draft revised Rules of Procedure of the Facilitation Committee**

13.1 The Committee recalled that C 116 had agreed to harmonize the terms of office in the Rules of Procedure of the committees (and by extension sub-committees), to limit the total term of office of the Chair and Vice-Chair to five years, and to establish the use of the new gender-neutral term "Chair" in the Rules of Procedure.

13.2 The Committee recalled it had agreed to revise the Rules of Procedure of the Committee, using this opportunity to harmonize the provisions in the Rules of the FAL Committee with the draft Rules of MSC and MEPC, for the benefit of the committees, as well as that of the delegations.

13.3 The Committee recalled that FAL 41 had consequently agreed:

- .1 to limit the term of office of the Chair and Vice-Chair to five years, with the possibility of one additional year in exceptional circumstances;
- .2 to introduce the new gender-neutral term "Chair" and related gender-neutral language;
- .3 that 25% of the membership (i.e. 43 Member States taking into account the number of Member States at that time, i.e. 172) constituted a quorum;
- .4 that rule 3 (Sessions) would be reconsidered by FAL 42 in the light of the decision of other committees;
- .5 that the Rules of Procedure, other than rule 3, were agreed; and
- .6 that the Rules of Procedure would be held in abeyance until the issue of rule 3 had been resolved, whereupon the revised Rules of Procedure of the Facilitation Committee would be approved, as appropriate.

13.4 The Committee noted that LEG 104 had adopted revised Rules of Procedure of the Legal Committee, and that MSC 98 had agreed to modify the draft Rules of Procedure of the Maritime Safety Committee, using the same text as agreed at LEG 104 (LEG 104/15, annex 8), to harmonize the committees' Rules of Procedure, in particular rules 3 and 34.1.

13.5 The Committee also noted that MEPC 71 had agreed, in line with the decisions of LEG 104 and MSC 98, that the holding of an extraordinary session with budgetary implications should be subject to the approval of the Council, and had approved the revised Rules of Procedure of the Marine Environment Protection Committee.

13.6 The Committee further noted that C 118 had endorsed the final text of the amended Rules of Procedure of the Council, and had agreed to limit the term of office for its Chair and Vice-Chair, so that they would both be eligible for re-election for a maximum of two consecutive terms, with the possibility of one additional term in exceptional circumstances.

13.7 The Committee, having agreed to align rules 3 and 34.1 of the Rules of Procedure of the FAL Committee with rules 3 and 34.1 of the Rules of Procedure of the other committees, adopted the revised Rules of Procedure of the Facilitation Committee, as set out in annex 2.

## **Amendments to the document on Organization and method of work of the Facilitation Committee**

13.8 The Committee recalled that FAL 41 had approved FAL.3/Circ.212 on *Organization and method of work of the Facilitation Committee*, revoking FAL.3/Circ.211.

13.9 Pursuant to the instruction of resolution A.1111(30) to review and revise during the 2018-2019 biennium the document on the organization and method of its work, taking account of the document on *Application of the Strategic Plan of the Organization* (resolution A.1111(30)), as appropriate, the Committee considered the draft revised FAL circular on Organization and method of work of the Facilitation Committee, set out in the annex to document FAL 42/13 (Secretariat).

13.10 The Committee approved FAL.3/Circ.214 on *Organization and method of work of the Facilitation Committee*.

## **14 WORK PROGRAMME**

### **Proposal for a new output on the review and update of the annex to the FAL Convention**

14.1 The Committee considered document FAL 42/14 (Turkey), proposing a new output on the review and update of the annex to the FAL Convention, and agreed to include in the 2018-2019 biennial agenda of the FAL Committee and the provisional agenda for FAL 43, an output on "Review and update of the annex to the FAL Convention", with a target completion year of 2021. The Committee agreed that the Correspondence Group on the Review and Update of the Annex to the FAL Convention (see paragraph 4.13) should not commence its work until the new output had been endorsed by C 120.

14.2 The delegation of Bangladesh informed the Committee that seafarers were still facing problems with shore leave in some ports. The statement of Bangladesh is set out in annex 7.

### **Proposal to extend the scope of the existing output on "Review and revision of the IMO Compendium on Facilitation and Electronic Business"**

14.3 The Committee considered document FAL 42/14/1 (Liberia et al.), proposing to extend the scope of output 5.8 (Review and revision of the IMO Compendium on Facilitation and Electronic Business) to include additional e-business solutions different to the ones related to the FAL Convention, and to establish a maritime register (database) containing data element identities of IMO data elements required to comply with the FAL Convention/Compendium, and data sets from other international bodies such as ISO, UNECE and WCO, together with document FAL 42/INF.2 (IHMA), supporting the proposal.

14.4 Some delegations expressed their concern that establishing a maritime register might have a financial impact on the Organization, and further information would be needed at the next session of the FAL Committee, which could also take into account the work done by the International Hydrographic Organization (IHO), the International Electrotechnical Commission, the International Association of Marine Aids to Navigation and Lighthouse Authorities and ISO in this regard.

14.5 Following discussion, the Committee agreed to extend the existing output 5.8 and change the title to "Review and revision of the IMO Compendium on Facilitation and Electronic Business, including additional e-business solutions", with a target completion year of 2021.

**Proposal for a new output to amend the *Recommendations on the establishment of national facilitation committees (FAL.5/Circ.2)***

14.6 The Committee considered document FAL 42/14/2 (Montenegro and Turkey), proposing to revise the *Recommendations on the establishment of national facilitation committees (FAL.5/Circ.2)*. During the discussion, some delegations expressed the view that the compelling need to conduct this work had not been fully established. Recalling the decision to instruct the Secretariat to collect information on national maritime transport facilitation committees (see paragraph 16.11), some delegations expressed the view that the proposal of this new output should be considered by the Committee once it had analysed the information.

14.7 However, the majority of delegations that spoke supported the proposal and the Committee agreed to include in the 2018-2019 biennial agenda of the FAL Committee and the provisional agenda for FAL 43 an output on "Development of amendments to the *Recommendations on the establishment of national facilitation committees (FAL.5/Circ.2)*", with a target completion year of 2020.

**Proposed circular on creating a tool to measure domestic implementation of the FAL Convention**

14.8 The Committee considered document FAL 42/14/3 (Chile) proposing to develop guidelines for creating a tool to measure domestic implementation of the FAL Convention, and agreed to include in the 2018-2019 biennial agenda of the FAL Committee and the provisional agenda for FAL 43 an output on "Development of guidelines on creating a tool to measure domestic implementation of the FAL Convention", with a target completion year of 2020.

14.9 One delegation expressed the view that it would be useful in the preparation of the guidelines to take into account United Nations Centre for Trade Facilitation and Electronic Business Recommendation No.42, *Establishment of a Trade and Transport Facilitation Monitoring Mechanism*.

**Endorsement of new outputs**

14.10 In accordance with the relevant provisions of the Assembly resolution on *Application of the Strategic Plan of the Organization* (resolution A.1111(30)), the Committee invited C 120 to endorse, for inclusion in the current list of outputs, the following three new outputs agreed by the Committee:

- .1 Review and update of the annex to the FAL Convention (paragraph 14.1);
- .2 Development of amendments to the *Recommendations on the establishment of national facilitation committees (FAL.5/Circ.2)* (paragraph 14.6); and
- .3 Development of guidelines on creating a tool to measure domestic implementation of the FAL Convention (paragraph 14.8).

14.11 In accordance with the relevant provisions of the *Application of the Strategic Plan of the Organization* (resolution A.1111(30)), the Committee invited C 120 to endorse, for inclusion in the 2018-2019 biennium, the decision to replace the description of the following existing outputs:

- .1 output 5.6, replace the title to read "Guidelines for setting up a maritime single window" (FAL 42/17, paragraph 8.10); and



- .2 output 5.8, replace the title to read: "Review and revision of the IMO Compendium on Facilitation and Electronic Business, including additional e-business solutions" (FAL 42/17, paragraph 14.5).

### **Biennial status report of the Facilitation Committee**

14.12 The Committee endorsed the status of planned outputs for the 2018-2019 biennium, which had been prepared by the Secretariat in consultation with the Chair, and consequently invited C 120 to note the report on the status of outputs of the Facilitation Committee, as set out in annex 3.

### **Post-biennial agenda of the Committee**

14.13 The Committee endorsed the status of planned outputs accepted as post-biennial outputs for the 2018-2019 biennium, which had been prepared by the Secretariat in consultation with the Chair, and consequently invited C 120 to note the post-biennial agenda of the Facilitation Committee, as set out in annex 4.

### **Number of meeting days for the Committee and number of meeting weeks for the biennium 2020-2021**

14.14 The Committee recalled that FAL 40 had agreed to meet in future in regular sessions once a year, and to reduce the meeting days of the Committee to four days with eight associated interpretation sessions, applicable from FAL 41 and to subsequent sessions of the Committee, and that the duration of the sessions would be reviewed periodically, taking into account the workload of the agenda.

14.15 The Committee, noting that the current arrangement of four-day meetings did not give enough time for working groups to complete their work and, taking into account that the provisional agenda for FAL 43 had included four additional new outputs, agreed that subsequent meetings of the Committee should last five days with eight associated interpretation sessions. This decision would be applicable to FAL 43 and subsequent sessions of the Committee, and the duration of the sessions would be reviewed periodically taking into account the workload of the agenda. The Committee requested the Council to approve this arrangement.

14.16 Some delegations expressed concern about the possible budgetary impact of this decision, and the Secretariat explained that the impact on the budget would not be significant, taking into account that the number of interpretation sessions would not increase. One delegation asked the Secretariat to provide further information to C 120 on the budgetary implications of such extension.

14.17 The Committee agreed to hold one meeting during 2020 and one meeting during 2021 (five days with eight associated interpretation sessions for each meeting), and invited the Secretary-General to prepare relevant budgetary proposals for the biennium 2020-2021, for consideration by the Council, with a view to approval by the thirty-first regular session of the Assembly in November 2019.

### **Substantive items for inclusion in the agenda for FAL 43**

14.18 Having considered the proposals in document FAL 42/WP.3, the Committee agreed to the substantive items to be included in the agenda of its forty-third session, as set out in annex 5.

**Establishment of working and drafting groups at FAL 43**

14.19 The Committee, taking into account the decisions made under various agenda items, anticipated that working and drafting groups would be established on electronic business and on the review of the Explanatory Manual to the FAL Convention.

