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FAL.3/Circ.220  
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## **EXPLANATORY MANUAL TO THE FAL CONVENTION**

1 The Facilitation Committee, at its forty-eighth session (8 to 12 April 2024), finalized and approved the annexed Explanatory Manual to the Convention on Facilitation of International Maritime Traffic, 1965, as amended (FAL Convention).

2 The Committee recognized that the development of an Explanatory Manual should help in interpreting the legal text of the provisions of the Convention, that can be complex and at times difficult to understand. The Committee was of the view that the Manual should provide for a greater understanding of the Convention, particularly in those Member States which are not presently Contracting Governments to the Convention.

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

4 Member Governments are invited to bring this Manual to the attention of all parties concerned, including public authorities, ship's masters, agents and operators.

5 This circular revokes FAL.3/Circ.215.

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## **ANNEX**

### **EXPLANATORY MANUAL TO THE CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC 1965, AS AMENDED**

*(INCORPORATING AMENDMENTS TO THE FAL CONVENTION  
UP TO AND INCLUDING 2023)*

#### **Contents**

<b>EXPLANATORY MANUAL TO THE FAL CONVENTION .....</b>	<b>1</b>
<b>Introduction .....</b>	<b>3</b>
<b>Text from annex to the FAL Convention, with explanatory notes .....</b>	<b>3</b>
<b>Section 1 .....</b>	<b>3</b>
<b>Definitions and general provisions.....</b>	<b>3</b>
<b>A. Definitions.....</b>	<b>3</b>
<b>B. General provisions.....</b>	<b>7</b>
<b>C. Systems for the electronic exchange of information .....</b>	<b>8</b>
<b>D. Illicit activities.....</b>	<b>13</b>
<b>E. Maritime corruption .....</b>	<b>14</b>
<b>F. Control techniques .....</b>	<b>14</b>
<b>Section 2 .....</b>	<b>16</b>
<b>Arrival, stay and departure of the ship.....</b>	<b>16</b>
<b>A. General .....</b>	<b>16</b>
<b>B. Contents and purpose of declarations.....</b>	<b>21</b>
<b>C. Use of alternative means of reporting, in exceptional circumstances, where         means of electronic reporting are unavailable.....</b>	<b>27</b>
<b>D. Consecutive calls at two or more ports in the same State .....</b>	<b>28</b>
<b>E. Completion of declarations.....</b>	<b>29</b>
<b>F. Errors and amendments in declarations and penalties therefor .....</b>	<b>30</b>
<b>G. Special measures of facilitation for ships calling at ports in order to put ashore         sick or injured crew members, passengers, persons rescued at sea or other         persons for emergency medical treatment.....</b>	<b>31</b>
<b>Section 3 .....</b>	<b>33</b>
<b>Arrival and departure of persons.....</b>	<b>33</b>
<b>A. Arrival and departure requirements and procedures .....</b>	<b>33</b>
<b>B. Measures to facilitate clearance of passengers, crew and baggage.....</b>	<b>39</b>
<b>C. Special facilities for marine transport of elderly and disabled passengers .....</b>	<b>41</b>
<b>D. Facilitation for ships engaged on cruises and for cruise passengers.....</b>	<b>42</b>
<b>E. Special measures of facilitation for passengers in transit.....</b>	<b>44</b>

F. Measures of facilitation for ships engaged in scientific services.....	45
G. Further measures of facilitation for foreigners belonging to the crews of ships engaged in international voyages – shore leave .....	45
Section 4 Stowaways.....	46
A. General principles.....	46
B. Preventive measures .....	47
C. Treatment of the stowaway while on board.....	51
D. Deviation from the planned route .....	53
E. Disembarkation and return of a stowaway .....	54
Section 5 .....	60
Arrival, stay and departure of cargo and other articles .....	60
A. General .....	60
B. Clearance of cargo.....	63
C. Freight containers and pallets.....	67
D. Cargo not discharged at the port of intended destination.....	68
E. Limitation of shipowner's responsibilities.....	69
Section 6 .....	70
Public health and quarantine, including sanitary measures for animals and plants ..	70
A. General .....	70
B. Response to a public health emergency of international concern.....	72
Section 7 .....	75
Miscellaneous provisions .....	75
A. Bonds and other forms of security .....	75
B. Services at ports .....	75
C. Emergency assistance .....	76
D. National facilitation committees.....	77

## Introduction

This manual contains guidance and interpretations of the provisions of the annex to the *Convention on Facilitation of International Maritime Traffic*, 1965, as amended, including the amendments to the Convention adopted on 17 March 2023, and coming into force on 1 January 2025, as well as practical methods of application and examples of best practices.

Public authorities may apply the methods of application or best practices that are most suitable for their circumstances. If an application is more liberal than required by a particular Standard or Recommended Practice, such an application may be regarded as granting a wider facility in accordance with article V of the Convention.

Contracting Governments to the FAL Convention are obliged to bring the Standards and Recommended Practices of this Convention into force nationally, unless they have provided a reservation with the Secretary-General in accordance with article VIII. Their national legislation must include the implementation of these Standards and should include, as far as practicable, the Recommended Practices together with specific regulations for their application.

Taking into account the character of the annex to the Convention, which is addressed to public authorities in general, national legislation will not necessarily be limited to only one category of legislation. It may be included in the legislation of various public authorities, such as port, immigration and customs authorities. National legislation is not limited to laws in a formal sense, but may include other instruments such as official notifications, charters or ministerial decrees, according to the administrative system of each Contracting Government.

Explanatory guidance is provided for the most substantive provisions of the Convention. Definitions within the Convention are not provided with guidance, based on the understanding that such a definition should be clear as read.

## Text from annex to the FAL Convention, with explanatory notes

*For ease of reference, the following pages contain text reproduced from the annex to the Convention on Facilitation of International Maritime Traffic, 1965, as amended, including the amendments to the Convention adopted on 17 March 2023, and coming into force on 1 January 2025. This text, solely for the purposes of this manual, is indicated in bold text. It is supplemented by explanatory text, with practical methods of application and examples of best practices. This explanatory text is written in italics for ease of identification.*

*This manual does not form a part of the authentic text of the annex to the FAL Convention and entails no legal obligation towards Contracting Governments. The provisions of the authentic text of the Convention must be consulted and take precedence over any part of this Explanatory Manual.*

## Section 1

### Definitions and general provisions

#### A. Definitions

For the purpose of the provisions of this annex, the following meanings shall be attributed to the terms listed:

**Actual time of arrival (ATA).** The date and time when a ship first comes to rest, whether at an anchorage or at a dock, in a port.

**Actual time of departure (ATD).** The date and time when a ship departs from a location, whether from an anchorage or from a dock, in a port.

**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.

**Authenticate.** To establish and verify a claimed identity of the information provider or to verify the authenticity of the exchanged message(s).

**Cargo.** Any goods, wares, merchandise and articles of every kind whatsoever carried on a ship, other than mail, ship's stores, ship's spare parts, ship's equipment, cargo transport units not carried under a contract of carriage with a shipper, crew's effects and passengers' accompanied baggage.

**Cargo transport unit (CTU).** A freight container, swap-body, vehicle, railway wagon or any other similar unit.

**Clearance.** Accomplishment of customs and other formalities necessary to:

- (a) permit goods to be imported, to be exported or to be placed under another customs procedure (so called customs clearance);
- (b) permit persons to enter the territory of a State; or
- (c) permit a ship to enter or depart a port within the territory of a State.

**Crew's effects.** Clothing, personal items in everyday use and other articles, which may include currency, belonging to the crew and carried on the ship.

**Crew member.** Any person employed for duties on board during a voyage in the working or service of a ship and included in the Crew List.

**Cruise ship.** A ship on an international voyage carrying passengers accommodated aboard, for the purpose of making scheduled temporary tourist visits at one or more different ports, and which during the voyage does not normally:

- (a) embark or disembark any other passengers;
- (b) load or discharge any cargo.

**Declaration.** Information provided by electronic means or, in exceptional circumstances, by non-electronic means to fulfil reporting requirements in accordance with Standard 2.1.

**Estimated time of arrival (ETA).** The date and time when a ship is expected to arrive at a specific geographical position, e.g. a port, an anchorage or a pilot boarding area in the vicinity of the port.

**Estimated time of departure (ETD).** The date and time when a ship is expected to depart from a specific geographical position, e.g. a port or an anchorage in the vicinity of the port.

*For ease of reference, the example of geographical position in the definition of ETA and ETD could also be a position outside the vicinity of the port, as it may be practicable.*

**Freight container.** An article of transport equipment that is of a permanent character and accordingly strong enough to be suitable for repeated use; specially designed to facilitate the transport of goods, by one or other modes of transport, without intermediate reloading; designed to be secured and/or readily handled, having fittings for these purposes, and approved in accordance with the International Convention for Safe Containers (CSC), 1972, as amended. The term "freight container" includes neither vehicle nor packaging; however, a freight container that is carried on a chassis is included.

**Manifest.** Summary of various information from bills of lading and other transport documents issued for the carriage of goods on board ships.

**Master.** The person having command of a ship.

**Passenger in transit.** A passenger who arrives by ship from a foreign country for the purpose of continuing his or her journey by ship or some other means of transport to a foreign country.

**Passengers' accompanied baggage.** Property, which may include currency, carried for a passenger on the same ship as the passenger, whether in his or her personal possession or not, so long as it is not carried under a contract of carriage of goods or other similar agreement.

**Port.** Any port, terminal/facility, offshore terminal, ship and repair yard or roadstead which is normally used for the loading, unloading of cargo, embarkation and disembarkation of passengers, repair and anchoring of ships, or any other place at which a ship can call.

**Postal items.** Letter-post and parcels, as described in the Acts of the Universal Postal Union currently in force, tendered to be carried by a ship for carriage by the designated operator of the country of origin and intended for delivery to the designated operator of the country of destination in the ship's ports of call.

**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 Standards and Recommended Practices contained in this annex.

**Regulated article.** Plant, animal product, food product or plant product, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harbouring or spreading pests or diseases, deemed to require sanitary or phytosanitary measures, particularly where international maritime transportation is involved.

**Release.** Action taken by customs authorities to permit goods undergoing clearance to be placed at the disposal of the persons concerned.

**Security measures.** Measures developed and implemented in accordance with international agreements and national regulations 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.

**Ship agent.** The party representing the ship's owner and/or charterer (the Principal) in port. If so instructed, the agent is responsible to the Principal for arranging, together with the port, a berth, all relevant port and husbandry services, tending to the requirements of the master and crew, clearing the ship with the port and other authorities (including preparation and submission of appropriate documentation) along with releasing or receiving cargo on behalf of the Principal.

**Shipowner.** The owner of the ship or any other organization or person such as the manager or the bareboat charterer who has assumed the responsibility for operation of the ship, and any person acting on its behalf, excluding the ship agent.

**Ship's documents.** Certificates and other documents, including those in electronic form, which must be made available by a ship's master to demonstrate the ship's compliance with international or national regulations.

**Ship's equipment.** Articles, other than ship's spare parts, on board a ship for use thereon which are removable but not of a consumable nature, including accessories such as lifeboats, life saving devices, furniture, ship's apparel and similar items.

**Ship's spare parts.** Articles of a repair or replacement nature for incorporation into the ship in which they are carried.

**Ship's stores.** Goods for use in the ship, including consumable goods, goods carried for sale to passengers and crew members, fuel and lubricants, but excluding ship's equipment and ship's spare parts.

**Shipper.** The party named on the bill of lading or waybill as shipper and/or who concludes a contract of carriage (or in whose name or on whose behalf a contract of carriage has been concluded) with a carrier. The shipper is known also as the sender.

**Shore leave.** Permission for a crew member to be ashore during the ship's stay in port within such geographical or time limits, if any, as may be decided by the public authorities.