14.20 The Committee further agreed that, should the need arise, FAL 43 could determine any other working or drafting groups that might need to be established when considering the various agenda items and requested the Secretariat, in consultation with the Chair, to prepare and circulate the provisional timetable for FAL 43 and a list of the likely working or drafting groups to be established for consideration by FAL 43.

**Date and venue of the next session**

14.21 The Committee noted that FAL 43 was scheduled to take place from 8 to 12 or 9 to 12 April 2019, subject to the decision of C 120.

**15 ELECTION OF CHAIR AND VICE-CHAIR FOR 2019**

15.1 In accordance with its Rules of Procedure, the Committee unanimously elected Mrs. Marina Angsell (Sweden) as Chair and Mr. Moises de Gracia (Panama) as Vice-Chair, both for 2019.

**Expression of appreciation**

15.2 The Committee expressed sincere thanks and appreciation to Mr. Yury Melenas (Russian Federation) for his excellent services to the Committee during the last six years when he served as the Chair of the Committee.

**16 ANY OTHER BUSINESS****Revision of the *Revised list of existing publications relevant to areas and topics relating to the ship/port interface* (FAL.6/Circ.14)**

16.1 The Committee recalled that FAL 41, when considering document FAL 41/16/3 (ICHCA) proposing to update the *Revised list of existing publications relevant to areas and topics relating to the ship/port interface* (FAL.6/Circ.14), agreed to instruct the Secretariat to carry out a comprehensive review of the Revised List, in conjunction with other interested organizations, as appropriate, and to inform FAL 42 accordingly.

16.2 The Secretariat informed the Committee that, since FAL 41, it had received updated lists of publications of some of the organizations referred to in the above-mentioned circular, namely the United Nations Conference on Trade and Development, IHO, ICS, BIMCO, the International Association of Classification Societies, INTERTANKO, the Society of International Gas Tanker and Terminal Operators, the International Cargo Handling Coordination Association (ICHCA), the International Petroleum Industry Environmental Conservation Association and the World Association for Waterborne Transport Infrastructure (PIANC).

16.3 The Committee considered documents FAL 42/16/4 and FAL 42/16/5 (OCIMF), with the update of Oil Companies International Marine Forum (OCIMF) publications that should be deleted from or included in, as appropriate, the Revised List.

## **Establishment of a drafting group on the review of FAL.6/Circ.14**

16.4 The Committee agreed to establish a drafting group, and instructed it, taking into account documents FAL 42/16/2, FAL 42/16/4 and FAL 42/16/5, and the comments made and decisions taken in plenary, to prepare the revised text of the *Revised list of existing publications relevant to areas and topics relating to the ship/port interface* (FAL.6/Circ.14).

### **Report of the drafting group**

16.5 Having considered the report of the drafting group (FAL 42/WP.7), the Committee approved the revised *List of publications relevant to areas and topics relating to the ship/port interface* (FAL.6/Circ.14/Rev.1).

## **National maritime transport facilitation programmes and committees**

16.6 The Committee considered document FAL 42/16 (Secretariat), containing an outline of the Organization's guidance on national maritime transport facilitation programmes and committees, recalling that the need to establish national and regional committees in order to promote and coordinate measures to improve the facilitation of maritime transport was recognized by the framers of the FAL Convention in 1965 through resolution 3 of the International Conference on Facilitation of Maritime Travel and Transport.

16.7 The Committee also recalled that FAL 19 had adopted resolution FAL.2(19) on *Amendments to the annex to the FAL Convention*, which included what eventually became Recommended Practices 7.11 and 7.12.

16.8 The Committee noted that no notifications with respect to Recommended Practices 7.11 and 7.12 of the FAL Convention had been included in the database on "Notifications pursuant to article VIII of the FAL Convention", established in the public area of GISIS.

16.9 The Committee also noted that the *Guidelines for the establishment, membership and operation of national facilitation committees* (FAL.5/Circ.2) situated national maritime transport facilitation committees within the wider context of national facilitation committees and programmes and set out basic guidelines for the establishment, membership and operation of national maritime facilitation committees. However, the information contained therein was nearly 30 years old and some updating would be necessary in the light of Member States' experience and developments since it was written, on issues such as new Standards and Recommended Practices in the FAL Convention; security measures including the Special measures to enhance maritime security (SOLAS chapter XI-2 and the ISPS Code), the ILO/IMO Code of practice on security in ports, and the WCO SAFE Framework of Standards to secure and facilitate global trade; safety issues that impact on port operations, for example container verification of gross mass of containers; and environmental issues including the provision of port reception facilities in compliance with MARPOL.

16.10 The Committee further noted that, during facilitation-related technical cooperation activities, the Secretariat had found a lack of national maritime facilitation committees and programmes in some Member States and the need for more comprehensive and up-to-date guidance.

16.11 The Committee also noted that Signatory States to the Jeddah Amendment to the Djibouti Code of Conduct, 2017, had committed to the establishment of a multi-agency, multi-disciplinary national maritime security and facilitation committee, or similar system.

16.12 The Committee, recognizing the importance of establishing national maritime transport facilitation committees and implementing national maritime facilitation programmes, agreed:

- .1 to request Contracting Governments that had national maritime facilitation committees and programmes, or similar arrangements in accordance with Recommended Practices 7.11 and 7.12, to update the "Notifications pursuant to article VIII of the FAL Convention" in the GISIS database;
- .2 that the development of best practice guidance on national maritime facilitation committees and programmes would be of benefit to Member States;
- .3 to request the Secretariat to collect and collate information from Member States on national maritime facilitation committees and programmes, for consideration at a future session of the Committee, as appropriate;
- .4 to invite Contracting Governments that had national maritime facilitation committees and programmes to share information on:
  - .1 terms of reference for national maritime facilitation committees;
  - .2 composition and methods of work of national maritime facilitation committees;
  - .3 contents of national maritime facilitation programmes;
  - .4 interaction between national maritime facilitation committees and wider national facilitation committees, maritime security bodies and port-level committees; and
  - .5 any national legislation adopted to give legal force to the national maritime facilitation programme; and
- .5 to request the Secretariat to develop a corresponding database in the facilitation module in GISIS to collect the information listed in sub-paragraph .4 above.

#### **Difficulties in shipments of IMDG Code class 7 radioactive materials**

16.13 The Committee considered document FAL 42/16/1 (WNTI), containing information on the continuing difficulties encountered with the shipment of IMDG Code class 7 radioactive materials and proposing to encourage Member States to reinforce the messages in previous IMO circulars and resolutions to facilitate the shipments of IMDG Code class 7 radioactive materials, and to encourage non-governmental organizations with consultative status, in particular the representatives of the shipping industry, to actively promote and facilitate through their members the shipments of IMDG Code class 7 radioactive materials.

16.14 The Committee noted that it had not considered issues related to the difficulties in shipments of IMDG Code class 7 radioactive materials since FAL 39 and that the Secretariat had taken action to address this issue, in particular the harmonization of transport regulations for class 7 radioactive materials, e.g. the ongoing discussion between the CCC Sub-Committee and the Transport Safety Standards Committee of the International Atomic Energy Agency (IAEA) for clarification of TI and CSI limits for freight container and total vessel.

16.15 The Committee noted that, according to the information provided by the Secretariat, the complex regulatory system for transport of class 7 radioactive materials derived from IAEA safety standards SSR-6, United Nations Model Regulations, and that the Secretariat was working closely with relevant United Nations agencies and organizations towards harmonized regulations on issues surrounding the delays and denials of shipments of class 7 radioactive materials. In addition, the Secretariat had continued to undertake technical cooperation activities in support of the implementation of the IMDG Code and encouraged Member States wishing to support, or being in need of, such activities to contact the Secretariat.<sup>6</sup>

16.16 The Committee agreed to:

- .1 encourage Member States to reinforce the messages in previous IMO circulars and resolutions to facilitate the shipments of IMDG Code class 7 radioactive materials;
- .2 encourage non-governmental organizations with consultative status, in particular the representatives of the shipping industry, to actively promote and facilitate through their members the shipments of IMDG Code class 7 radioactive materials;
- .3 invite submissions for further information and data regarding the delay and denial of shipment of radioactive materials, in particular any major issues and causes affecting timely shipment;
- .4 request the Secretariat, when conducting technical cooperation activities to support the implementation of the IMDG Code, to include matters related to the safe and efficient transport of radioactive materials;
- .5 invite CCC 5 to consider whether any training materials for the safe and efficient transport of radioactive materials were needed (e.g. a model course) and advise FAL 43 accordingly; and
- .6 invite Member States and international organizations to consider the need to review FAL.6/Circ.12 and resolution A.984(24), and if there were a need, to make a proposal for a new output accordingly.

### **Maritime corruption: impact on global trade, port governance and seafarers**

16.17 The Committee considered document FAL 42/16/3 (ICS et al.) describing how maritime corruption had a negative effect, impeded social and economic development and could contribute to other risks such as security in ports and on board ships and affect the well-being, health and safety of seafarers.

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<sup>6</sup> Email: [tcdregistry@imo.org](mailto:tcdregistry@imo.org)

16.18 In the ensuing discussion, the following views were expressed:

- .1 corruption was a serious problem for shipmasters and shipowners that had had high costs and a negative impact on the image of the maritime industry;
- .2 the statement of the International Federation of Shipmasters' Associations (IFSMA) is set out in annex 7;
- .3 the Maritime Anti-Corruption Network (MACN) was a very valuable platform for businesses to contribute to the elimination of corrupt practices in the maritime industry;
- .4 corruption was a sensitive subject in most countries;
- .5 corruption was a two-way process with some shipmasters trying to seek preferential treatment;
- .6 IMO should play an active role in this matter, and the use of GISIS was suggested as a platform for crews and shipowners to report corrupt practices to the countries where the incident happened, bearing in mind the importance of confidentiality and the presumption of innocence;
- .7 corrupt practices were recognized as criminal acts in some national legislations;
- .8 the World Maritime University informed on the work carried out on corruption, including the creation of a new module within its Masters programme called Maritime Business Integrity and Corruption Awareness, known in short as CORA; the statement of WMU is set out in annex 7;
- .9 regional seminars on corruption organized by the Organization, similar to the ones on stowaways, would be advisable; and
- .10 a holistic approach was desirable.

16.19 The Committee agreed that corruption had a significant impact on the image of the maritime industry and ports, and on the facilitation of maritime traffic and security of port operations.

16.20 The Committee requested the Secretariat, in coordination with the Legal Affairs and External Relations Division, to provide its advice on the possible way forward to address this problem to FAL 43, including alternatives for using GISIS as a reporting mechanism.

16.21 Some delegations expressed the view that the Committee should refrain from requesting the Secretariat to take action, as more information was needed to make sound decisions on this important and sensitive issue.

16.22 One delegation advised the Committee that the Organization sometimes intervened in cases involving the abandonment of seafarers.

16.23 The Committee invited Member States and international organizations to submit documents to FAL 43 with suggested actions to address this problem.

### **Creation of a collaborative web-based workspace**

16.24 The Committee recalled that FAL 41, while recognizing the potential benefits of implementing a collaborative web-based workspace in the Organization, had:

- .1 agreed that the discussion should not be considered further by committees but by the Council;
- .2 invited Member States to submit proposals for the creation of a collaborative web-based workspace to C 118; and
- .3 instructed the Secretariat to present further information to the Council, with details on the collaborative web-based workspace, in particular on accessibility to the system and the budgetary implications for the development and maintenance of the system.

16.25 In this regard, the Committee noted that C 118, having noted the general support for the creation of a collaborative web-based workspace, had requested the Secretary-General to inform C 120 on accessibility to the proposed IMOSpace; cybersecurity; additional financial and administrative resources required; and availability of an alternative open-source web-based workspace.

### **Guidelines on maritime cyber risk management**

16.26 The Committee, having recalled that FAL 41 had approved a joint MSC-FAL.1 circular on *Guidelines on maritime cyber risk management*, subject to a concurrent decision by MSC 98, noted that MSC 98 had approved MSC-FAL.1/Circ.3 on *Guidelines on maritime cyber risk management*, superseding the interim guidelines contained in MSC.1/Circ.1526.

## **17 ACTION REQUESTED OF OTHER IMO BODIES**

17.1 The Assembly, at its thirty-first session, is invited to:

- .1 note that the Committee has revised its Rules of Procedure, taking into account the outcome of C 116 (paragraphs 13.1 to 13.7 and annex 2); and
- .2 note that the Committee revised the *Organization and method of work of the Facilitation Committee*, as requested by the Assembly (resolution A.1111(30)), for dissemination by means of FAL.3/Circ.214 (paragraph 13.10).

17.2 The Council, at its 120th session, is invited to:

- .1 consider the report of the forty-second session of the Facilitation Committee and, in accordance with Article 21(b) of the IMO Convention, transmit the report, with its comments and recommendations, to the thirty-first session of the Assembly (paragraphs 1.1 to 17.1);
- .2 note the decision of the Committee to instruct the Secretariat to review the final report of the Ad Hoc Steering Group for Reducing Administrative Requirements (SG-RAR) established by the Council (C 113/11), the Inventory of administrative requirements (C 108/INF.2) and the list of outputs of the committees, as a starting point to identify elements relevant to implementation of the single window concept, which will be shared in a timely manner with the committees and the Council (paragraphs 5.18 to 5.20);

- .3 note the adoption of the *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases* (resolution FAL.13(42)), which complement the Guidelines adopted by MSC by resolution MSC.448(99) and supersede the Guidelines set out in resolution FAL.11(37) (paragraph 10.8 and annex 1);
  - .4 note that the Committee revised its Rules of Procedure, taking into account the outcome of C 116 (paragraphs 13.1 to 13.7 and annex 2);
  - .5 note that the Committee revised the *Organization and method of work of the Facilitation Committee*, as requested by the Assembly (resolution A.1111(30)), for dissemination by means of FAL.3/Circ.214 (paragraph 13.10);
  - .6 endorse the decision of the Committee to include three new outputs in its 2018-2019 biennial agenda (paragraph 14.10);
  - .7 endorse the decision of the Committee to amend the descriptions of two outputs (paragraph 14.11);
  - .8 note the status report of the outputs of the Committee for the 2018-2019 biennium (paragraph 14.12 and annex 3);
  - .9 note the updated post-biennial agenda of the Committee (paragraph 14.13 and annex 4);
  - .10 endorse the decision of the Committee to establish, starting from 2019, five-day meetings, with eight associated interpretation sessions (paragraphs 14.15 and 14.16);
  - .11 endorse the decision of the Committee to hold one meeting during 2020 and one meeting during 2021 (five days with eight associated interpretation sessions for each meeting) (paragraph 14.17); and
  - .12 note the approval of the *Revised list of existing publications relevant to areas and topics relating to the ship/port interface* (FAL.6/Circ.14/Rev.1) (paragraph 16.5).
- 17.3 The Maritime Safety Committee, at its 100th session, is invited to note the report of the Committee and, in particular, to:
- .1 note the discussion related to the use of electronic certificates (paragraphs 5.11 to 5.15);
  - .2 note the decision of the Committee to instruct the Secretariat to review the final report of the Ad Hoc Steering Group for Reducing Administrative Requirements (SG-RAR) established by the Council (C 113/11), and the Inventory of administrative requirements (C 108/INF.2) and the list of outputs of the committees, as a starting point to identify elements relevant to implementation of the single window concept, which will be shared in a timely manner with the committees and the Council (paragraphs 5.18 to 5.20);



- .3 note the decision of the Committee on the maritime single window prototype (paragraph 5.21);
  - .4 note the progress on the review of the IMO Compendium on Facilitation and Electronic Business (paragraphs 6.8 to 6.12);
  - .5 note the outcome of the Committee's consideration in regard to unsafe mixed migration at sea (section 9);
  - .6 note the adoption of the *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases* (resolution FAL.13(42)), which complement the Guidelines adopted by MSC by resolution MSC.448(99) and supersede the Guidelines set out in resolution FAL.11(37) (paragraph 10.8 and annex 1);
  - .7 note the discussions related to the findings of the Yaoundé seminar on stowaways (paragraphs 10.9 to 10.10);
  - .8 note the outcome of the consideration and analysis of reports and information on stowaways (paragraphs 10.12 to 10.18);
  - .9 note the outcome of the consideration and analysis of reports and information on persons rescued at sea (paragraphs 10.20 to 10.21);
  - .10 note that the Committee revised its Rules of Procedure, taking into account the outcome of C 116 (paragraphs 13.1 to 13.7 and annex 2);
  - .11 note that the Committee revised the *Organization and method of work of the Facilitation Committee*, as requested by the Assembly (resolution A.1111(30)), for dissemination by means of FAL.3/Circ.214 (paragraph 13.10);
  - .12 note the approval of the *Revised list of existing publications relevant to areas and topics relating to the ship/port interface* (FAL.6/Circ.14/Rev.1) (paragraph 16.5);
  - .13 note the outcome of discussions on the national maritime transport facilitation programmes and committees (paragraphs 16.6 to 16.12); and
  - .14 note the outcome of the Committee's consideration on difficulties in shipments of IMDG Code class 7 radioactive materials (paragraphs 16.13 to 16.16).
- 17.4 The Marine Environment Protection Committee, at its seventy-third session, is invited to note the report of the Committee and, in particular, to:
- .1 note the outcome of the Committee's consideration on use of electronic certificates (paragraphs 5.11 to 5.15);
  - .2 note the decision of the Committee to instruct the Secretariat to review the final report of the Ad Hoc Steering Group for Reducing Administrative Requirements (SG-RAR) established by the Council (C 113/11), the Inventory of administrative requirements (C 108/INF.2) and the list of outputs

- of the committees, as a starting point to identify elements relevant to implementation of the single window concept, which will be shared in a timely manner with the committees and the Council (paragraphs 5.18 to 5.20);
- .3 note the decision of the Committee on the maritime single window prototype (paragraph 5.21);
- .4 note the progress on the review of the IMO Compendium on Facilitation and Electronic Business (paragraphs 6.8 to 6.12);
- .5 note that the Committee revised its Rules of Procedure, taking into account the outcome of C 116 (paragraphs 13.1 to 13.7 and annex 2);
- .6 note that the Committee revised the *Organization and method of work of the Facilitation Committee*, as requested by the Assembly (resolution A.1111(30)), for dissemination by means of FAL.3/Circ.214 (paragraph 13.10);
- .7 note the approval of the *Revised list of existing publications relevant to areas and topics relating to the ship/port interface* (FAL.6/Circ.14/Rev.1) (paragraph 16.5); and
- .8 note the outcome of discussions on the national maritime transport facilitation programmes and committees (paragraphs 16.6 to 16.12).

17.5 The Technical Cooperation Committee, at its sixty-ninth session, is invited to note the report of the Committee and, in particular, to:

- .1 note the decision of the Committee to instruct the Secretariat to review the final report of the Ad Hoc Steering Group for Reducing Administrative Requirements (SG-RAR) established by the Council (C 113/11), the Inventory of administrative requirements (C 108/INF.2) and the list of outputs of the committees, as a starting point to identify elements relevant to implementation of the single window concept, which will be shared in a timely manner with the committees and the Council (paragraphs 5.18 to 5.20);
- .2 note the decision of the Committee on the maritime single window prototype (paragraph 5.21);
- .3 note the discussions related to the findings of the Yaoundé seminar on stowaways (paragraphs 10.9 to 10.10);
- .4 note the offer of the Islamic Republic of Iran (paragraph 10.11);
- .5 note the information related to technical cooperation activities related to the facilitation of maritime traffic (section 11);
- .6 note that the Committee revised its Rules of Procedure, taking into account the outcome of C 116 (paragraphs 13.1 to 13.7 and annex 2);
- .7 note that the Committee revised the *Organization and method of work of the Facilitation Committee*, as requested by the Assembly (resolution A.1111(30)), for dissemination by means of FAL.3/Circ.214 (paragraph 13.10);

- .8 note the invitation to Member States wishing to support, or being in need of, technical cooperation activities in support of the implementation of the IMDG Code, to contact the Secretariat (paragraph 16.15);<sup>7</sup> and
- .9 request the Secretariat, when conducting technical cooperation activities to support the implementation of IMDG Code, to include matters related to the safe and efficient transport of radioactive materials (paragraph 16.16.4).