**Single window.** An environment that allows for the submission or provision of standardized and harmonized information and declarations to a single entry point, typically by electronic means.

**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.

**Temporary admission.** The customs procedure under which certain goods can be brought into a customs territory conditionally relieved, totally or partially, from payment of import duties and taxes and without application of import prohibitions or restrictions of economic character; such goods must be imported for a specific purpose and must be intended for re exportation within a specified period and without having undergone any change except normal depreciation owing to the use made of them.

**Transport document.** Information evidencing a contract of carriage between a shipowner and a shipper, such as a sea waybill, a bill of lading or a multimodal transport document.



## **B. General provisions**

In conjunction with paragraph 2 of article V of the Convention, the provisions of this annex shall not preclude public authorities from taking such appropriate measures, including calling for further information, as may be necessary in cases of suspected fraud, or to deal with special problems constituting a grave danger to public order (ordre public), public security or public health, such as unlawful acts against the safety of maritime traffic and illicit trafficking in narcotic drugs and psychotropic substances, or to prevent the introduction or spread of diseases and their vectors or pests affecting humans, animals or plants.

**1.1 Standard.** In relation to the formalities, documentary requirements and procedures on the arrival, stay and departure of ships engaged in international voyages, public authorities shall require only the minimum necessary information.

*It was the "red tape" of excessive documentary and other requirements that made the establishment of the FAL Convention essential. In view of the continuing demand for more detailed information, particularly but not limited to maritime security, considerations which have led to the development of the FAL Convention remain important for the facilitation of maritime traffic and will contribute to economic development and to efficient operations of public authorities.*

**1.1.1 Not in use.**

**1.2 Not in use.**

**1.3 Recommended Practice.** Measures and procedures imposed by Contracting Governments for the purposes of security or preventing the trafficking of narcotics should be efficient. Such measures and procedures (e.g. risk management and cross-checking of information) should be implemented in such a manner as to cause a minimum of interference with, and to prevent unnecessary delays to, ships, cargo and persons or property on board.

*Security of society and the illicit traffic of narcotics and other undesirable or illegal substances and cargoes, such as illicit wildlife, are subjects of constant concern for Governments. This Recommended Practice encourages Contracting Governments that implement measures to reduce those risks to also take into consideration that such measures should at the same time reduce the additional burden to trade as much as possible and avoid delays in the logistical chain. For customs purposes, reference is made to the SAFE Framework of Standards to Secure and Facilitate Global Trade by the World Customs Organization (WCO). This Framework provides international standards to secure the global supply chain while at the same time facilitating the international movement of goods.*

*The SAFE Framework of Standards could also be used in cooperation with other public authorities to avoid the use of different standards by those authorities, which could hamper the rapid movement of goods. The same principle should apply to measures implemented in other areas involving maritime traffic of societal concern, e.g. measures to minimize pest contamination of freight containers and their cargoes.<sup>1</sup>*

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<sup>1</sup> Refer also to MSC-FAL.1/Circ.1 on *Securing and Facilitating International Trade*, 21 October 2007.

**C. Systems for the electronic exchange of information****1.3bis Standard. Public authorities shall establish, maintain and use systems for the electronic exchange of information.**

*The establishment of systems for the electronic exchange of information simplifies and facilitates to a considerable extent the process of providing and sharing the necessary information to fulfil regulatory requirements for both authorities and the shipping industry. The use of such systems results in improved efficiency and effectiveness of official controls and may also reduce costs for both authorities and industry due to better use and reuse of resources.*

*In establishing systems for the electronic exchange of information, stakeholders should take the necessary steps to safeguard shipping from current and emerging threats and vulnerabilities related to digitalization, integration and automation of processes and systems in shipping. Using IMO Guidelines on cyber risk management<sup>2</sup> as well as IMO Guidelines on authentication, integrity, and confidentiality of information exchanges via maritime single windows and related services<sup>3</sup> may assist to safeguard and mitigate the security risks in the flow of information and technical equipment used as much as possible.*

*For details and guidance related to the development and implementation of specific risk management processes, users of the above-mentioned Guidelines should refer to any applicable specific regulatory requirements as well as relevant international and industry standards and best practices.*

**1.3ter Standard. Public authorities, when introducing or changing systems for the electronic exchange of information to assist clearance processes, shall provide shipowners and other parties concerned with the necessary information about the systems requirements and give an adequate period of transition before the use of the systems is made mandatory. A period of no less than 12 months shall be given for transition to a new system from the time all functional and technical specifications have been published.**

**Any new or changed system shall be technologically neutral and be compatible with other systems.**

*Twelve months is generally accepted as a minimum appropriate time frame for regulated parties to develop, test and implement IT systems for use in submitting required information. This time frame should start when all the functional and technical specifications and supporting material (e.g. message implementing guidance and test scenarios) have been developed, tested internally by the public authorities, and then made available to the regulated parties.*

*Public authorities should be aware that this is a minimum time frame, and a longer time frame may be appropriate for more challenging systems involving many filers and (sub-) processes and complex supply chains as often found in maritime transport.*

**1.3quart Standard. Public authorities shall, during the transitional period referred to in 1.3ter, accommodate the provision of required information for clearance processes by alternative means.**

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<sup>2</sup> MSC-FAL.1/Circ.3, as revised, *Guidelines on maritime cyber risk management*.

<sup>3</sup> FAL.5/Circ.46, as revised, *Guidelines on authentication, integrity and confidentiality of information exchanges via maritime single windows and related services*.

**When introducing new electronic message formats, public authorities shall continue to allow for the usage of existing electronic message formats for a time period to be determined in consultation with the parties concerned.**

*When using alternative means to accommodate the provision of required information during any transitional period, public authorities should consider the integrity and confidentiality of the provided information. Any alternative means used should, to the maximum extent possible, be as secure as the regular clearance processes.*

*In addition, when new or updated electronic message formats are being introduced, public authorities should give careful consideration to the implementation time. Special consideration should be given to allowing existing formats to be used in parallel with the new ones in order to allow the reporting parties to change their systems and procedures in due course.*

*There is no exact time limit for how long the old message formats should be accepted; this may vary depending on different factors such as other implementation requirements and the extent of the change, including the costs associated with the new or updated message formats.*

**1.3quin Standard. Public authorities shall introduce arrangements to enable the provision of all the information required in accordance with Standard 2.1 to a "single window" by electronic means.**

**Consideration shall also be given to such a single window serving as the mechanism through which the public authorities communicate decisions and other information covered by this Convention and other provisions, as appropriate.**

*It is important that public authorities make the maximum effort to combine, harmonize and minimize the information required from shipowners and other parties. The obligation on trade to provide various public authorities with information on ships, cargo and passengers at varying stages of movement may present obstacles to business efficiency. Although this information may be required for different purposes, many data elements required by public authorities, including identification of the ship, date and time of arrival, port of departure and cargo information, are identical. If such common and harmonized data elements can be combined into a single message according to commonly agreed standards and format and sent electronically to a single official destination, instead of being sent to individual public authorities separately, costs can be reduced, and clearance processes facilitated.*

*This concept, often referred to as a "single window", can expedite and improve the flow of information between public authorities and trade.*

*Single window is defined in the annex to the FAL Convention as an environment that allows for the submission or provision of standardized and harmonized information and declarations to a single-entry point, typically by electronic means".*

*The FAL Committee has approved Guidelines for setting up a single window system in maritime transport<sup>4</sup>. The FAL Committee has also approved Guidelines on authentication, integrity, and confidentiality of information exchanges via maritime single windows and related services<sup>5</sup> and Guidelines for harmonized communication and electronic exchange of*

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<sup>4</sup> FAL.5/Circ.42, as revised, *Guidelines for setting up a maritime single window*.

<sup>5</sup> FAL.5/Circ.46, as revised, *Guidelines on authentication, integrity and confidentiality of information exchanges via maritime single windows and related services*.

*operational data for port calls<sup>6</sup>. The FAL Committee is also working on guidelines for port community system for supporting the single window concept. Member States should refer to those guidelines when they intend to establish such a system in their countries.*

*These guidelines are based on those developed by the United Nations Economic Commission for Europe (UNECE) and its facilitating body the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT). The UNECE guidelines on single window refer to a single window as "a facility that allows parties involved in trade and transport to provide standardized information and documents with a single-entry point to fulfil all import, export and transit-related regulatory requirements. If information is electronic, then individual data elements should only be submitted once."*

*The key principle is that the single public or official agency nominated to receive the overall information would redistribute data, as appropriate, to other relevant public authorities, based on data harmonization and standardization. UNECE and UN/CEFACT have published a number of recommendations on the single window concept. UNECE Recommendation 33<sup>7</sup> and its guidelines covers the establishment of a single window, UNECE Recommendation 34<sup>8</sup> and its guidelines covers the data harmonization aspects of the single window concept to enable the development of single window systems and the exchange of information in the single window environment. There are also other relevant UNECE recommendations<sup>9</sup>.*

**1.3sexst Standard. Public authorities shall combine or coordinate the electronic transmission of the data required on the arrival, stay and departure of ships, so as to ensure that information is submitted or provided only once and reused to the maximum extent possible.**

*The information should be submitted only once and be reused to the maximum extent possible, keeping in regard national legislation, thus removing the need for submitting the same or similar information separately to different authorities. Information technology makes it possible for such information to be sent to one single entry point and distributed among the relevant public authorities.*

*When the information required in the General Declaration, Cargo Declaration, Crew List and Passenger List, and Dangerous Goods Manifest has been provided as pre-arrival or pre-departure information or in the ship's manifest, the obligation to provide these declarations is considered to be fulfilled. For reasons of legal responsibility, public authorities may, based on provisions in their national legislation, regard the pre-arrival information as equal to the provision of the FAL Forms.*

**1.4 Not in use.**

**1.5 Not in use.**

**1.6 Not in use.**

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<sup>6</sup> FAL.5/Circ.52, as revised, *Guidelines for harmonized communication and electronic exchange of operational data for port calls*.

<sup>7</sup> UNECE Recommendation No. 33 Recommendation and Guidelines on establishing a Single Window.

<sup>8</sup> UNECE Recommendation No.34 Data Simplification and Standardization for International Trade.

<sup>9</sup> UNECE Recommendation No.35 Establishing a Legal Framework for an International Trade Single Window; and UNECE Recommendation No. 36 Single Window Interoperability.

**1.6bis Standard.** For the electronic exchange of information to facilitate clearance processes, information required by public authorities for the arrival, stay and departure of the ship, persons and cargo shall be required to be submitted in conformity with internationally agreed standards, including UN Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT) Standards, the World Customs Organization (WCO) Data Model or International Standards Organization (ISO) Standards, taking into account the guidance developed by the Organization.<sup>10</sup>

*The benefit that public authorities and trade may derive from electronic transmission and exchange of information, discussed in the comment under Standard 1.3bis, can only be achieved when electronic transmissions are based on the use of internationally recognized standards. Furthermore, single windows would not be able to function properly without agreed and harmonized formats and data sets between the public authorities concerned. Neither would the "reporting once" principle be attainable by shipowners and other parties without such harmonization.*

*The IMO Compendium on Facilitation and Electronic Business (IMO Compendium) is the Organization's primary reference for creating the messages and processes needed to support transmission, receipt and response of information required for the arrival, stay and departure of the ship, persons and cargo through ports by using electronic data interchange (EDI) messaging based on the standards and formats referred to in this Standard.*

*The Compendium standardizes the terms used to report information required by the Convention and other IMO instruments; it models the hierarchies and relationships among the data elements. The Compendium contains cross references among data models maintained by numerous organizations for many EDI messages and other types of trade processes. Through the Compendium, the Organization promotes harmonization among the data models to optimize the ship-port interface, ship reporting, electronic navigation and other trade practices that help minimize the burdens on crews and Administrations. Optimized processes, in turn, lead to greater interoperability among maritime single windows and informed decision-making throughout the maritime community. For the same reason, non-mandatory, standardized data elements are also included in the Compendium.*

*The Compendium is fully mapped and aligns with the following international standards which are recommended to use for messaging when setting up a Single Window:*

- UNECE UN/CEFACT Core Component Library;
- WCO Data Model; and
- ISO 28005.