17.6 The Legal Committee, at its 106th session, is invited to note the report of the Committee and, in particular, to:

- .1 note the discussion and decisions of the Committee on the legal status of the appendices to the FAL Convention (paragraphs 3.2 to 3.7);
- .2 note the discussion related to the use of electronic certificates (paragraphs 5.11 to 5.15);
- .3 note the decision of the Committee to instruct the Secretariat to review the final report of the Ad Hoc Steering Group for Reducing Administrative Requirements (SG-RAR) established by the Council (C 113/11), the Inventory of administrative requirements (C 108/INF.2) and the list of outputs of the committees, as a starting point to identify elements relevant to implementation of the single window concept, which will be shared in a timely manner with the committees and the Council (paragraphs 5.18 to 5.20);
- .4 note the decision of the Committee on the maritime single window prototype (paragraph 5.21);
- .5 note the outcome of the Committee's consideration in regard to unsafe mixed migration at sea (section 9);
- .6 note that the Committee revised its Rules of Procedure, taking into account the outcome of C 116 (paragraphs 13.1 to 13.7 and annex 2);
- .7 note that the Committee revised the *Organization and method of work of the Facilitation Committee*, as requested by the Assembly (resolution A.1111(30)), for dissemination by means of FAL.3/Circ.214 (paragraph 13.10); and
- .8 note the outcome of the Committee's consideration on maritime corruption, including the request to the Secretariat, in coordination with the Legal Affairs and External Relations Division, to provide its advice on the possible way forward to address this problem to FAL 43, including alternatives for using GISIS as a reporting mechanism (paragraphs 16.17 to 16.23).

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<sup>7</sup> Email: [tcdregistry@imo.org](mailto:tcdregistry@imo.org)

17.7 The Sub-Committee on Carriage of Cargoes and Containers, at its fifth session, is invited to:

- .1 note the outcome of the Committee's consideration on difficulties in shipments of IMDG Code class 7 radioactive materials (paragraphs 16.13 to 16.16); and
- .2 consider whether any training materials for the safe and efficient transport of radioactive materials are needed (e.g. a model course) and advise FAL 43 accordingly (paragraph 16.16.5).

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**ANNEX 1**

**RESOLUTION FAL.13(42)  
(adopted on 8 June 2018)**

**REVISED GUIDELINES ON THE PREVENTION OF ACCESS BY STOWAWAYS AND 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 (FAL Convention), and in particular article III thereof,

RECALLING 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* (resolution A.871(20)),

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

RECALLING FURTHER that it adopted, in accordance with article VII(2)(a) of the FAL Convention, at its twenty-ninth session, on 10 January 2002, amendments to the Convention on Facilitation of International Maritime Traffic, 1965, as amended (resolution FAL.7(29)), 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), 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 the ship after it has departed from a port, or in the cargo while unloading it in the port of arrival, and is 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 masters and shipping companies, shipowners and ship operators when stowaways are to be disembarked from ships into the care of the appropriate authorities,

AGREEING 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,

AGREEING ALSO 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 cooperation among all authorities and persons concerned,

BELIEVING ALSO that, in normal circumstances, through such cooperation, 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 the *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases* (resolution MSC.312(88)),

NOTING ALSO that, at its thirty-seventh session, it adopted the *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases* (resolution FAL.11(37)),

RECALLING that, at its fortieth session, it adopted amendments to the annex to the FAL Convention (resolution FAL.12(40)), which included amendments to section 4 (Stowaways),

AGREEING that these amendments should be reflected in the revised guidelines as adopted by resolution FAL.11(37),

NOTING that the Maritime Safety Committee, at its ninety-ninth session, adopted the Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution MSC.448(99)),

1 ADOPTS the *Revised guidelines on the prevention of access by stowaways and 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 ALSO URGES Governments to deal with stowaway cases in a spirit of cooperation with other parties concerned, on the basis of the allocation of responsibilities set out in the annexed Guidelines as from 1 July 2018;

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 cooperation with the industry, comprehensive strategies to improve access control and prevent intending stowaways from gaining access to ships;

6 RESOLVES 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 light of the developments;

7 REVOKES resolution FAL.11(37) on *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases*;

8 REQUESTS the Assembly to endorse the action taken by the Maritime Safety Committee and the Facilitation Committee.

## ANNEX

### REVISED GUIDELINES ON THE PREVENTION OF ACCESS BY STOWAWAYS AND THE ALLOCATION OF RESPONSIBILITIES TO SEEK THE SUCCESSFUL RESOLUTION OF STOWAWAY CASES

#### 1 Introduction

1.1 Masters, shipowners, public authorities, port authorities and other stakeholders, including those providing security services ashore, have a responsibility to cooperate to the fullest extent possible in order:

- .1 to prevent stowaway incidents; and
- .2 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 for an unreasonable amount of time.

1.2 However, no matter how effective port and ship security measures are, it is recognized that there will still be occasions when stowaways gain access to vessels, either secreted in the cargo or by surreptitious boarding.

1.3 The resolution of stowaway cases is difficult because of different national legislation in each of the several potentially involved States: the State of embarkation, the State of disembarkation, the flag State of the ship, the State of apparent, claimed or actual nationality/ citizenship or right of residence of the stowaway, and States of transit during repatriation.

#### 2 Definitions

For the purpose of these Guidelines, the following meanings shall be attributed to the terms listed:

- .1 *Attempted stowaway.* 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 the ship before it has departed from the port.
- .2 *Port.* Any port, terminal, offshore terminal, ship and repair yard or roadstead which is normally used for the loading, unloading, repair and anchoring of ships, or any other place at which a ship can call.
- .3 *Public authorities.* The agencies or officials in a State responsible for the application and enforcement of the laws and regulations of that State which relate to any aspect of the present Guidelines.
- .4 *Security measures.* Measures developed and implemented in accordance with international agreements to improve security on board ships and in port areas and facilities, and of goods moving in the international supply chain, to detect and prevent unlawful acts.<sup>1</sup>

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<sup>1</sup> Reference is made to chapter XI-2 of the International Convention for the Safety of Life at Sea, 1974, as amended (1974 SOLAS Convention) and the International Ship and Port Facility Security Code, as amended (ISPS Code); and to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (1988 SUA Convention) and its 2005 Protocol (2005 SUA Protocol).



- .5 *Shipowner*. One who owns or operates a ship, whether a person, a corporation or other legal entity, and any person acting on behalf of the owner or operator.
- .6 *Stowaway*. 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 the ship after it has departed from a port, or in the cargo while unloading it in the port of arrival, and is reported as a stowaway by the master to the appropriate authorities.

### **3 Basic principles**

On the basis of the experience thus far, the application of the following basic principles have been useful in preventing stowaway incidents and have been helpful in the speedy resolution of stowaway cases:

- .1 Stowaway incidents should be dealt with in a manner consistent with humanitarian principles. Due consideration must always be given to the operational safety of the ship and to the safety and well-being of the stowaway.
- .2 Public authorities, port authorities, shipowners and masters should cooperate to the fullest extent possible in order to prevent stowaway incidents.
- .3 Shipowners, masters, port authorities and public authorities should have adequate 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 the ship leaves port or, at the latest, before it arrives at the next port of call.
- .4 Adequate, frequent and well-timed searches 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.
- .5 Public authorities, port authorities, shipowners and masters should cooperate to the fullest extent possible in order 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 for an unreasonable amount of time.
- .6 Stowaways arriving at or entering a State without the required documents are, in general, illegal entrants. Decisions on dealing with such situations are the prerogative of the States where such arrival or entry occurs.

- .7 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.<sup>2</sup>
- .8 Every effort should be made to avoid situations where a stowaway has to be detained on board a ship indefinitely. In this regard States should cooperate with the shipowner in arranging the disembarkation of a stowaway to an appropriate State.
- .9 States should accept the return of stowaways who have full nationality/citizenship status in that State, or have a right of residence in that State.
- .10 Where the nationality or citizenship or right of residence cannot be established, the State of the original port of embarkation of a stowaway should accept the return of such a stowaway for examination pending final case disposition.

#### **4 Preventive measures**

##### *4.1 Port/terminal authorities*

4.1.1 States and port and terminal owners, operators and authorities should ensure that the necessary infrastructure, and operational and security arrangements for the purpose of preventing persons attempting to stowaway on board ships from gaining access to port installations and to ships, are established in all their ports, taking into consideration when developing these arrangements the size of the port, and what type of cargo is shipped from the port. This should be done in close cooperation with relevant public authorities, shipowners and shore-side entities, with the aim of preventing stowaway occurrences in the individual port.

4.1.2 Operational arrangements and/or port facility security plans should at least be equivalent to those contained in the relevant text of section B/16 of the ISPS Code.<sup>3</sup>

##### *4.2 Shipowner/Master*

4.2.1 Shipowners and masters should ensure that adequate security arrangements are in place which, as far as practicable, will prevent intending stowaways from getting aboard the ship, and, if this fails, as far as practicable, will detect them before the ship leaves port or, at the latest, before it arrives at the next port of call.

4.2.2 When calling at ports and during stay in ports, where there is risk of stowaway embarkation, operational arrangements and/or ship security plans should at least be equivalent to those contained in the relevant text of paragraph B/9 of the ISPS Code.<sup>4</sup>

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<sup>2</sup> In addition, public authorities may wish to consider the non-binding conclusion of the UNHCR Executive Committee on Stowaway Asylum Seekers (1988, No. 53 (XXXIX)).

<sup>3</sup> Recommended Practice 4.3.1.2 of the FAL Convention.

<sup>4</sup> Recommended Practice 4.3.2.2 of the FAL Convention.

4.2.3 When departing from a port, where there is risk of stowaway embarkation, a ship should undergo a thorough search in accordance with a specific plan or schedule, and with priorities given to places where stowaways might hide taking into account the specific ship type and its operations. Search methods which are likely to harm secreted stowaways should not be used.

4.2.4 Fumigation or sealing should not be carried out until a thorough search of the areas to be fumigated or sealed has taken place in order to ensure that no stowaways are present in those areas.

## **5 Responsibilities in relation to the resolution of stowaway cases**

### *5.1 Questioning and notification by the master*

It is the responsibility of the master of the ship which finds any stowaways on board:

- .1 to make every effort to determine immediately the port of embarkation of the stowaway;
- .2 to take practical steps to establish the identity, including the nationality/citizenship and the right of residence, of the stowaway;
- .3 to prepare a statement containing all available information relevant to the stowaway for presentation to the appropriate authorities (for example, the public authorities at the port of embarkation, the flag State and, if necessary, subsequent ports of call) and the shipowner; in this respect the reporting form provided in the appendix should be used and completed as far as practicable;
- .4 to notify the existence of a stowaway and any relevant details to the 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 or herself to be a refugee, this information should be treated as confidential to the extent necessary for the security of the stowaway; to ensure confidentiality in these cases no information should be forwarded to authorities public or private in the country of origin or residence of the stowaway;
- .5 not to depart from the planned voyage to seek the disembarkation of a stowaway discovered on board the ship after it has left the territorial waters of the State where the stowaways embarked, unless permission to disembark the stowaway has been granted by the public authorities of the State to whose port the ship deviates, or repatriation has been arranged elsewhere with sufficient documentation and permission given for disembarkation, or unless there are extenuating safety, security, health or compassionate reasons, or attempts to disembark in other ports on the planned voyage have failed and deviation is necessary in order to avoid that the stowaway remain on board for a significant period of time;
- .6 to ensure that the stowaway is presented to the appropriate authorities at the next port of call in accordance with their requirements;

- .7 to take appropriate measures to ensure the security, general health, welfare and safety of the stowaway until disembarkation, including providing him or her with adequate provisioning, accommodation, proper medical attention and sanitary facilities;
- .8 to ensure that stowaways are not permitted to work on board the ship, except in emergency situations or in relation to the stowaway's accommodation and provisioning on board; and
- .9 to ensure that stowaways are treated humanely, consistent with the basic principles.

## 5.2 *The shipowner*

It is the responsibility of the shipowner of the ship on which stowaways are found:

- .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 to comply with any removal directions made by the competent national authorities at the port of disembarkation; and
- .3 to cover any applicable costs relating to the removal, detention, care and disembarkation of the stowaway in accordance with the legislation of the States which may be involved.

## 5.3 *The State of the first port of call according to the voyage plan*

It is the responsibility of the State of first port of call according to the voyage plan after the discovery of the stowaway:

- .1 to accept the stowaway for examination in accordance with the national laws of that State and, where the competent national authority considers that it would facilitate matters, to allow the shipowner and the competent or appointed P&I Club correspondent to have access to the stowaway;
- .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, where:
  - .1 a case 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 for the stowaway to remain on the ship; 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 ship, the health of the crew or the stowaway;
- .3 to make every effort to cooperate in the identification of the stowaway and the establishment of his or her nationality/citizenship or right of residence;

- .4 to make every effort to cooperate 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, or alternatively, a suitable travel document accepted by the public authorities involved; the covering letter authorizing the return of the stowaway either to his or her State of origin or to the point where the stowaway commenced his or 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;
- .5 to give directions for the removal of the stowaway to the port of embarkation, State of nationality/citizenship or right of residence or to some other State to which lawful directions may be made, in cooperation with the shipowner;
- .6 to inform the shipowner on whose ship the stowaway was found, as far as practicable, of the level of cost of detention and return and any additional costs for the documentation of the stowaway, if the shipowner is to cover these costs; in addition, public authorities should cooperate with the shipowner to 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;
- .7 to consider mitigation of charges that might otherwise be applicable when shipowners have cooperated with the control authorities to the satisfaction of those authorities in measures designed to prevent the transportation of stowaways; or where the master 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;
- .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 or her State of origin, to the State of the port of embarkation, or to any other State to which lawful directions can be made, by any means of transport;
- .9 to provide the document to the transport operator effecting the removal of the stowaway;
- .10 to take proper account of the interests of, and implications for, the shipowner 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;
- .11 to report incidents of stowaways of which they become aware to the Organization;<sup>5</sup>

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<sup>5</sup> Refer to FAL.2/Circ.50/Rev.3 on *Information on stowaway incidents*, as may be amended.

- .12 to cooperate with the flag State of the ship in identifying the stowaway and their nationality/citizenship and right of residence, to assist in removal of the stowaway from the ship, and to make arrangements for removal or repatriation; and
- .13 if disembarkation is refused, to notify the flag State of the ship the reasons for refusing disembarkation.

#### 5.4 *Subsequent ports of call*

When the disembarkation of a stowaway has not been possible at the first port of call, it is the responsibility of the State of the subsequent port of call to follow the guidance provided in paragraph 5.3.

#### 5.5 *State of embarkation*

It is the responsibility of the State of the original port of embarkation of the stowaway (i.e. the State where the stowaway first boarded the ship):

- .1 to accept any returned stowaway having nationality/citizenship or right of residence;
- .2 to accept a stowaway back for examination where the port of embarkation is identified to the satisfaction of the public authorities of the receiving State; the public authorities of the State of embarkation should not return such stowaways to the State where they were earlier found to be inadmissible;
- .3 to apprehend and detain the attempted stowaway, where permitted by national legislation, if the attempted stowaway is discovered before sailing either on the ship or in cargo due to be loaded; to refer the attempted stowaway to local authorities for prosecution, and/or, where applicable, to the immigration authorities for examination and possible removal; no charge is to be imposed on the shipowner in respect of detention or removal costs, and no penalty is to be imposed;
- .4 to apprehend and detain the stowaway, where permitted by national legislation, if the stowaway is discovered while the ship is still in the territorial waters of the State of the port of his or her embarkation, or in another port in the same State (not having called at a port in another State in the meantime); no charge is to be imposed on the shipowner in respect of detention or removal costs, and no penalty is to be imposed;
- .5 to report incidents of stowaways or attempted stowaways of which they become aware to the Organization;<sup>6</sup> and
- .6 to reassess the preventative arrangements and measures in place and to verify the implementation and effectiveness of any corrective actions.

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<sup>6</sup> Refer to FAL.2/Circ.50/Rev.3 on *Information on stowaway incidents*, as may be amended.

#### 5.6 *State of nationality or right of residence*

It is the responsibility of the apparent or claimed State of nationality/citizenship of the stowaway and/or of the apparent or claimed State of residence of the stowaway:

- .1 to make every effort to assist in determining the identity and nationality/citizenship or the rights of residence of the stowaway and to document the stowaway, accordingly once satisfied that he or she holds the nationality/citizenship or the right of residence claimed; where possible, the local embassy, consulate or other diplomatic representation of the country of the stowaway's nationality will be required to assist in verifying the stowaway's nationality and providing emergency travel documentation;
- .2 to accept the stowaway where nationality/citizenship or right of residence is established; and
- .3 to report incidents of stowaways of which they become aware to the Organization.<sup>7</sup>

#### 5.7 *The flag State*

It is the responsibility of the flag State of the ship:

- .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 or right of residence;
- .2 to be prepared to make representations to the relevant authority to assist in the removal of the stowaway from the ship at the first available opportunity;
- .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; and
- .4 to report incidents of stowaways of which they become aware to the Organization.\*

#### 5.8 *States of transit during repatriation*

It is the responsibility of any States of transit during repatriation to allow, subject to normal visa requirements and national security concerns, the transit through their ports and airports of stowaways travelling under the removal instructions or directions of the State of the port of disembarkation.

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<sup>7</sup> Refer to FAL.2/Circ.50/Rev.3 on *Information on stowaway incidents*, as may be amended.

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:<sup>8</sup></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:<sup>9</sup></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 style="border: 1px solid black; width: 150px; height: 100px; margin: 10px auto; text-align: center; padding: 10px;"> <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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*Other details:*

<sup>8</sup> "Place of boarding" should include port, port facility number, berth and terminal information (FAL.7/Circ.1, related to the *Unified interpretation of appendix 3 to the FAL Convention*).

<sup>9</sup> If the stowaway declares himself or herself 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.



- 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) *Care provided to the stowaway (first aid, clothing, food):*

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

*Stowaway's signature:*

*Master's signature:*

*Date:*

*Date:*

\*\*\*



## ANNEX 2

### RULES OF PROCEDURE OF THE FACILITATION COMMITTEE

#### **Membership**

##### ***Rule 1***

For the purpose of these Rules, the term "Member" means a Member of the Organization and "other Participant" means a State not a Member of the Organization but Party to a treaty or other international instrument in respect of which the Committee performs functions as provided therein. Membership of the Committee shall be open to all Members and other Participants.

#### **Subsidiary bodies**

##### ***Rule 2***

1 The Committee may establish such subsidiary bodies as it considers necessary. Such subsidiary bodies shall follow these Rules, except for rules 3, 9, 14, 15 and 16.

2 Periodically the Committee shall examine the need for the continued existence of any subsidiary body.

#### **Sessions**

##### ***Rule 3***

The Committee shall meet at least once a year in regular session and more frequently with the approval of the Council. The Committee may meet in an extraordinary session upon a request made in writing to the Secretary-General by at least twenty of its respective Members. Sessions of the Committee shall be held at the Headquarters of the Organization unless convened elsewhere in accordance with a decision of the Committee approved by the Assembly or the Council.

##### ***Rule 4***

The Secretary-General, acting on the direction of the Chair, shall notify Members and other Participants at least two months in advance of the holding of a session of the Committee, and shall also notify the Chairs of other interested IMO bodies who shall have the option of attending sessions as observers.

#### **Observers**

##### ***Rule 5***

1 The Secretary-General, with the approval of the Council, may invite States having made applications for membership, States which have signed but not accepted the Convention on the International Maritime Organization, and States which are Members of the United Nations or of any specialized agency and liberation movements recognized by the African Union or the League of Arab States to send observers to sessions of the Committee.

2 The Secretary-General shall invite to be represented as observer at each session of the Committee:

- .1 the United Nations, including the United Nations Environment Programme; and
- .2 any of the specialized agencies of the United Nations and the International Atomic Energy Agency.

3 The Secretary-General shall invite to be represented by observers at each session of the Committee at which matters of direct concern to them are on the agenda:

- .1 other intergovernmental organizations with which an agreement or special arrangement has been made; and
- .2 non-governmental international organizations with which the Organization has established relationships in accordance with the rules governing consultations with such organizations.

4 Upon invitation by the Chair and with the consent of the Committee concerned, such observers may participate without vote on matters of direct concern to them.