*Other standards may be introduced in the future.*

**1.6ter Not in use**

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<sup>10</sup> Refer to the *IMO Compendium on Facilitation and Electronic Business* and Facilitation; <https://imocompendium.imo.org/public/IMO-Compendium/Current/index.htm>.

**1.7 Recommended Practice. When planning for, introducing or modifying systems for the electronic exchange of information for clearance processes, public authorities should:**

- (a) afford all interested parties, from the outset, the opportunity for consultation;**
- (b) evaluate existing procedures and eliminate those which are unnecessary;**
- (c) determine those procedures which are to be digitalized;**
- (d) adapt these systems for multimodal applications;**
- (e) take appropriate steps to minimize the cost of implementing these systems to all parties concerned; and**
- (f) endeavour to ensure compatibility and interoperability with other relevant information systems.**

*The efficient and widespread use of information technology requires extensive communication between public authorities and industry. Investments in information technology are long-term, expensive and time-consuming. This communication can be achieved by using existing consultative instruments, such as national maritime transport facilitation committees as provided for in Recommended Practice 7.12, or specific consultative structures for the development and implementation of information technology. Where no systems for electronic exchange of information are available, it is important that both public authorities and industry communicate their intentions and objectives to avoid future non-interoperability and ensure compatibility. Where possible, existing systems for the exchange of information should be used (fully or partially) and further developed in order to reduce costs. The consultation should lead to the implementation of automated systems that are interoperable and compatible. Public authorities should periodically evaluate their existing procedures to ascertain whether they are appropriate and useful. With regard to procedures that are still necessary but of limited applicability, consideration should be given, based on a cost-benefit analysis, to not transferring those procedures into an electronic environment.*

*Sometimes when procedures are automated it is possible to include another procedure without any additional burden. For example, statistical information can automatically be derived from the basic information and sent to the statistical authorities. Careful consideration should be given to whether to include additional information for statistical purposes other than what is included in the basic information and what is required under the FAL Convention. Similar consideration could be given to other procedures and formalities, including the procedures of other public authorities.*

*An important condition for interoperability and compatibility between automated systems is the standardization and harmonization of the information. Public authorities should use internationally recognized standards presented in the explanatory text related to Standard 1.6bis. They should refer to the IMO Compendium on Facilitation and Electronic Business, which sets out how to use the various internationally recognized standards for the transmission of the data covered by the FAL Convention.*

**1.7.1 Recommended Practice.** Contracting Governments should encourage public authorities and other parties concerned to cooperate or participate directly in the development of electronic systems using internationally agreed standards with a view to enhancing the exchange of information relating to the arrival, stay and departure of ships, persons and cargo and assuring interoperability between the systems of public authorities and other parties concerned.

*Today's system implementations and business realities are very complex and need full attention from the parties concerned in order to include all possible issues that need to be considered and implemented – especially when a single window is being developed. Therefore, when such electronic systems are being developed, it is essential that there is continuous dialogue, cooperation and active participation amongst public authorities, industry and other parties involved for a successful result.*

*As an example, such cooperation could be in the form of a specific project or a subgroup to the national maritime transport facilitation committee recommended in Recommended Practice 7.12 of the FAL Convention.*

*Consideration should be given to simplifying and harmonizing the exchange of information, the interoperability and compatibility of the systems involved, and the use of internationally agreed standards.*

**1.8 Standard.** Electronic transmission of required information shall be accepted from any location as long as the provider of the information has been certified and authenticated pursuant to the applicable requirements. Usage of a service provider in the jurisdiction to which the information is provided may not be required.

**1.8.1 Recommended Practice.** Information regarding certification and authentication requirements should be publicly and electronically available.

**1.8.2 Standard.** Public authorities shall accept the declarations referred to in Standard 2.1 when they are authenticated in a manner acceptable to the public authority concerned.

*"Authenticate" is defined as the act "to establish and verify a claimed identity of the information provider or to verify the authenticity of the exchanged message(s)".*

*Public authorities should therefore lay down in their national legislation or regulations the manner authentication will be deemed to be acceptable.*

## **D. Illicit activities**

**1.9 Recommended Practice.** Public authorities should seek to establish cooperation arrangements with shipowners and other parties concerned to improve their ability to combat illicit activities, including, but not limited to, drug smuggling and the illicit trafficking in wildlife, while providing enhanced facilitation. Such arrangements could be based on the World Customs Organization Memoranda of Understanding, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the associated guidelines.

*In their effort to combat illicit activities, public authorities can benefit from information that is already available. Sharing and exchange of information between authorities, shipowners and other parties concerned should be encouraged and may be facilitated by MoUs and reporting*

*tools that should respect and protect the confidential nature of the information and shield the source from exposure.*

*Public authorities should consider the critical role of ship's master and crew in information sharing and reporting. Public authorities should provide appropriate information to the master and crew, in a timely manner, for raising their awareness and encouraging them to take proper actions.*

*IMO has produced Guidelines<sup>11</sup> for the prevention and suppression of the smuggling of drugs, psychotropic substances and precursor chemicals as well as for the prevention and suppression of the smuggling of wildlife on ships engaged in international maritime traffic<sup>12</sup>. The objective of these Guidelines is, inter alia, to manage the risks to which a ship operating in international maritime traffic is exposed when involved in situations arising from illicit drugs trafficking that might disrupt the overall safety and security of such maritime traffic.*

## **E. Maritime corruption**

**1.9bis Standard.** Contracting Governments shall encourage public authorities to assess the risks of corruption associated with the ship-shore interface in ports and address them by developing and implementing preventive measures to strengthen integrity, transparency and accountability. Public authorities shall also coordinate efforts to detect, investigate and sanction corruption related to ships' calls in the port, through national and international cooperation.

*When developing and implementing preventive measures against maritime corruption, public authorities should consider relevant Guidance<sup>13</sup> developed by the FAL Committee.*

**1.10 Standard.** Where, as part of cooperation arrangements, public authorities, shipowners and other parties concerned are provided access to sensitive commercial and other information, the information shall be treated confidentially.

*Confidentiality is a vital condition for the industry to be able to share information. Sharing sensitive or commercial information with public authorities, not only to target illicit drug trafficking but also other threats such as security, requires that information be treated confidentially. Many countries have already implemented national provisions that ensure the confidential treatment of information. Particular attention should be given to avoid exposing information coming from crew, staff and whistleblowers, to ensure that they and their family members cannot be targeted and threatened by criminals.*

## **F. Control techniques**

**1.11 Standard.** Public authorities shall use risk management to enhance their border control procedures related to:

- the release/clearance of cargo;
- security requirements; and
- their ability to target smuggling.

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<sup>11</sup> Resolution FAL.9(34).

<sup>12</sup> Resolution FAL.17(48).

<sup>13</sup> FAL.5/Circ.48, as revised.



*In practice, public authorities are not able to physically inspect every shipment entering or leaving the customs territory. Risk management is an important technique to help public authorities to undertake more effective controls, set the necessary priorities and allocate the resources available more efficiently, thereby minimizing the occurrence of risks, and maintaining a proper balance between controls and facilitating legitimate trade in the international movement of cargo.*

*The benefits of risk management for the public authorities include:*

- *enhanced targeting and selection of high-risk transactions;*
- *efficient allocation of resources to high-risk areas;*
- *elimination of time and resource wastage;*
- *ability to fast-track international trade transactions, thereby contributing to the national economy; and*
- *greater openness and transparency in decision-making and ongoing management processes thereby meeting accountability requirements.*

*Also, the industry benefits from the use of risk management, for example:*

- *faster clearance through better targeting of high-risk cargo;*
- *facilitation of the vast majority of low-risk transactions; and*
- *reduced delays for industry, cutting the cost of doing business.*

*Risk management is defined as a control methodology for identifying, analysing and managing risks associated with any activity, function or process. To handle the large amount of information it is necessary for public authorities to focus their efforts on high risks. Concerning the flow of information, it is also important to clarify what data is needed and why international instruments should indicate a maximum set of data, their collection and use. This will avoid a demand for unnecessary or redundant data and will facilitate trade. Risk management should not be seen as a static process but as an interactive process in which information related to cargo and its movement is continuously updated, analysed, acted upon and reviewed and the results of inspections and checks are fed back to the risk management tool. This process may be also facilitated by the usage of AI and machine learning. The risk-management process consists therefore of the following elements:*

- *determining the strategic and organizational context in which risk management will be applied by, among others, immigration and customs;*
- *identifying, analysing and prioritizing risks;*
- *assessing risks by taking appropriate and proportionate measures to cover the identified high risks; and*
- *monitoring and reviewing the process on a regular basis.*

*In the second element of the risk management process – risk analysis – the systematic use of available information to determine how often defined risks may occur and the magnitude of*

*their likely consequences is important. Risk analysis should generate profiles that will be the basis for the next step in the process, which is taking the appropriate measure to cover the risk(s). Examples of risk areas can be found in the information on the nature of the cargo, the country of origin or departure, parties involved in the transportation such as consignors, shippers, notify parties and consignees, prohibitions and restrictions relating to cargo and the chosen route of transport. Risk areas can be specific destinations, specific countries of origin, sensitive goods such as nuclear material, dangerous goods and drugs, among others. Other factors relating to protection of the national economy, health, security and environment must also be taken into account. All these factors, taken together, increase or reduce the level of risk. Risk profiles will identify known risk areas, actual incidents and the corresponding (high) risk indicators. Risk profiles also establish an action plan of checks for carrying out the appropriate controls and allocating the available resources. Computerized applications and IT support are indispensable for the effective performance of this process.*

## **Section 2**

### **Arrival, stay and departure of the ship**

**This section contains the provisions concerning the formalities required of shipowners by the public authorities on the arrival, stay and departure of the ship. To meet the information needs and regulatory requirements of the public authorities, the information to be provided by the shipowner is for ease of comprehension assembled in the declarations presented in this section. The information structured for electronic transmission might not necessarily correlate with these declarations. Specifically, the principles of transmitting once only and maximum reuse of the same information shall apply throughout. Nor do the declarations prejudice the method for making the information available to the public authorities concerned. This section shall not be read to preclude the public authorities from requiring inspection certificates and other documents, or the information contained in the electronic version of such documents, that must be available on board ship pertaining to its registry, measurement, safety, manning and other related matters.<sup>14</sup>**

#### **A. General**

**2.1 Standard. Public authorities shall not require on arrival or departure of ships to which the Convention applies any declaration other than those described in this section. These declarations could be transmitted separately or in a combined electronic format according to the message implementation guidelines and the requirements of the electronic data exchange system.<sup>15</sup>**

**The declarations for ship arrival and departure are:**

- a) General Declaration**
- b) Cargo Declaration**
- c) Ship's Stores Declaration**

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<sup>14</sup> See the List of certificates and documents required to be carried on board ships, 2022 (FAL.2/Circ.133 – MEPC.1/Circ.902 – MSC.1/Circ.1646 – LEG.2/Circ.4).

<sup>15</sup> The IMO Compendium on Facilitation and Electronic Business, consisting of the IMO Reference Data Model and the IMO Data Set, provides the information needed for the harmonized data transmission and electronic exchange of the information.