#### **Rule 6**

1 Representatives of the United Nations, the International Atomic Energy Agency and the specialized agencies shall receive copies of all documents issued to the Committee, subject to any arrangements as may be necessary for the safeguarding of confidential material.

2 Observers shall have access to non-confidential documents and to such other documents as the Secretary-General, with the approval of the Chair, may decide to make available.

#### **Delegations and credentials**

#### **Rule 7**

Each Member or other Participant shall designate a representative and such alternates, advisers and experts as may be required.

#### **Rule 8**

Each Member or other Participant shall notify the Secretary-General in writing as soon as possible and in any case not later than the opening day of a session of the composition of its delegation to that session.

#### **Rule 9**

1 Each Member or Government entitled to participate in a session of the Committee shall transmit to the Secretary-General the credentials of its representatives and alternates, if any. The credentials shall be issued by the Head of State, Head of Government, Minister for Foreign Affairs, Minister concerned or by an appropriate authority properly designated by one of them for this purpose. The Secretary-General shall examine the credentials of each representative and alternate and report to the Committee thereon without delay.

2 All representatives shall be seated provisionally with the same rights until the Secretary-General has reported on credentials and the Committee has given its decision.

## **Publicity**

### **Rule 10**

1 The Committee may decide to hold meetings in private or public. In the absence of a decision to hold meetings in public, they shall be held in private.

2 Notwithstanding the aforesaid, and in accordance with the *Guidelines for media access to meetings of Committees and their subsidiary bodies* approved by the Council, media may attend meetings of the Committee unless the Committee decides otherwise. Meetings of working and drafting groups established by the Committee shall be held in private.

## **Agenda**

### **Rule 11**

The provisional agenda for each session of the Committee shall be prepared by the Secretary-General and approved by the Chair; and shall normally be communicated with the basic supporting documents to the Members and other Participants two months before the opening of a session.

### **Rule 12**

The first item on the provisional agenda for each session shall be the adoption of the agenda.

### **Rule 13**

Subject to the provisions of rule 14, any item of the agenda of a session of the Committee, consideration of which has not been completed at that session, shall be included in the agenda of a subsequent session unless otherwise decided by the Committee.

### **Rule 14**

The provisional agenda for each session of the Committee shall include:

- .1 all items the inclusion of which has been requested by the Assembly or the Council;
- .2 all items the inclusion of which has been requested by the Committee at a previous session;
- 3 any item proposed by a Member;
- 4 subject to the provisions of a treaty or other international agreement in respect of which the Committee performs functions, any amendment proposed by a Party to that treaty or other international agreement;
- .5 subject to such preliminary consultations as may be necessary, any item proposed by any other subsidiary body of the Organization by the United Nations or by any of its specialized agencies, or by the International Atomic Energy Agency; and
- 6 any item proposed by the Secretary-General.

**Rule 15**

The Secretary-General shall report on the technical, administrative and financial implications of any substantive agenda items submitted to the Committee and, unless the Committee decides otherwise, no such item shall be considered until the Secretary-General's report has been available to the Committee for at least 24 hours.

**Rule 16**

In circumstances of urgency the Secretary-General, with the approval of the Chair, may include any question suitable for the agenda which may arise between the dispatch of the provisional agenda and the opening day of the session in a supplementary provisional agenda which the Committee shall examine together with the provisional agenda. The Secretary-General shall advise Members and other Participants immediately of the intention to include an item in a supplementary provisional agenda.

**Rule 17**

Unless it determines otherwise, the Committee shall not proceed to the discussion of any item on the agenda until at least 24 hours have elapsed after the relevant documents have been made available to Members and other Participants.

**Chair and Vice-Chair**

**Rule 18**

1 The Committee shall elect from among its Members a Chair and a Vice-Chair who shall each hold office for a term of one calendar year. They shall both be eligible for re-election for up to four further consecutive terms of office. In exceptional circumstances they may be re-elected for one additional consecutive term of office.

2 The Chair, or the Vice-Chair acting as Chair, shall not vote.

3 The Chair and Vice-Chair shall be elected at the end of the last regular session in each calendar year and shall assume their functions at the beginning of the following calendar year.

**Rule 19**

If the Chair is absent from a session, or any part thereof, the Vice-Chair shall preside. If the Chair, for any reason, is unable to complete the term of office, the Vice-Chair shall act as Chair pending the election of a new Chair.

**Secretariat**

**Rule 20**

The Secretary-General shall act as Secretary of the Committee. This function may be delegated to a member of the Secretariat.

### **Rule 21**

The Secretary-General, or any member of the Secretariat designated for the purpose, may make either oral or written statements concerning any question under consideration.

### **Rule 22**

It shall be the duty of the Secretariat to receive, translate and circulate to Members and other Participants all reports, resolutions, recommendations and other documents of the Committee.

## **Languages**

### **Rule 23**

The official languages of the Committee are Arabic, Chinese, English, French, Russian and Spanish; the working languages are English, French and Spanish.

### **Rule 24**

Speeches at the Committee shall be made in one of the official languages and shall be interpreted into the other five official languages.

### **Rule 25**

1 All supporting documents to agenda items of the Committee shall be issued in the working languages.

2 All reports, resolutions, recommendations and decisions of the Committee shall be drawn up in one of the official languages and translated into the other five official languages.

## **Voting**

### **Rule 26**

1 When considering matters not connected with functions performed by the Committee in respect of treaties or other international agreements, all Members and other Participants may participate, but only Members of the Organization shall be entitled to vote.

2 Each Member entitled to vote shall have one vote.

3 When the Committee performs functions as provided for in a treaty or other international agreement, all Members and other Participants shall be entitled to participate in the proceedings, but voting on amendments to the treaty or other agreement shall be in accordance with the provisions of that treaty or agreement.

### **Rule 27**

Subject to the provisions of any treaty or other international agreement which confers upon the Organization functions to be undertaken by the Committee, decisions of the Committee shall be made and reports, resolutions and recommendations adopted by a majority of the Members or other Participants entitled to vote, present and voting.

### **Rule 28**

1 For the purpose of these Rules, the phrase "Members or other Participants entitled to vote, present and voting" means such Members or other Participants entitled to vote, casting an affirmative or negative vote. Those abstaining from voting or casting an invalid vote shall be considered as not voting. The phrase "Members present" means Members at the meeting, whether they cast an affirmative or negative vote, whether they abstain, whether they cast an invalid vote or whether they take no part in the voting.

2 The provisions in rule 28.1 above shall apply only if the quorum laid down in rule 34 is obtained at the meeting at which the vote is taken.

3 Participants in the session who are not present at the meeting at which voting takes place shall be considered as not present.

### **Rule 29**

The Committee shall normally vote by show of hands. However, any Member or other Participant entitled to vote may request a roll call, which shall be taken in the alphabetical order of the names of the Members in English, beginning with the Member whose name is drawn by lot by the Chair. The vote of each Member or other Participant in any roll call shall be inserted in the report of the session concerned.

### **Rule 30**

If a vote is equally divided, a second vote shall be taken at the next meeting. If this vote is equally divided, the proposal shall be regarded as rejected.

## **Elections**

### **Rule 31**

Officers of the Committee shall be elected by secret ballot, unless the Committee decides otherwise.

### **Rule 32**

In a secret ballot two scrutineers shall, on the proposal of the Chair, be appointed by the Committee from the delegations present and shall proceed to scrutinize the votes cast. All invalid votes cast shall be reported to the Committee.

### **Rule 33**

If one person only is to be elected and no candidate obtains a majority in the first ballot, a second ballot shall be taken confined normally to the two candidates obtaining the largest number of votes. If in the second ballot the votes are equally divided, the election shall be deferred until the ensuing session, when, if another tie results, the Chair shall decide between the candidates by drawing lots.



## **Conduct of business**

### ***Rule 34***

1 The Chair may declare a meeting open and permit the debate to proceed when at least 25% of the Membership of the Organization are present. The presence of at least 25% of the Membership of the Organization, or other participants, as appropriate, shall be required for any decision to be taken.

2 When a treaty or other international instrument in respect of which the Committee performs functions contains a provision relating to the quorum, such provision shall apply in respect of such functions.

### ***Rule 35***

In addition to exercising the powers conferred elsewhere by these Rules, the Chair shall declare the opening and closing of each session of the Committee, direct the discussion and ensure observance of these Rules, accord the right to speak, put questions to the vote and announce decisions resulting from the voting.

### ***Rule 36***

Proposals and amendments shall normally be introduced in writing and handed to the Secretary-General, who shall circulate copies to delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Committee unless copies of it have been circulated to delegations not later than the day preceding the meeting. The Chair may, however, permit the discussion and consideration of amendments or of motions as to procedure even though these amendments and motions have not been circulated or have only been circulated the same day.

### ***Rule 37***

The Committee may, on proposal of the Chair, limit the time to be allowed to each speaker on any particular subject under discussion.

### ***Rule 38***

1 During the discussion of any matter a Member or other Participant may rise to a point of order and the point of order shall be decided immediately by the Chair, in accordance with these Rules. A Member or other Participant may appeal against the ruling of the Chair. The appeal shall be put to the vote immediately and the Chair's ruling shall stand unless overruled by a majority of the Members or other Participants present and voting.

2 A Member rising to a point of order may not speak on the substance of the matter under discussion.

### ***Rule 39***

1 Subject to the provisions of rule 38 the following motions shall have precedence, in the order indicated below, over all other proposals or motions before the meeting:

- .1 to suspend a meeting;
- .2 to adjourn a meeting;

- .3 to adjourn the debate on the question under discussion; and
- .4 for the closure of the debate on the question under discussion.

2 Permission to speak on a motion falling within rule 39.1 above shall be granted only to the proposer and in addition to one speaker in favour of and two against the motion, after which it shall be put immediately to the vote.

**Rule 40**

If two or more proposals relate to the same question, the Committee, unless it decides otherwise, shall vote on the proposals in the order in which they have been submitted.

**Rule 41**

Parts of a proposal or amendment thereto shall be voted on separately if the Chair, with the consent of the proposer, so decides, or if any Member or other Participant requests that the proposal or amendment thereto be divided and the proposer raises no objection. If objection is raised, permission to speak on the point shall be given first to the mover of the motion to divide the proposal or amendment, and then to the mover of the original proposal or amendment under discussion, after which the motion to divide the proposal or amendment shall be put immediately to the vote.

**Rule 42**

Those parts of a proposal which have been approved shall then be put to the vote as a whole; if all the operative parts of the proposal or amendment have been rejected, the proposal or amendment shall be considered to be rejected as a whole.

**Rule 43**

A motion is considered to be an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal. An amendment shall be voted on before the proposal to which it relates is put to the vote, and if the amendment is adopted, the amended proposal shall then be voted on.

**Rule 44**

If two or more amendments are moved to a proposal, the Committee shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom and so on, until all amendments have been put to the vote. The Chair shall determine the order of voting on the amendments under this Rule.

**Rule 45**

A motion may be withdrawn by its proposer at any time before voting on it has begun, provided that the motion has not been amended or that an amendment to it is not under discussion. A motion withdrawn may be reintroduced by any Member or other Participant having the right to submit such a motion.

***Rule 46***

When a proposal has been adopted or rejected, it may not be reconsidered at the same session of the Committee unless the Committee, by a majority of the Members or other Participants present and voting, decides in favour of reconsideration. Permission to speak on a motion to reconsider shall be accorded only to the mover and one other supporter and to two speakers opposing the motion, after which it shall be put immediately to the vote.

**Invitation of experts**

***Rule 47***

The Committee may invite any person whose expertise it may consider useful for its work to participate in a meeting. A person invited under this Rule shall not have the right to vote.

**Amendments to Rules of Procedure**

***Rule 48***

These Rules may be amended by a decision of the Committee, taken by a majority of the Members present and voting.

**Suspension of Rules of Procedure**

***Rule 49***

A Rule may be suspended by a decision of the Committee taken by a majority of the Members present and voting, provided that 24 hours' notice of the proposal for suspension has been given. This notice may be waived if no Member objects.

**Overriding authority of IMO Convention**

***Rule 50***

In the event of any conflict between a provision of these Rules and a provision of the Convention, the Convention shall prevail.

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**ANNEX 3**

**BIENNIAL STATUS REPORT OF THE FACILITATION COMMITTEE**

Facilitation Committee (FAL)										
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status output Year 1	of for output Year 2	of for	References
1. Improve implementation	1.2	Input on identifying emerging needs of developing countries, in particular SIDS and LDCs to be included in the ITCP	Continuous	TCC	MSC/MEPC/ FAL/LEG		Ongoing			
1. Improve implementation	1.7	Identify thematic priorities within the area of maritime safety and security, marine environmental protection, facilitation of maritime traffic and maritime legislation	Annual	TCC	MSC/MEPC/ FAL/LEG		Postponed			
4. Engage in ocean governance	4.2	Input to the ITCP on emerging issues relating to sustainable development and achievement of the SDGs	2019	TCC	MSC/MEPC/ FAL/LEG		In progress			
5. Enhance global facilitation and security of international trade	5.1	Application of single window concept	Continuous	FAL			Ongoing			FAL 39/16, paragraph 13.4.1

Facilitation Committee (FAL)											
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status output Year 1	of for	Status output Year 2	of for	References
5. Enhance global facilitation and security of international trade	5.6	Guidelines for setting up a maritime single window	2019	FAL			In progress				FAL 41/17, paragraph 14.4 FAL 42/17, paragraph 14.[ ]
Notes: Description changed to "Guidelines for setting up a maritime single window" (FAL/42/17, paragraph 8.10).											
5. Enhance global facilitation and security of international trade	5.7	Review and update the Explanatory Manual to the FAL Convention	2019	FAL			In progress				FAL 37/17, paragraph 4.6; FAL 41/17, paragraph 14.2
5. Enhance global facilitation and security of international trade	5.8	Review and revision of the IMO Compendium on Facilitation and Electronic Business, including additional e-business solutions	2021	FAL			In progress				FAL 41/17, paragraph 14.1 FAL 42/17, paragraph 14.5
Notes: Description changes to "Review and revision of the IMO Compendium on Facilitation and Electronic Business, including additional e-business solutions", target completion year extended to 2021.											

Facilitation Committee (FAL)											
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status output Year 1	of for	Status output Year 2	of for	References
5. Enhance global facilitation and security of international trade	5.9	Developing guidance for authentication, integrity and confidentiality of content for the purpose of exchange of electronic information	2019	FAL			In progress				FAL 41/17, paragraph 14.3
5. Enhance global facilitation and security of international trade	5.10 (New)	Review and update of the annex to the FAL Convention	2021	FAL							FAL 42/17, paragraph 14.1
Notes: Pending endorsement by C 120.											
5. Enhance global facilitation and security of international trade	5.11 (New)	Development of amendments to the <i>Recommendations on the establishment of national facilitation committees</i> (FAL.5/Circ.2)	2020	FAL							FAL 42/17, paragraph 14.6
Notes: Pending endorsement by C 120.											
5. Enhance global facilitation and security of international trade	5.12 (New)	Development of guidelines on creating a tool to measure domestic implementation of the FAL Convention	2020	FAL							FAL 42/17, paragraph 14.8
Notes: Pending endorsement by C 120.											

Facilitation Committee (FAL)											
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status output Year 1	of for	Status output Year 2	of for	References
6. Ensure regulatory effectiveness	6.6	Consideration and analysis of reports and information on persons rescued at sea and stowaways	Annual	MSC/FAL			Completed				
7. Ensure organizational effectiveness	7.1	Endorsed proposals for the development, maintenance and enhancement of information systems and related guidance (GISIS, websites, etc.)	Continuous	Council	MSC/MSC/MEPC/FAL/LEG/TCC		Ongoing				
7. Ensure organizational effectiveness	7.9	Revised documents on organization and method of work, as appropriate	2019	Council	MSC/MEPC/FAL/LEG/TCC		In progress				
OW. Other work	OW 13	Endorsed proposals for new outputs for the 2018-2019 biennium as accepted by the Committees	Annual	Council	MSC/MEPC/FAL/LEG/TCC		Completed				



Facilitation Committee (FAL)									
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status output Year 1	Status output Year 2	References
OW. Other work	OW 23	Cooperate with the United Nations on matters of mutual interest, as well as provide relevant input/guidance	2019	Assembly	MSC/MEPC/ FAL/LEG/ TCC	Council	In progress		
OW. Other work	OW 24	Cooperate with other international bodies on matters of mutual interest, as well as provide relevant input/guidance	2019	Assembly	MSC/MEPC/ FAL/LEG/ TCC	Council	In progress		
OW. Other work	OW 44	IMO's contribution to addressing unsafe mixed migration by sea	2019	MSC/FAL /LEG			In progress		FAL 41/17, paragraph 7.15, MSC 98/23, paragraph 16.14

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**ANNEX 4**

**POST-BIENNIAL AGENDA OF THE FACILITATION COMMITTEE**

Facilitation Committee (FAL)								
Number	Biennium (when the output was placed on the post-biennial agenda)	Reference to strategic direction, if applicable	Description	Parent organ(s)	Associated organs(s)	Coordinating organ(s)	Timescale (sessions)	References
128	2016-2017	OW	Review the international signs to provide guidance to persons at marine terminals	FAL			1	FAL 40/19, paragraph 11.5
142	2016-2017	OW	Measures to protect the safety of persons rescued at sea	FAL			2	FAL 41/17, paragraph 6.4

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## ANNEX 5

### LIST OF SUBSTANTIVE ITEMS FOR INCLUSION IN THE PROVISIONAL AGENDA FOR THE FORTY-THIRD SESSION OF THE FACILITATION COMMITTEE

- Opening of the session
- Decisions of other IMO bodies
- Consideration and adoption of proposed amendments to the Convention
- Review and update of the Annex to the FAL Convention
- Review and update the Explanatory Manual to the FAL Convention
- Application of single window concept
- Review and revision of the IMO Compendium on Facilitation and Electronic Business, including additional e-business solutions
- Developing guidance for authentication, integrity and confidentiality of content for the purpose of exchange of electronic information
- Guidelines for setting up a maritime single window
- Unsafe mixed migration by sea
- Development of amendments to the *Recommendations on the establishment of national facilitation committees* (FAL.5/Circ.2)
- Development of guidelines on creating a tool to measure domestic implementation of the FAL Convention
- Consideration and analysis of reports and information on persons rescued at sea and stowaways
- Technical cooperation activities related to facilitation of maritime traffic
- Relations with other organizations
- Application of the Committee's procedures on organization and method of work
- Work programme
- Election of Chair and Vice-Chair for 2020
- Any other business
- Consideration of the report of the Committee on its forty-third session

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## ANNEX 6

### STATEMENT BY THE CHAIR OF THE LEGAL COMMITTEE

#### AGENDA ITEM 3

Thank you Mr. Chair,

Document FAL 42/3/1 draws the attention of the FAL Committee to Article 33 of the IMO Convention which states that "the Legal Committee shall consider any legal matters within the scope of the Organization" and further shall perform "any duty within the scope of this article which may be assigned to it by or under any other international instrument".

On the basis of this mandate, as requested by FAL 41, the Legal Committee, which met in April this year, considered the legal status of the appendices to the FAL Convention.

The preliminary consideration of the Legal Committee was that the final interpretation of whether appendices 1, 2, 3 and 4 to the FAL Convention were part of the Convention was a prerogative of the Contracting Governments to the FAL Convention.

The Legal Committee thoroughly examined the historical background of each of the appendices and noted that the confusion on the status of the appendices mainly stemmed from the fact that the consolidated version of the annex to the FAL Convention adopted by resolution FAL.12(40) in 2016 only contained appendix 1, while the other appendices only appeared in the FAL Convention publication, even though references to appendices 2 and 3 were made in the Convention itself.

After an extensive discussion, the Legal Committee agreed to the legal advice contained in the annex to the document under consideration.

The legal advice provides, for each of the appendices, a detailed background on their history and content.

It was the view of the majority of delegations to the Legal Committee that Appendix 1, which contains seven different IMO FAL forms, could be considered as an integral part of the FAL Convention. The main reason for this conclusion was the fact that the FAL Committee, when considering amendments to the IMO FAL Forms has explicitly stated that it would require the adoption of relevant amendments through Article VII procedure, in order to change the forms.

Appendix 2 contains a possible format for a covering letter referred to in Standard 3.3.1. As appendix 2 was never set out in a FAL resolution and has never been amended through the formal article VII amendment procedure, there is a strong indication that appendix 2 was not intended to form part of the Convention. All delegations speaking at LEG 105 were of this view. However, if the Contracting Governments wished to make appendix 2 an integral part of the Convention, they could do so by further amending the Convention.