- d) **Crew's Effects Declaration**
- e) **Crew List**
- f) **Passenger List**
- g) **Dangerous Goods Manifest**
- h) **The delivery bill for mail consignment as described in the Acts of the Universal Postal Union, the Universal Postal Convention and its Regulations currently in force<sup>16</sup>**
- i) **Maritime Declaration of Health as set forth by the International Health Regulations<sup>17</sup>**
- j) **Ship Sanitation Control Exemption Certificate or Ship Sanitation Control Certificate or extension as set forth by the International Health Regulations<sup>18</sup>**
- k) **Security-related information as required under SOLAS regulation XI-2/9.2.2<sup>19</sup>**
- l) **Advance electronic cargo information for customs risk assessment purposes as set out in the WCO SAFE Framework of Standards**
- m) **Advance Notification Form for Waste Delivery to Port Reception Facilities.<sup>20</sup>**

*In the past, public authorities required a large number of different documents, developed for their specific national needs. The maritime industry had to provide different documents at each port, which impeded efficient trade to a great extent. With the establishment of the FAL Convention, some of the red tape has been removed, and this Standard reduces and harmonizes the great variety of documents to only 13 declarations for all formalities on arrival and departure of a ship with a standardized set of data requirements.*

*The data requirements of seven of these basic declarations have been specifically described in the annex to the FAL Convention as follows and are presented in appendix 1 of the FAL Convention.*

- *General Declaration – IMO FAL Form 1*
- *Cargo Declaration – IMO FAL Form 2*
- *Ship's Stores Declaration – IMO FAL Form 3*

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<sup>16</sup> Refer to Article 17-134 and 17-230 of the Regulations to the Universal Postal Convention.

<sup>17</sup> Refer to Article 37 of the International Health Regulations (2005).

<sup>18</sup> Refer to Article 39 of the International Health Regulations (2005).

<sup>19</sup> The standard data set of security-related information can be found in the Revised guidance to masters, companies and duly authorized officers on the requirements relating to the submission of security-related information prior to the entry of a ship into port (MSC.1/Circ.1305).

<sup>20</sup> As prescribed in the Consolidated guidance for port reception facility providers and users (MEPC.1/Circ.834/Rev.1).

- *Crew's Effects Declaration – IMO FAL Form 4*
- *Crew List – IMO FAL Form 5*
- *Passenger List – IMO FAL Form 6*
- *Dangerous Goods Manifest – IMO FAL Form 7*

*It is not necessary for public authorities to require all the information contained in the list above; if they are satisfied with less information, this will facilitate the obligations of the declarant.*

*For the purpose of electronic exchange of information an IMO Compendium on Facilitation and Electronic Business has been developed <sup>21</sup> (see explanatory text under Standard 1.6bis), which includes, inter alia:*

- *definitions of data elements in IMO FAL declarations and declarations identified in other IMO instruments;*
- *details and requirements for electronically exchanging the information contained in these documents; and*
- *data mapping to the WCO, ISO and UN/CEFACT data models.*

*Regarding security-related information, MSC.1/Circ.1305 on Revised guidance to masters, companies and duly authorized officers on the requirements relating to the submission of security-related information prior to the entry of a ship into port contains some practical advice and sets out in the appendix thereto a standard data set of security-related information a ship might be expected to submit prior to entry into port if requested to do so pursuant to SOLAS regulation XI-2/9.*

*As already mentioned under Recommended Practice 1.3 and Standard 1.6bis, for customs security purposes, the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade includes maximum lists of data elements for advance cargo risk assessment. Customs authorities may be guided by these maximum lists, which are not mandatory, in establishing their respective data requirements for security purposes.*

*As regards the notification of waste, the exact data on the types and amounts of the ship-generated waste and cargo residues delivered by a ship in the last port is essential for an accurate calculation of sufficient dedicated storage capacity on that ship. The calculation of sufficient storage capacity is a prerequisite for allowing the ship to proceed to the next port of call without having delivered its ship-generated waste, as well as for a proper selection of vessels for inspection. Better targeted inspections will contribute to the effective operation of maritime traffic, by reducing turnaround time in ports.*

**2.1bis Standard.** For declarations mentioned in points (a) to (g) of Standard 2.1, public authorities shall not require more than the information shown in appendix 1.

**2.1.1 Standard.** Contracting Governments shall not require consular formalities, charges or fees in connection with information required for the clearance of ships, including the electronic provision of the information.

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<sup>21</sup> Refer to the IMO Compendium on Facilitation and Electronic Business:  
<https://imocompendium.imo.org/public/IMO-Compendium/Current/index.htm>.

*The declarations covered by this Convention should be sufficient to perform the formalities and comply with the regulations in force related to the clearance on arrival or departure of ships. Additional formalities, charges or fees should not be imposed. Nor should shipowners or other parties have fees imposed on them or other requirements such as residency in order to be able to electronically provide required information to public authorities directly or via a single window.*

**2.1.2 Standard. Public authorities shall develop procedures for the provision of pre-arrival and pre-departure information to facilitate processing of such information for the expedited subsequent release/clearance of cargo and persons.**

*Information made available before the arrival and the departure of the ship will allow public authorities to undertake the necessary formalities and assessments and make the necessary determinations sufficiently in advance to ensure expedited subsequent clearance of goods and of persons at arrival or departure. Similarly, advance cargo information for customs risk assessment purposes will allow customs authorities to screen cargo and determine the appropriate risk level and response.*

*Different timelines apply for the various types of information.*

*Regarding the security-related information required under SOLAS regulation XI- 2/9.2.2, Revised guidance<sup>22</sup> to masters, companies and duly authorized officers on the requirements relating to the submission of security-related information prior to the entry of a ship into port states that unless a Contracting Government has established a different time period prior to the arrival of the ship in port for the provision of the required information, the recommended default minimum period for the submission of such information is not to be less than 24 hours prior to the expected entry of the ship into port. Some Contracting Governments require the information to be provided much earlier than 24 hours before arrival.*

*Regarding advance cargo information for customs risk assessment purposes, the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade recommends different provision timelines for various modes of transport. Specifically, in order to ensure a minimum level of consistency, and without prejudice to specific situations, customs should not for containerized cargo require the advance cargo information to be provided more than 24 hours before commencement of loading at each port of departure and, for bulk/break bulk, not more than 24 hours before arrival at first port in the country of destination. However, these timelines may have competitive disadvantages for so-called "short sea" shipping that, while international in scope, is confined to a specific geographic area, e.g. between Northern Africa and Europe, and/or is of short duration, e.g. less than 24 hours. This explains why several WCO Member Administrations have opted for much shorter provision deadlines for advance cargo information for this type of maritime traffic.*

*For other types of information, i.e. information required in the various FAL declarations, the timelines for provision are at the discretion of the individual government and its public authorities. However, as set forth in 2.1.3 Recommended Practice, the timelines for provision of the information should not normally be set substantially before the time the ship leaves the country of departure. However, national legislation could, in addition to the basic rule, also specify exceptions to this principle where required, e.g. for voyages of short duration.*

*As a general principle for all the different types of information, the exact timelines for when the information has to be provided at either arrival or departure of the ship and the cargo and people it is carrying should be clearly set out in national legislation after careful analysis of the*

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<sup>22</sup> MSC.1/Circ.1305.

*geographical situation, the business processes applicable for the various sectors of maritime traffic serving the country, and after consultation with the regulated parties and any other Administrations concerned. The same principle applies to the exact information to be provided.*

**2.1.3 Recommended Practice.** National legislation should specify the conditions for the provision of pre-arrival and pre-departure information. With regard to the point in time of transmission of the pre-arrival information, it should not normally be set before the moment the ship has left the country of departure. However, national legislation could, in addition to the basic rule, also specify the exceptions from this principle where required, e.g. for voyages of short duration.

*See explanatory text under Standard 2.1.2.*

**2.1.3bis Recommended Practice.** Public authorities should, for the provision of advance electronic cargo information for customs risk assessment purposes, take into account the time limits specified in the WCO SAFE Framework of Standards.

*See explanatory text under Standard 2.1.2.<sup>23</sup>*

**2.1.4 Not in use.**

**2.1.5 Standard.** Public authorities shall reuse the pre-arrival and pre-departure information where the same information is required in subsequent procedures.

*The collection of pre-arrival or pre-departure information, including pre-loading information in the case of deep-sea containerized shipping, enables public authorities:*

- .1 to process the information by means of risk management at an early stage;*
- .2 to give early permission to unload and load the cargo; and*
- .3 where appropriate to select consignments for examination or grant immediate release or clearance or, as the case may be, deny loading.*

*This enables public authorities to focus available resources on higher-risk areas and reduce constraints on fully compliant traders by minimizing interventions in the flow of goods presenting minimal risks. Advance information will facilitate the processing of information by customs and other public authorities at the earliest possible stage after receipt.*

*Regarding advance cargo information for customs risk assessment purposes, the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade recommends different submission timelines for various modes of transport.*

*For other types of information, i.e. information required in the various FAL declarations, the timelines for submission are at the discretion of the individual government and its public authorities. However, as set forth in 2.1.3 Recommended Practice, the timelines for submission of the information should not normally be set substantially before the time the ship leaves the country of departure. However, national legislation could, in addition to the basic rule, also specify exceptions to this principle where required, e.g. for voyages of short duration.*

*When pre-arrival or pre-departure information is determined to have been provided in a timely way and is complete, requests for a formal General Declaration and Cargo Manifest would*

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<sup>23</sup> Refer also to MSC-FAL.1/Circ.1 *Securing and Facilitating International Trade*, 21 October 2007.

*simply result in unnecessary duplication. Public authorities should accept an electronic notification of arrival, referencing the already submitted prescribed pre-arrival information, as sufficient to fulfil the function of the General Declaration and the Cargo Manifest. Data duplication should be avoided wherever and whenever possible and, once data has been validated to be correct, it should be used for other subsequent procedures, e.g. for customs release or clearance of goods, such as temporary storage, importation or warehousing. Whenever a reference to the previously provided information is made by the shipowner or other parties, only additional data related to each such specific procedure, if any, should be required by public authorities.*

## **B. Contents and purpose of declarations**

### **2.2 Standard. The General Declaration shall be the standard declaration on arrival and departure providing information required by public authorities relating to the ship.**

*The General Declaration contains a number of specific data elements related to the ship, its voyage and other information.*

*Several public authorities could be interested in the information on the General Declaration, such as the port authorities, customs, health authorities and immigration. Based on this information, public authorities can perform their assessment and take the appropriate measures. This assessment can be based on legal provisions and risk management. Port authorities can allocate the place of berth in the port and calculate harbour fees. Customs can, preferably based on risk management, determine if the ship or the cargo on the ship pose a certain risk. Immigration may include in their assessment the information regarding the countries and the ports which have been visited by the ship. Also, health authorities could use the information on the countries visited for their specific tasks. The same principles apply, mutatis mutandis, with regard to pest contamination of ships, freight containers and their cargoes.*

#### **2.2.1 Not in use.**

#### **2.2.2 Not in use.**

#### **2.2.3 Not in use.**

### **2.3 Standard. Without prejudice to Standard 2.3.4, Recommended Practice 2.3.4.1 or advance electronic cargo information requirements for customs risk assessment purposes, the Cargo Declaration shall be the standard declaration on arrival and departure providing information required by public authorities relating to the cargo.**

*The Cargo Declaration contains summary information about the cargo in or on the ship, basically the quantity and nature of the goods. It also includes some general information about the ship, such as the name and nationality of the ship. The latter is useful in linking the Cargo Declaration to the ship and can be used separately from the General Declaration. The information in the Cargo Declaration or, alternatively, in the ship's manifest and/or pre-arrival and pre-departure information is to be used by various public authorities, in particular customs and port authorities. For example, a reference to such previously provided information can constitute the declaration for temporary storage.*

*With the information contained in the Cargo Declaration or, alternatively, in the ship's manifest and/or pre-arrival and pre-departure information, customs may have a global overview of the cargo entering or leaving a port, thus enabling them to allocate responsibility for the goods to a specific person or company. For the port authorities, this information is also useful for dealing*

*with, for example, specialized cargo such as oil and bulk, and assigning a specific area in the port. This information should be sufficient for public authorities to be able to perform their primary functions at arrival and departure. Next to the obligation to use the Cargo Declaration (or its alternatives) as a facilitation measure, public authorities could publish explanatory notes to these data elements to simplify the use of the document and to inform the declarant concerning the content of each specific data element. Not all the information contained in the Cargo Declaration is necessarily required by public authorities. Public authorities may be satisfied with fewer data elements.*

*For the purpose of adequately describing the number and kind of packages on the cargo declaration, shipowners and other concerned parties should ensure that the external packaging unit of the goods is used. If the goods are on pallets, the number and kind of packages on the pallet(s) should be stated. If the goods on the pallet are not packaged, the quantity and description of goods on the pallet should be used. For sealed containerized shipments, this information is to be provided by the shipper.*

*To facilitate the processing of information required by public authorities, in particular risk analysis, all parties involved should use an appropriate description of the goods and refrain from using generic terms, such as "general cargo", "parts", among others. Public authorities should make available to all parties concerned lists of descriptions that are deemed acceptable/unacceptable. Instead of plain language cargo descriptions, public authorities should promote cargo descriptions using HS codes up to the sixth digit level, recognizing that more digits may be required in import declarations.*

#### **2.3.1 Not in use.**

#### **2.3.2 Standard. In respect of cargo remaining on board, public authorities shall require only brief details of the minimum essential items of information to be provided.**

*The information regarding cargo arriving aboard ship in a port where the cargo will not be unloaded and another port is the port of discharge shall be limited to general cargo information, such as a brief description of the goods, their quantity and, where necessary, the port of destination. However, it should be recognized that, for customs risk assessment purposes, some governments may require that goods remaining on board ships arriving in their ports be included in the advance cargo information requirements. The same applies to goods that are to be trans-shipped in their ports.*

#### **2.3.3 Not in use.**

#### **2.3.4 Standard. Public authorities shall, in place of the Cargo Declaration, accept the ship's cargo manifest, if it is provided electronically and contains at least the information required by the public authorities in accordance with appendix 1 and Standard 2.3.2 and is authenticated in accordance with Standard 1.8.2.**

*The ship's manifest (or cargo or import manifest as it is also called) is based on the bill of lading information but may include additional information, for example about the ship and its routing. Invariably, the ship's manifest includes more information than the Cargo Declaration, with some of the information being required by or referenced in national (customs) legislation, for example to establish or demonstrate the customs status of the goods. As such, the information in the manifest could also be used and processed by public authorities, for a variety of purposes. In most cases the manifest information is already available when the cargo is loaded at the port of departure and may therefore constitute the pre-arrival or, in the case of deep-sea containerized shipping, pre-loading information provided for customs risk assessment purposes. To ensure the liability of the person who presents the manifest as a document for*



*official purposes, the manifest should be dated and authenticated in accordance with the rules of Standard 1.8.2 for the official Cargo Declaration, taking into account Standard 2.16.1.*

*Standard 2.3.4 grants to a declarant the right, in place of the Cargo Declaration, to provide the ship's cargo manifest, and accordingly imposes on public authorities the obligation, in place of the Cargo Declaration, to accept the ship's cargo manifest. Standard 2.3.4 in no way grants to public authorities the right, in place of the Cargo Declaration, to require provision of the ship's cargo manifest with information which exceeds the limits prescribed by appendix 1. Such a requirement would constitute a breach of Standard 2.1bis.*

**2.3.4.1 Recommended Practice. As an alternative to Standard 2.3.4, public authorities may accept the transport document, provided it contains at least the information required in accordance with Standard 2.3.2. Such transport document should be authenticated in accordance with Standard 1.8.2.**

*The required information to be provided electronically to public authorities could also be met with commercial documents other than the manifest, such as the Bill of Lading or the Sea Waybill. When other commercial documents which are acceptable to public authorities do not contain all the information required by the Cargo Declaration, this additional information could be provided separately by electronic means. Public authorities should include in their national legislation rules to ensure the liability of the supplier of the commercial declaration.*

**2.3.5 Standard. A new Cargo Declaration shall not be required on departure from a port in respect of cargo which has been the subject of a declaration on arrival in that port and which has remained on board.**

*Based on Standard 2.3.2, public authorities shall only require brief details of cargo remaining on board at arrival. Logically the requirements at departure should be similar. Where the cargo destined for another country remains on board and the brief details of the cargo have been included in the Cargo Declaration, public authorities should be satisfied with that information. A new Cargo Declaration would not contain any new information regarding the cargo remaining on board.*

**2.4 Standard. The Ship's Stores Declaration shall be the standard declaration on arrival and departure providing information required by public authorities relating to ship's stores.**

*Ships operating in international waters remain offshore for longer periods. It is a matter of course that the supplies for the crew are available in sufficient quantities. This includes not only food supplies, but also non-alcoholic and alcoholic beverages and other consumer goods. In most cases these goods are bought without payment of duties and taxes, because of their consumption and use in international waters. It is clear that these goods are of special interest for public authorities, especially customs, at arrival in a port. For that reason, a separate declaration is required to inform customs of the supplies on board. The Ship's Stores Declaration has been developed for that purpose. Where high revenue goods are concerned it is customary in many ports that these goods are placed in a secure space on the ship to guarantee that they will remain on board. Such a space may be provided with a seal. Customs allow for a certain number of cigarettes and alcoholic beverages to be in the possession of the crew member without the payment of duties and taxes related to the period of stay in the port. In many countries it is common to also include other goods in the Ship's Stores Declaration, such as weapons and spare parts.*

**2.4.1 Recommended Practice.** A separate Ship's Stores Declaration on departure should not be required in respect of ship's stores which have been the subject of a declaration on arrival, nor in respect of stores loaded in the port and covered by another customs document presented for the purpose in that port.

*The main purpose of the Ship's Stores Declaration is to facilitate the temporary importation of the ship's stores and their subsequent re-exportation. For public authorities, e.g. customs, it is possible to check if the stores are still present, based on the information contained in the Ship's Stores Declaration on arrival. A separate Ship's Stores Declaration would be a repetition of the information on arrival. Where necessary the notification of departure could be made on the Ship's Stores Declaration provided on arrival. Information regarding stores supplied to the ship during its stay in the port may be added to the Ship's Stores Declaration already present or may be cleared for exportation separately, using an export declaration for example.*

**2.5 Standard.** The Crew's Effects Declaration shall be the standard declaration providing information required by public authorities relating to crew's effects upon arrival. It shall not be required on departure.

*Crew members often stay on board for long periods, and to make their stay comfortable and pleasant, their cabins will usually contain personal belongings. As with the ship's stores, the crew's effects will remain on board ship and be re-exported at departure. To ensure that all the crew's effects are re-exported, public authorities may require at arrival a crew's effects list with all the personal items in the possession of crew members. The information regarding the items on the crew's effects list should also include the items for which certain countries have import restrictions, such as medicines and weapons. For such items public authorities could take specific measures. Such items could, for example, be stored in a secure space, where possible the same space as for the ship's stores.*

**2.5.1 Standard.** Public authorities shall accept the Crew's Effects Declaration when it is authenticated in a manner acceptable to the public authority concerned. For the purpose of onboard verification, the public authorities may require each crew member to verify in a manner acceptable to the public authorities the declaration relating to personal effects.

*See explanatory notes to Standard 1.8.2.*

**2.5.2 Recommended Practice.** Public authorities should normally require particulars of only those crew's effects which would not qualify for relief from customs duties and taxes or which are subject to prohibitions or restrictions.

*Most countries have in their (customs) legislation provisions for the relief of duties and taxes at import for articles with a low value, clothes, other personal effects and consumer goods to a certain amount, especially for high taxed goods such as cigarettes and alcoholic beverages. Public authorities should allow those items not to be included in the crew's effects list. Goods which are subject to prohibitions or restrictions in certain countries, should be included in the crew's effects list to enable the public authorities to enforce these prohibitions and restrictions. Other items which normally qualify for relief are clothes and toiletries, among others.*

**2.6 Standard.** The Crew List shall be the standard declaration required by public authorities containing information relating to the number and composition of the crew on the arrival and departure of a ship.

*Based on the information on the crew list, public authorities, in particular the immigration authorities, can make an assessment on the admittance or departure of crew members or the*

*application of simplified procedures for crew members, or where necessary the application of specific formalities. Immigration authorities could allow for the advance provision of the information included in the crew list, in order to assess the information before the arrival of the ship.*

**2.6.1 Standard.** Where public authorities require information about the crew of a ship on its departure from the port, the Crew List declared on arrival at the port shall be accepted on departure, provided it is authenticated in accordance with Standard 1.8.2 to indicate any change in the number or composition of the crew at the time of the ship's departure or to indicate that no such change has occurred during the ship's stay in the port.

**2.6.2 Not in use.**

**2.6.3 Not in use.**

**2.6.4 Not in use.**

**2.7 Standard.** The Passenger List shall be the standard declaration required by public authorities containing the information relating to passengers on the arrival and departure of a ship.

*The formalities for the admittance or departure of passengers may differ from the rules or practices applicable to crew members, due to the different roles of the two groups, noting that a crew member has a relationship with the ship and has limited possibilities to travel freely and withdraw from his or her duties and obligations, while a passenger, in general, is free to travel and is independent from his or her means of transport.*

*With the information contained in the passenger list, the immigration authorities are able to make an overall judgement regarding the admissibility of the passenger on board a ship. The information in the passenger list is related to the information regarding the ship, the particulars of the voyage of the ship and its passengers, the individual information of the passenger and the identity documents.*

*Immigration authorities can, based on the information on the passenger list, make a first assessment on the admittance or departure of passengers. This could be followed by an individual control of the passenger and his or her identity document and/or visas. The advance provision of the information included in the passenger list and the subsequent assessment by the immigration authorities before the arrival of the ship, preferably on the basis of risk management, will facilitate the flow of passengers in a port with a minimum of delay, especially with ships with a large number of passengers, for example cruise ships.*

*A visa may be an admission requirement in some countries and may differ from country to country. The visa number should therefore only be submitted when it is required for a passenger. Where it is required to present information about the visa, the visa number should be included in the passenger list.*

**2.7.1 Not in use.**

**2.7.2 Recommended Practice.** Public authorities should not require embarkation or disembarkation cards in addition to Passenger Lists in respect of passengers whose names appear on those Lists. However, where public authorities have special problems constituting a grave danger to public health, a person on an international voyage may on arrival be required to give a destination address in writing.