Appendix 3 contains the form of stowaway details referred to in Recommended Practice 4.6.2. It was adopted through the formal article VII amendment procedure, in parallel with the adoption of the referencing Recommended Practice 4.6.2. While the reference to appendix 3 in Recommended Practice 4.6.2 remains in the consolidated version of the annex to the FAL Convention, which was adopted by resolution FAL.12(40), the form itself is not included as an appendix.

There are two options the Facilitation Committee might wish to consider:

- .1 that the Contracting Governments omitted appendix 3 intentionally from the consolidated version of the annex to the FAL Convention because they did not intend it to form an integral part of the Convention; or
- .2 the omission of appendix 3 from the consolidated version was an error, which could be corrected by the Secretariat using normal procedures for correction.

The FAL Committee could take a decision based on the above options.

Appendix 4 contains a full excerpt of chapter 5.4 of the International Maritime Dangerous Goods Code (IMDG Code). The IMDG Code constitutes part of another IMO treaty and, therefore, was never amended through the FAL article VII amendment procedure. Moreover, it does not form part of the consolidated version of the annex to the FAL Convention, which was adopted by resolution FAL.12(40). Appendix 4 is not referenced at all in the body of the annex.

All delegations who spoke at LEG 105 were of the view that appendix 4 was not intended to form part of the Convention, but that it was added to the publication for information purposes only.

The Legal Committee was of the view that the strongest means of establishing the intent of the Contracting Governments of the FAL Convention would be to amend the Convention to include appropriate appendices to the annex through the process in article VII of the FAL Convention and incorporate them into the certified text of the treaty.

The other options for the FAL Committee to decide on the nature of the appendices could be through adoption of a declaration, through a FAL resolution, establishing the intent of the Committee, a unified interpretation, or a decision of the FAL Committee, contained in the report.

Thank you, Mr. Chair.

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## ANNEX 7

### STATEMENTS BY DELEGATIONS AND OBSERVERS\*

#### AGENDA ITEM 14

##### Statement by the delegation of Bangladesh

Thank you Mr. Chair,

Shipping is one of the most international and dynamic industry of the world where speed is its prime propellant, which needs to be maintained in the movement of ships, cargo and crew. To keep this dynamic industry on speed, thousands of seafarers are required to travel from country to country to join and leave ships to maintain their unhindered operation.

Mr. Chair, the very objective of the FAL Convention is to facilitate maritime traffic by simplifying and reducing to a minimum the formalities, documentary requirements and procedures on arrival, stay and departure of ships engaged in international voyages to maintain required speed to facilitate the trade.

In order to achieve that objective, the Convention addressed issues related to arrival and departure documents, clearance of cargo, passengers, crew and baggage and many other relevant issues, yet the documentary requirements and formalities vary from country to country remarkably. More than thirty member states have difference between national practice and Convention standards.

The way seafarers are dealt with, while leaving and joining ships, also varies from country to country in spite of having the standard specified in the Convention. In some Member States a simple "OK TO BOARD" authorization is enough, while some Member States require regular VISA or a TRANSIT VISA, which is time consuming, while some other States do not allow either. The issue of hindrance to a seafarer's movement is a real deterrent to the facilitation of maritime traffic.

Many countries in an effort to enhance security measures are restricting the movement of seafarers through strict measures for issuance of visa. Such measures have adversely affected the shipping industry in general and the seafarers in particular. Restricted visa also jeopardized seafarers' shore leave in many countries.

There are numerous incidences, Mr. Chair, whereby vessels were delayed in a port incurring huge commercial loss due to a visa issue and there are incidences where vessels were diverted to a port solely to change crew and also there are incidences where the vessels had to continue voyage with a sick crew on board. Such occurrences bring forward a big challenge to the objective of the FAL Convention.

Shore leave significantly improves seafarers' physical and mental health and the safe and efficient operation of a vessel. Contrary to the Facilitation Convention, some countries require foreign crew members to have a visa to apply for shore leave.

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\* Statements have been included in this annex in the order in which they are listed in the report, sorted by agenda items, and in the language of submission (including translation into any other language if such translation was provided).

All issues addressed in the Convention are equally important for the facilitation of maritime traffic and any element left unattended is like a small hole in a ship and is bound to affect the overall performance of the trade. This very Convention deserves to be in the list of "important" Conventions and ought to be implemented in a more uniform way, globally.

Mr Chair,

We would like to highlight following matters on this issue:

1. There is a Supreme Court decision in 1943 that shore leave is an elemental necessity in the sailing of ships, a part of the business as old as the art, not merely a personal diversion.
2. According to Section 3.44, 3.45 and standard 3.10.2 of the FAL Convention:
  - a. Foreign crew members shall be allowed ashore by the public authorities while the ship on which they arrive is in port;
  - b. Crew members shall not be required to hold a visa for the purpose of shore leave;
  - c. Seafarers shall be allowed to enter or leave or passing in transit with seafarer's identity document;
  - d. No discrimination on seafarer's nationality, gender, colour, etc.
3. The ISPS Code states that "Recognizing that the Convention on the Facilitation of Maritime Traffic, 1965, as amended, provides that foreign crew members shall be allowed ashore by the public authorities while the ship on which they arrive is in port."
4. The International Maritime Organization reminded Contracting Governments of their responsibilities in implementing the ISPS Code to afford special protections to seafarers and of the critical importance of shore leave through MSC/Circ.1112 of 7 June 2004.
5. The International Labour Organization's Seafarers' Identity Documents Convention in its preamble recognizes the seafarer's shore leave and Article 6 puts an obligation on Member States to facilitate seafarer's visa for entry – exit – transit while joining and leaving ships and shore leave.
6. Seafarers shall be granted shore leave according to regulation 2.4 of the Consolidated Maritime Labour Convention, 2006.

Mr Chair,

I would like to give the result of the thirteenth annual Seafarer Shore Leave Survey conducted by The Seamen's Church Institute's Centre for Seafarers' Rights in 2014. During the survey, port ministries in 27 ports visited 416 vessels with 9,184 crew members from 60 different nationalities on board. Results show the large majority of seafarers were denied shore leave because of lack of visas. It is clearly understood that although the FAL Convention prohibits countries from requiring seafarers to have a visa for shore leave, some parties of the FAL Convention still require crew members on merchant ships to have a visa to obtain shore leave contrary to the provisions of the FAL Convention.

Mr Chair,

Seafarers around the world are facing difficulties in travelling to and from ships and obtaining shore leave in foreign lands due to visa requirements enforced by some nations contrary to the provisions of the FAL Convention, the ISPS Code, and the MLC and SID Conventions.

Mr. Chair, we would like to draw the Committee's attention to the serious problem that affects seafarers' lives on board and safety of ships accordingly though there are clear provisions and standards on international conventions on seafarers' visas and shore leave. We are seeking the Committee's consideration on how to mitigate the problem. After due consideration, we are planning to submit a proposal to the Committee in order to sort out the problem such as amendments to the FAL Convention, the III Code, the IMSAS Audit Scope and non-exhaustive list of obligations, convening an IMO-ILO joint working group, etc. Therefore, we would appreciate if the Member States could share their opinion on the critical matter.

Thank you Mr. Chair and distinguished delegates.

#### **AGENDA ITEM 16**

##### **Statement by the delegation of IFSMA**

Mr. Chair,

I would like to thank ICS and others for their very important Paper 4216/3 informing us all of the work being taken forward by MACN with the difficult problem that the shipping industry continues to face with corruption in some nations' ports around the world. As their paper highlights, it is often the shipmaster and crew of the vessels involved that have to take the lead on this for the shipping company and are often threatened if they do not accede to these illegal demands. Since the issuing of this paper, IFSMA too has joined in with this Cross Industry Working Group on Maritime Anti-Corruption and will be urging its 35 Member Associations around the world, with their declared numbers of over 11,000 shipmasters, to make full use of the anonymous reporting system put in place by MACN. IFSMA urges nations to make every effort at their disposal to stamp out this corruption which is a continued threat and danger to our business and in particular our mariners. They should not have to put up with this and there is no place for corruption in our world of today. I will forward this intervention to the Secretariat for inclusion in the Record of the Committee.

Thank you Mr. Chair.

#### **AGENDA ITEM 16**

##### **Statement by the delegation of WMU**

Thank you Mr. Chair,

The World Maritime University wishes to draw the attention of the FAL Committee to its efforts over the last few years in raising awareness and driving change on the issue of corruption in the maritime industry. From 2014 to 2017, WMU teamed up with Maersk Line to create a new module within its Masters programme called Maritime Business Integrity and Corruption Awareness, known in short as CORA. The course has been delivered for two consecutive years and it was decided due to its huge success to continue offering it to our students. The course draws on the direct involvement of practitioners working on issues of corruption in the maritime world, to which a cadre of professors of the University has been added.

The subjects covered in the course have spanned legal issues stemming from international commitments to fight corruption as well as anti-bribery legislation that has been adopted in a number of countries. In addition, the impact of corruption on maritime safety, security and environmental protection has been addressed.

Furthermore, organizational, culture change, negotiation and coping techniques have been imparted as part of the course. A number of professors have had the chance to sail aboard commercial ships in order to observe instances of bribery and facilitation payments in maritime corruption hotspots around the world. Our students have gone back to their countries with a sense of gravity and urgency as to the need to participate in a process of change toward tackling corruption in their organizations, for example their national maritime administrations. One student was enthusiastic about running a seminar in her home organization upon her return. She wrote to us some months later that her superiors had not supported her in her endeavours and that for now the project had to be left in abeyance. This experience showcases the challenging wall of obstructionism and passivity that we are facing.

In addition, the World Maritime University has launched a call for papers for a special issue of its landmark academic publication, the *Journal of Maritime Affairs*. The special issue is on the theme *Corruption in the Maritime Industry*. I take this opportunity to invite delegates to consider submitting perspectives or case studies on maritime corruption as it affects their countries. I have left copies of the call for papers on the handouts table outside this hall. In closing, the World Maritime University wishes to underline its willingness and readiness to cooperate with Member States and the industry on nurturing efforts toward combating corruption in the maritime world.

Thank you Mr. Chair.

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