*Embarkation or disembarkation cards have more or less the same function as the passengers' list. With these documents, immigration authorities can collect the information regarding arriving or departing passengers. Where possible, and in accordance with the domestic legislation of each State, duplication of information should be avoided, and where a passenger list is required no embarkation or disembarkation cards should also be required.*

**2.7.3 Not in use.**

**2.7.4 Not in use.**

**2.7.5 Not in use.**

**2.8 Standard. The Dangerous Goods Manifest shall be the standard declaration providing public authorities with the information regarding dangerous goods.**

*A safe maritime environment is one of the main objectives of the International Maritime Organization. Dangerous goods may impede a safe environment if not handled, labelled and documented in accordance with applicable rules and regulations. To ensure a safe environment it is necessary that the responsible public authorities have access to the relevant information. For this purpose, a separate data set has been developed, the Dangerous Goods Manifest. Refer to chapter VII of the SOLAS Convention and relevant provisions of the International Maritime Dangerous Goods Code (IMDG Code).*

*The Dangerous Goods Manifest, which is compiled using information provided by the shipper to the carrier, provides public authorities with specific information to enable them to apply the specific measures for certain dangerous goods as well as for hazardous and harmful substances. In addition to the general information about the ship, agent and mass or volume, the Dangerous Goods Manifest contains detailed information on and specific descriptions of the dangerous goods and the hazardous and harmful substances according to the International Maritime Dangerous Goods Code (IMDG Code) relevant for inclusion in FAL Form 7. The stowage position on board should be notified for quick identification and location of the dangerous goods on the ship in case of an emergency.*

**2.8.1 Not in use.**

**2.9 Standard. Public authorities shall not require on arrival or departure of the ship any declaration in respect of postal items other than that prescribed in the Acts of the Universal Postal Union currently in force, provided the latter is actually produced. In the absence of such a declaration, the postal objects (number and weight) must be shown in the Cargo Declaration.**

*The Universal Postal Convention provides for special procedures for the treatment of postal items, including the use of special documents. What is meant by postal items is defined in the Universal Postal Convention and grouped by type (letters, parcels, etc.) weight and/or value. Where the postal documents can be presented at arrival or departure, accompanying the postal consignments, public authorities shall waive the requirement for an inclusion in the Cargo Declaration. Where the specific postal documents are not available, the postal consignments will be treated as normal goods without the advantages of the special procedures provided for in the Universal Postal Convention. In that case the postal consignments have to be included in the Cargo Declaration.*

*It should be noted that public authorities, for risk assessment purposes, may require the provision of pre-arrival information regarding postal consignments.*

*The current practice of UPU is to use the CN37 (delivery bills, surface transport), together with the Bill of Lading (B/L), as the transport document and for transit Customs declaration purposes as well.*

**2.10 Standard. The Maritime Declaration of Health shall be the standard declaration, which will contain the information required by public authorities on the state of health on board a ship during the voyage and on arrival at a port.**

**The Maritime Declaration of Health shall be in accordance with the International Health Regulations. In addition, in accordance with the International Health Regulations,<sup>24</sup> a valid Ship Sanitation Control Exemption Certificate or Ship Sanitation Control Certificate or extension shall be provided to public authorities to assess the risk of disease on board the ship.**

*The Maritime Declaration of Health is intended in particular for the health authorities of the port of call. The particulars to be reported are the number of crew and/or passengers and if there have been any cases or suspected cases of infectious diseases, on board during the voyage. Information on any cases of death have also to be provided as well as any other information which may be important for the health authorities. Based on the information provided, the health authorities can take appropriate measures, such as assistance from a doctor (potentially one specializing in infectious diseases), ambulance assistance or quarantine measures. In this context, see also the provisions of the Convention and their explanatory notes in part G of this section, on special measures of facilitation for ships calling at ports in order to put ashore sick or injured crew members, passengers, persons rescued at sea or other persons for emergency medical treatment.*

**2.10.1 Standard. The report of the security-related information shall be the standard declaration providing public authorities with the information regarding the status of the ship's security.<sup>25</sup>**

**2.10.2 Standard. The Advance Notification Form for Waste Delivery to Port Reception Facilities shall be the standard declaration providing public authorities with the information regarding the ship's waste reception needs.<sup>26</sup>**

**C. Use of alternative means of reporting, in exceptional circumstances, where means of electronic reporting are unavailable**

**2.11 Standard. In exceptional circumstances where means of electronic transmission are unavailable, public authorities shall have readily available alternative reporting means for a ship's arrival and departure. Public authorities shall make public any alternative reporting means available, to the extent possible.<sup>27</sup>**

*In exceptional circumstances where means of electronic transmission are unavailable, public authorities should allow declarants to provide information by other means, including, as a last*

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<sup>24</sup> Refer to Article 39 of the International Health Regulations (2005).

<sup>25</sup> Refer to SOLAS regulation XI-2/9.2.1 and the *Revised guidance to masters, companies and duly authorized officers on the requirements relating to the submission of security-related information prior to the entry of a ship into port* (MSC.1/Circ.1305).

<sup>26</sup> Refer to the *Consolidated guidance for port reception facility providers and users* (MEPC.1/Circ.834/Rev.1) for the information on the Waste Delivery in Port.

<sup>27</sup> See appendix 2 for declarations that may be required in paper form by the public authorities in exceptional circumstances.

*resort, in a paper form. Proper consideration should be given to the fact that provision of information by the other means, particularly provision of information in a paper form, is more time and resource consuming. Consequently, a waiver of otherwise applicable timelines for the provision of information by other means might be necessary. Furthermore, the information on any available alternative reporting means should be duly published.*

**2.12 Not in use.**

**2.12.1 Not in use.**

**2.12.2 Not in use.**

**2.12.3 Not in use.**

**2.13 Recommended Practice.** A paper list compiled by the shipowners for their own use should be accepted in place of a paper Passenger List, provided it contains at least the information required in accordance with appendix 1.

**Public authorities should likewise accept in place of a paper Cargo Declaration a paper copy of the ship's manifest or of the transport documents, provided they contain at least the information required in accordance with appendix 1.**

*With a view to simplifying the required formalities and to avoiding duplication of information, the information may be presented in another form as paper Passenger List or paper Cargo Declaration, as long as the information required in accordance with appendix 1 is included and the document is duly signed.*

**2.13.1 Standard.** If in case of exceptional circumstances public authorities determine that the only option available for transmitting the declarations provided for in this annex is in paper form, they shall accept documents conveyed by any legible and understandable medium, including documents handwritten in ink or indelible pencil or produced by the use of information technology.

*The manner in which paper documents are presented to the public authorities should be as broad as possible. It should be possible to submit paper forms filled in by hand, pre-printed forms containing general information such as information on the ship, with other information being added by hand. It should also be possible for the information, including the layout of the form, to be printed in a single process on blank paper.*

#### **D. Consecutive calls at two or more ports in the same State**

**2.14 Standard.** Taking into account the procedures carried out on the arrival of a ship at the first port of call in the territory of a State, shipowners shall only be obligated to declare required information once to the public authorities of a State. The formalities and documents required by the public authorities at any subsequent port of call in that country visited without intermediate call at a port in another country shall be kept to a minimum.

*Where a ship calls consecutively at two or more ports in the same State, the procedure should be simplified by submitting only once the required information on arrival at the first port of call and on departure at the last port of call in the same State. As far as possible, the public authorities in the first port of call should provide to the public authorities in the subsequent port of call in the same State the required information or those latter authorities may retrieve the information from the single window. Regarding the cargo, public authorities may accept*

*amendments to the originally provided Cargo Declaration for each subsequent port of call in the same State containing the information of the cargo to be unloaded and loaded in that port. The same should, mutatis mutandis, apply to the amendments to the ship's manifest where it is used instead of the Cargo Declaration. For the other formalities the public authorities in the subsequent port of call in the same State should accept the information corresponding to the declarations provided at the first port of call (such as the Ship's Stores Declaration, Crew's Effects Declaration, Crew List, Passenger List, Dangerous Goods Manifest and the security-related information). Public authorities may waive the requirement to provide declarations on departure when the ship will call at one or more subsequent ports of call in the same State.*

*Regarding advance cargo information for customs risk assessment, such information should only be required for the cargo loaded in each subsequent port; no advance information should be required for the cargo to be unloaded or remaining on board as that cargo was already risk assessed prior to arrival in the first port in that State.*

## **E. Completion of declarations**

**2.15 Recommended Practice.** Public authorities should, as far as possible, accept the declarations provided for in this annex, except as regards Standard 3.7, irrespective of the language in which the required information is made available, provided that they may require a written or oral translation into one of the official languages of the Organization when they deem it necessary.

*Maritime traffic is by definition internationally orientated, where only a few languages are used, to facilitate the communications between the parties involved. The appendix 1 describing the maximum information that may be required by public authorities for the declaration and appendix 2 describing the IMO FAL Forms are already available in the official languages of the Organization. Therefore, it would facilitate international maritime traffic if one of the IMO official languages is used for providing the required information. This would only be possible if the parties involved are able to work with these languages. If that is not the case, a compromise should be found when the language used in the IMO FAL Forms declarations is one of the official languages of the Organization and the details to be provided were requested to be in the language of the visited country. A written translation should also be accepted by the public authorities of the visited country, or even an oral translation. The latter, however, could be the basis for ambiguity or liability disputes and should only be used in clear situations.*

## **2.16 Not in use.**

**2.16.1 Standard.** Public authorities shall accept a signature, when required, by any electronic means consistent with national laws.

*Information regarding certification and authentication requirements should be publicly and electronically available and should be provided in one of the official languages of the Organization in addition to any local languages.*

*The signature that may be required in the context of electronic transmission would be an electronic signature. According to the definition of the United Nations Commission on International Trade Law (UNCITRAL) model law, "Electronic signature" means data in electronic form in, affixed to or logically associated with, a data message, which may be used to identify the signatory in relation to the data message and to indicate the signatory's approval of the information contained in the data message".*

Reference may be made to:

- the UNCITRAL Guide to Enactment of the UNCITRAL Model Law on Electronic Signatures;
- ISO standard 14533-1, -2 and -3, and to UN/CEFACT Recommendation No.14 Authentication of Trade Documents; and
- IMO Guidelines<sup>28</sup> on authentication, integrity and confidentiality of information exchanges via maritime single windows and related services.

**2.17 Standard.** Public authorities of the country of any intended port of arrival, discharge or transit shall not require any declaration relating to the ship, its cargo, stores, passengers or crew, as mentioned in this section, to be legalized, verified, authenticated or previously dealt with by any of their representatives abroad. This shall not be deemed to preclude a requirement for the presentation of a passport or other identity document of a passenger or crew member for visa or similar purposes.

*This Standard is related to Standard 2.1.1 where public authorities shall not require or impose consular formalities, charges or fees in connection with the information related to clearance. Standard 2.17 requires public authorities not to apply additional formalities to accompany the submission of IMO FAL declarations, so as to simplify the formalities and reduce costs for both the maritime industry and the public authorities. In addition, such an additional burden would hamper the efficiency of operations in a port. It is understood that, for immigration purposes, passports, other identity documents and visas must fulfil the standard requirements related to the legalization or authorization of these documents.*

#### **F. Errors and amendments in declarations and penalties therefor**

**2.18 Standard.** Public authorities shall, without delaying the ship, allow correction of errors in a declaration provided for in this annex which they are satisfied are inadvertent, not of a serious nature, not due to recurrent carelessness and not made with intent to violate laws or regulations, on the condition that these errors are discovered before the declaration is fully checked and the corrections can be effected without delay.

*It is important that a ship be allowed to continue its journey after all formalities have been performed. Where it is found that errors in the declaration are minor and made unintentionally, this should not delay the departure of the ship and corrections should be allowed. National legislation should prescribe in which situations corrections are allowed. It should also be prescribed that it is the responsibility of the declarant to ensure that the public authorities are informed about the errors without delay. In many countries it is not allowed to make any corrections in the declaration once a declaration has been accepted by the public authorities.*

**2.19 Standard.** If errors are found in the information transmitted, which has been authenticated by or on behalf of a shipowner or master, no penalties shall be imposed until an opportunity has been given to satisfy the public authorities that the errors were inadvertent, not of a serious nature, not due to recurrent carelessness and not made with intent to violate the laws or regulations of the port State.

*When public authorities have allowed correction of the declaration because of the nature of the errors and the public authorities are satisfied that they have not been made deliberately, a*

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<sup>28</sup> FAL.5/Circ.46, as revised.



*penalty would be disproportionate to the minor offence. When it is discovered that the errors have been made with the intention to violate the law, for example when the errors would result in the payment of less duties and taxes or the avoidance of import restrictions and prohibitions, public authorities could reconsider their assessment regarding penalties.*

**2.19bis Standard. Public authorities shall allow for amendments to information already submitted in accordance with applicable laws and regulations.**

*National legislation may prescribe in which situations amendments are allowed. It should also be prescribed that it is the responsibility of the declarant to ensure that the public authorities are informed about the amendments without delay. In many countries it is not allowed to make amendments to the information once it has been accepted by the public authorities or, in the case of customs formalities, customs has decided to inspect the goods.*

*Reference is also made to Standard 5.19 regarding amendments to the Cargo Declaration in certain situations.*

**G. Special measures of facilitation for ships calling at ports in order to put ashore sick or injured crew members, passengers, persons rescued at sea or other persons for emergency medical treatment.**

**2.20 Standard. Public authorities shall seek the cooperation of shipowners to ensure that, when ships intend to call at ports for the sole purpose of putting ashore sick or injured crew members, passengers, persons rescued at sea or other persons for emergency medical treatment, the master shall give the public authorities as much notice as possible of that intention, with the fullest possible details of the sickness or injury and of the identity of the persons.**

*It is essential when putting ashore persons mentioned in this provision that public authorities cooperate with shipowners or agents established in their ports to make the appropriate arrangements so that all parties know in advance which information is required. Shipowners or the agent will have to inform the master(s) of the ship(s) in question of the information agreed by the public authorities in case of emergency. This will enable public authorities to respond quickly and simplify operations in an emergency. In addition, public authorities could also provide for easy clearance procedures which could be realized by means of close cooperation between all public authorities involved.*

*Preferably there should be a single point of contact for the shipowner, master or the agent to interact with the public authorities, in line with the "single window".*

**2.21 Standard. Public authorities shall, by the fastest channels available, inform the master, before the arrival of the ship, of the documentation and the procedures necessary to put the sick or injured persons ashore expeditiously and to clear the ship without delay.**

**2.22 Standard. With regard to ships calling at ports for this purpose and intending to leave again immediately, public authorities shall give priority in berthing if the state of the sick person or the sea conditions do not allow a safe disembarkation in the roads or harbour approaches.**

**2.23 Standard. With regard to ships calling at ports for this purpose and intending to leave again immediately, public authorities shall not require the declarations mentioned in Standard 2.1 with the exception of the Maritime Declaration of Health, and,**

**if it is indispensable, the General Declaration. Public authorities shall in such situations waive the time limits, and any applicable penalties, for the provision of the declarations.**

*To limit formalities as much as possible in cases where a ship has to call at a port due to the circumstances dealt with in this section, public authorities shall, within national legislation, refrain from seeking information other than that contained in the Maritime Declaration of Health, developed by the World Health Organization. The master should, however, as mentioned in Standard 2.20, provide the public authorities with the identity of the sick or injured persons as well as the fullest possible details of the injury or disease. This information could be sent by the master in advance, by electronic means. No request for information contained in the General Declaration or in the other declaration listed in Standard 2.1 should normally be required by public authorities in cases where the ship intends to leave immediately after the sick or injured persons have been disembarked, and no unloading of goods or disembarking of other persons will take place.*

**2.24 Standard. With regard to ships calling at ports for this purpose and where public authorities require the General Declaration, this declaration shall not contain more information than mentioned in appendix 1 and, wherever possible, shall contain less.**

*In cases where the General Declaration will be required in spite of the urgent circumstances, the information to be given in the General Declaration shall be limited as much as possible. Public authorities should take into account that the basic information contained in the General Declaration is also included in the Maritime Declaration of Health. As a solution, the Maritime Declaration of Health should be used as the General Declaration and forwarded to/retrieved by the public authorities concerned.*

**2.25 Standard. Where public authorities apply control measures related to the arrival of a ship prior to sick or injured persons being put ashore, emergency medical treatment and measures for the protection of public health shall take precedence over these control measures.**

*Emergency medical treatment and measures should not be interfered with or hindered by control measures related to the arrival of a ship. These control measures are performed by public authorities other than health authorities.*

*Control measures can and should be performed at a later stage after the sick or injured persons have received emergency medical treatment or measures have been taken to protect public health.*

*Cooperation between all authorities involved is therefore essential in order to avoid obstruction of the work performed by the health authorities and not to unduly delay the departure of the ship. The development of contingency plans and scenarios in which the tasks of all authorities involved are described will help all parties to perform more efficiently. Reference could be included in the port health contingency plans in accordance with the requirements of the International Health Regulations, which contain procedures for disembarking persons suffering from infectious diseases that present significant harm to other humans.*

**2.25bis Standard. The public authorities under the International Health Regulations<sup>29</sup> shall advise the shipowner as far in advance as possible of their intent to apply public health control measures to a ship, and shall provide, where available, written information concerning the methods employed.**

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<sup>29</sup> Refer to the International Health Regulations (2005), Article 22(1)(d).

**2.26 Standard.** Where guarantees or undertakings are required in respect of costs of treatment or eventual removal or repatriation of the persons concerned, emergency medical treatment shall not be withheld or delayed while these guarantees or undertakings are being obtained.

**2.27 Not in use.**

### **Section 3**

#### **Arrival and departure of persons**

**This section contains the provisions concerning the formalities required by public authorities from crew and passengers on the arrival or departure of a ship.**

#### **A. Arrival and departure requirements and procedures**

**3.1 Standard.** A valid passport shall be the basic identification document providing public authorities with information relating to the individual passenger on arrival or departure of a ship.

*The personal information contained in a passport should be the minimum information provided on a passenger. Upon arrival the public authorities may request additional information.*

**3.1.1 Recommended Practice.** Contracting Governments should as far as possible agree, by bilateral or multilateral agreements, to accept official documents of identity in lieu of passports.

*To assist in determining a person's identity, each country may designate identification document alternatives to the passport for purposes of cross-border travel. A Contracting Government should, where practicable, accept any valid identity document that would allow the applicant to return to their country of residence, as long as it meets the statutory requirements of the accepting Government.*

**3.2 Standard.** Public authorities shall make arrangements whereby passports, or official documents of identity accepted in their place, from ship's passengers need be inspected by the immigration authorities only once at the time of arrival and once at the time of departure. In addition, these passports or official documents of identity may be required to be produced for the purpose of verification or identification in connection with customs and other formalities on arrival and departure.

*Public authorities should ensure that ships' passengers' travel documents are inspected by immigration officials upon arrival and before departure. The master of the ship controls the documents and is therefore responsible for ensuring they are presented to the inspecting authorities. Inspections by public authorities should be limited, when possible and according to national legislation, to the arrival and departure of the ship, but this does not preclude additional inspections for circumstances involving security matters or where deemed appropriate and warranted by public authorities.*

**3.3 Standard.** After individual presentation of passports or official documents of identity accepted in their place, public authorities shall hand back such documents immediately after examination rather than withholding them for the purpose of obtaining additional control, unless there is some obstacle to the admission of a passenger to the territory.

**3.3.1 Standard.** Each Contracting Government shall ensure that the public authorities seize fraudulent, falsified or counterfeit travel documents of inadmissible persons. Such documents shall be removed from circulation and returned to the appropriate authorities when practicable. In place of a seized document, a covering letter shall be issued by the removing State and attached to it will be a photocopy of the forged travel documents, if available, as well as any important information. The covering letter and its attachment shall be handed over to the operator responsible for the removal of the inadmissible person. It will serve to give information to the authorities at the transit and/or the original point of embarkation.

*The use of fraudulent documents has always been a concern of public authorities. When encountered, those documents shall be seized and removed from circulation to prevent further fraud and misuse. A covering letter, or other form issued by the seizing authority, shall be issued to the party responsible for the removal of the applicant. For example, if the applicant is travelling by air, this letter should meet International Civil Aviation Organization standards. This is to provide the receiving government with information relating to the applicant's use of a fraudulent document. This does not prevent the public authorities from acting in accordance with their laws and regulations on the processing of applicants who utilize fraudulent travel documents, including, but not limited to, the right to pursue criminal prosecution or use of the documents as evidence in criminal proceedings or investigative purposes.*

*The above Standard should not be construed as overriding the right of the public authorities of the Contracting Governments to determine whether or not, depending on the individual case, possession of fraudulent documents in itself constitutes grounds for refusal of admission and prompt removal from the territory of the State concerned. Nothing in this Standard is to be construed as contradicting the provisions of the United Nations Convention relating to the Status of Refugees of 28 July 1951 and the United Nations Protocol relating to the Status of Refugees of 31 January 1967, which concern the prohibition of the expulsion or return of a refugee.*

**3.3.2 Standard.** Contracting Governments shall accept for examination a person being returned from his or her point of disembarkation after having been found inadmissible if this person had embarked in their territory. Contracting Governments shall not return such a person to the country where he or she was earlier found to be inadmissible.

*Contracting Governments shall accept the return of a person who had been previously granted landing privileges or admitted to that territory if that person was denied entry at the next port. The Contracting Government still maintains the right to process the person in accordance with laws and regulations pertaining to the return of that person to his or her territory. The Contracting Government may not return the person to the country that found the applicant inadmissible.*

*This provision is not intended to prevent public authorities from further examining a returned inadmissible person to determine their eventual acceptability in the State or make arrangements for their transfer, removal or deportation to a State of which they are a national or where they are otherwise acceptable. Where a person who has been found to be inadmissible has lost or destroyed their travel document, a Contracting Government should accept instead a document attesting to the circumstances of embarkation and arrival issued by the public authorities of the Contracting Government where the person was found to be inadmissible.*

*Nothing in this Standard or the paragraph above is to be construed as contradicting the provisions of the United Nations Convention relating to the Status of Refugees of 28 July 1951*

*and the United Nations Protocol relating to the Status of Refugees of 31 January 1967, which concern the prohibition of the expulsion or return of a refugee.*

**3.3.3 Standard. Before passengers and crew are accepted for examination as to their admissibility into the State, responsibility for their custody and care shall remain with the shipowner.**

*The shipowner remains the responsible party until the passengers and/or crew are presented for inspection for admission into the State. This is to ensure that all persons on board are presented to the public authorities for inspection. The shipowner is held accountable for those passengers or crew who disembark prior to inspection by the public authorities.*

**3.3.4 Recommended Practice. After acceptance of passengers and crew for examination, whether conditional or unconditional and if the persons concerned are under the physical control of the public authorities, the public authorities should be responsible for their custody and care until they are admitted for entry or are found to be inadmissible.**

*Contracting Governments should ensure that the inspection area is safe and secure for the arriving persons. Once the inspection is complete the person may either be admitted to the State or returned to the custody and care of the shipowner. Once a crew member has been granted temporary landing privileges and the crew member is no longer in the physical control of the Contracting Government, the shipowner resumes responsibility for the custody and care of the crew member.*

*Not all maritime ports have a fixed control and when ships arrive at remote or small ports immigration officers may have no option but to examine passengers and crew on board. The public authorities may require the master to take such steps as may be necessary to ensure that those to be examined are presented in a safe and orderly manner and otherwise in accordance with arrangements approved by the public authority.*

**3.3.5 Standard. The obligation of a shipowner to transport any person away from the territory of a State shall terminate from the moment such a person has been definitely admitted into that State.**

*Once a person has been admitted to a State, the arriving person becomes the responsibility of that State in conformance with that State's national legislation as applicable. Responsibility for those persons not admitted to the State lies with the shipowner. A crew member who has been granted temporary landing privileges is still under the shipowner's responsibility.*

**3.3.6 Standard. Where a person is found to be inadmissible, the public authorities shall, without unreasonable delay, inform the shipowner and consult the shipowner regarding the arrangements for removal. The shipowner is responsible for the costs of stay and removal of an inadmissible person and, in the case where the person is transferred back to the custody of the shipowner, the shipowner shall be responsible for effecting his or her prompt removal to:**

- .1 the country of embarkation; or**
- .2 to any other place where the person is admissible.**

*The shipowner retains responsibility and should bear all costs involved for all persons determined to be inadmissible to that State. After the determination is made, the shipowner must actively facilitate the removal of the person within a reasonable time. The removal should*

*occur with the cooperation of the public authorities and by the same ship or another ship of the same shipowner, aircraft or by any other means. This does not preclude the State from requesting the applicant be detained on board and be safeguarded, where necessary.*

**3.3.7 Standard. Contracting Governments and shipowners shall cooperate, where practicable, to establish the validity and authenticity of passports and visas.**

*Contracting Governments and shipowners shall make every effort to verify the validity of the document. If a shipowner encounters a document that appears questionable, every effort should be made to verify the document prior to departing.*

**3.4 Recommended Practice. Public authorities should not require from embarking or disembarking passengers, or from shipowners on their behalf, any information in writing supplementary to or repeating that already presented in their passports or official documents of identity, other than as necessary to complete any declaration provided for in this annex.**

**3.5 Recommended Practice. Public authorities which require written supplementary information, other than as necessary to complete any declaration provided for in this annex, from embarking or disembarking passengers should limit requirements for further identification of passengers to the items set forth in Recommended Practice 3.6 (embarkation/disembarkation card). Public authorities should accept the embarkation/disembarkation card when completed by the passenger and should not require that it be completed or checked by the shipowner. Legible handwritten script should be accepted on the card, except where the form specifies block lettering. One copy only of the embarkation/disembarkation card, which may include one or more simultaneously prepared carbon copies, should be required from each passenger.**

**3.6 Recommended Practice. In the embarkation/disembarkation card, public authorities should not require more than the following information:**

- family name
- given names
- nationality
- number and expiry date of passport or other official identity document
- date of birth
- place of birth
- occupation
- port of embarkation/disembarkation
- gender
- destination address
- signature

*In the event that public authorities require a written statement on the passenger's identity with the intention of retaining that information, the information mentioned in this Recommended Practice should be sufficient. With that information public authorities should be able to perform the necessary checks on the admissibility of a passenger.*

**3.7 Standard.** A traveller in possession of an International Certificate of Vaccination or Prophylaxis that conforms to the International Health Regulations<sup>30</sup> containing proof of vaccination against yellow fever shall not be treated as suspect, even if coming from an area where the World Health Organization has determined that a risk of yellow fever transmission is present.

**The list of countries and territories requiring proof of yellow fever vaccination and the countries at risk of yellow fever is available on WHO's public website.<sup>31</sup>**

*The form of the certificate is specified in the International Health Regulations.*

**3.8 Recommended Practice.** Medical examination of persons on board or of persons disembarking from ships should normally be limited to those persons for whom there is evidence of an imminent public health risk. Such examinations should be carried out in accordance with the national law and relevant articles of the International Health Regulations.<sup>32</sup>

**3.9 Recommended Practice.** Public authorities should normally perform customs inspections of inbound passengers' accompanied baggage on a sampling or selective basis. Written declarations in respect of passengers' accompanied baggage should be dispensed with as far as possible.

*Public authorities should only perform inspections on baggage in order to ensure compliance with national legislation. When possible and where regulation and other laws allow, an oral declaration may be taken in place of a written declaration.*

**3.9.1 Recommended Practice.** Public authorities should, wherever possible, waive inspections of accompanied baggage of departing passengers, with due regard to the possible need to impose appropriate security measures preferably by automated means to facilitate review.

*Public authorities may waive baggage inspections for passengers if the public authority concludes that waiving such inspections would be consistent with security, public health and all other law enforcement or public interest considerations.*

*Examples of automated means are X-ray, metal detector, machine olfaction or other technical devices and methods that can substitute for a physical inspection of the luggage.*

**3.9.2 Recommended Practice.** Where inspection of accompanied baggage of departing passengers cannot be waived completely, such inspection should normally be performed on a sampling or selective basis.

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<sup>30</sup> Refer to Model in annex 6 of the International Health Regulations (2005).

<sup>31</sup> [https://www.who.int/health-topics/yellow-fever#tab=tab\\_1](https://www.who.int/health-topics/yellow-fever#tab=tab_1) See "Information for travelers".

<sup>32</sup> Refer to the International Health Regulations (2005), Article 31(2).

*When baggage inspections cannot be waived, public authorities should, whenever possible and permitted under the national legislation, only conduct baggage inspections on a selective basis using risk management techniques, such as described in Standard 1.11.*

*Where feasible, baggage checks should also be performed with the use of modern inspection techniques, such as scanning and/or the use of inspection dogs. Basic rules for the treatment of passengers can be found in the Revised Kyoto Convention.<sup>33</sup>*

**3.10 Recommended Practice.** Among the official documents of identity, a Contracting Government should agree to accept, in lieu of a passport, per Recommended Practice 3.1.1, as a basic document providing public authorities with information relating to the individual member of the crew on arrival or departure of a ship, an identity document issued in accordance with relevant ILO Conventions,<sup>34</sup> or else a valid and duly recognized seafarer's identity document.

*The information contained in a valid seafarer's identity document or a passport should be the basic information provided to public authorities. The public authorities may request additional information if required to determine admissibility. Public authorities may also require a valid passport and visa if required by national legislation.*

**3.10.1 Standard.** In the seafarer's identity document, public authorities shall not require more than the following information:

- family name
- given names
- gender
- date and place of birth
- nationality
- physical characteristics
- photograph (authenticated)
- signature
- date of expiry (if any)
- issuing public authority

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<sup>33</sup> Refer to the Specific Annex J, Chapter 1 on Travellers of the Revised Kyoto Convention

<sup>34</sup> Refer to ILO C108 and C185 on Seafarers' Identity Documents Convention.



**3.10.2 Recommended Practice.** Contracting Governments are encouraged to enter into agreements to accept from seafarers in place of a passport a valid seafarer's identity document, when this document guarantees the readmission of the bearer to the country which issued the document. Such agreements may provide for acceptance of a valid seafarer's identity card by public authorities to include instances when it is necessary for a seafarer to enter or leave a country as a passenger by any means of transportation for the purpose of:

- (a) joining his or her ship or transferring to another ship; and
- (b) passing in transit to join his or her ship in another country, or for repatriation, or for any other purpose approved by the authorities of the country concerned.

*In situations where a seafarer is travelling as a passenger en route to join another ship or ending a contract and repatriating, the seafarer's identity document should be accepted by public authorities for the purposes of travel and re-admission to the country of issuance of the seafarer identity document, where permissible under the national legislation of the State in which the seafarer is located. This does not preclude the need for a passport and visa, where it is required by national legislation.*

**3.10.3 Recommended Practice.** Public authorities of a Contracting Government recognizing a seafarer's identity document as an alternative to a passport should not normally require presentation of individual identity documents or of information supplementing the seafarer's identity document in respect of members of the crew other than that given in the Crew List.

*On many vessels, crew members' travel documents are retained by the master or any other duly authorized ship officer in a secure location. There are several reasons for this practice, including the prevention of crew from deserting while on shore leave. As a result, crew often only have access to their documents while in the presence of the master of the vessel, while in some instances the crew may need their documents for identification purposes when on shore leave. In such cases, a supplemental Identity Card issued with the seafarer's identity document may be issued and maintained in the seafarer's possession.*

## **B. Measures to facilitate clearance of passengers, crew and baggage**

**3.11 Recommended Practice.** Public authorities should, with the cooperation of shipowners and port authorities and/or port administration, take appropriate measures to the end that satisfactory port traffic flow arrangements may be provided so that passengers, crew and baggage can be cleared rapidly, should provide adequate personnel, and should ensure that adequate installations are provided, particular attention being paid to baggage loading, unloading and conveyance arrangements (including the use of mechanized systems) and to points where passenger delays are frequently found to occur. Arrangements should be made, when necessary, for passage under shelter between the ship and the point where the passenger and crew check is to be made. Such arrangements and installations should be flexible and capable of expansion to meet increased security measures during higher security levels.

*Public authorities, shipowners and port authorities should keep in mind the security levels as stipulated in the International Ship and Port Facility Security Code (ISPS Code).*

**3.11.1 Recommended Practice. Public authorities should:**

- (a) in cooperation with shipowners and port authorities, introduce suitable arrangements, such as:**
  - (i) an individual and continuous method of processing passengers and baggage;**
  - (ii) a system which would permit passengers readily to identify and obtain their checked baggage as soon as it is placed in an area where it may be claimed; and**
  - (iii) ensuring that facilities and services are available to meet the needs of elderly and disabled passengers;**
- (b) ensure that port authorities take all necessary measures so that:**
  - (i) easy and speedy access for passengers and their baggage, to and from local transport, is provided; and**
  - (ii) if crews are required to report to premises for governmental purposes, those premises should be readily accessible, and as close to one another as practicable.**

**3.11.2 Recommended Practice. Public authorities should consider, as a means of ensuring prompt clearance, the introduction of the dual-channel system<sup>35</sup> for the clearance of passengers, and their baggage and private road vehicles.**

*Where operationally feasible, public authorities should consider implementing a dual-channel system in connection with the clearance of passengers and their baggage. This system can facilitate the flow of passenger traffic at international seaports without reducing the effectiveness of customs control. Each channel should be clearly and distinctively marked so that the choice between them can easily be understood by passengers.*

**3.12 Standard. Public authorities shall require that shipowners ensure that ship's personnel take all appropriate measures which will help expedite arrival procedures for passengers and crew. These measures may include:**

- (a) furnishing public authorities concerned with an advance message giving the best estimated time of arrival (ETA), followed by information as to any change in time, and stating the itinerary of the voyage where this may affect inspection requirements;**
- (b) having ship's documents ready for prompt review;**
- (c) providing for ladders or other means of boarding to be rigged while the ship is en route to berth or anchorage; and**
- (d) providing for prompt, orderly assembling and presentation of persons on board, with necessary documents, for inspection, with attention to arrangements for relieving crew members for this purpose from essential duties in engine-rooms and elsewhere.**

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<sup>35</sup> Reference is made to Recommended Practice 6 of Specific Annex J, Chapter 1, of the Revised Kyoto Convention (1999) and its Guidelines.

**3.13 Recommended Practice.** The practice of entering names on passenger and crew documents should be to put the family name or names first.

*By providing a consistent format for name indexing, passenger and crew processing can be facilitated. Placing the family name first makes it easy for the inspecting authority to locate persons on passenger or crew lists.*

**3.14 Standard.** Public authorities shall, without unreasonable delay, accept persons present on board a ship for examination as to their admissibility into the State.

*Public authorities shall process persons for examination as to their admissibility in a manner which facilitates the timely disembarkation of such persons. Such examination may take place on board a ship or in a designated facility ashore.*

**3.15 Recommended Practice.** Public authorities should not impose unreasonable or disproportionate fines upon shipowners, in the event that any control document in possession of a passenger is found by public authorities to be inadequate, or if, for that reason, the passenger is found to be inadmissible to the State.

*For the very reason that in general a shipowner or the crew will not be able to perform checks on the validity and authenticity of a travel document, it would be unreasonable to impose fines or penalties for such an occurrence. On the other hand, it can be expected that the shipowner or the crew on its ship are able to assess the normal requirements for entry in the country of destination, such as a valid passport and a valid visa.*

**3.15.1 Standard.** Public authorities shall encourage shipowners to take precautions at the point of embarkation with a view to ensuring that passengers are in possession of any control documents prescribed by the receiving or transit States.

*To avoid a situation whereby a passenger is not admissible to a State due to incomplete documentation, shipowners should not accept passengers who do not have the proper documentation or authorization to enter the onward State under that State's national legislation.*

**3.15.2 Standard.** When a person is found to be inadmissible and is removed from the territory of the State, the shipowner shall not be precluded from recovering, from such a person, any costs arising from his or her inadmissibility.

**3.15.3 Recommended Practice.** For use at port terminals and on board ships in order to facilitate and expedite international maritime traffic, public authorities should implement, or where the matter does not come within their jurisdiction recommend responsible parties in their country to implement, standardized international signs and symbols developed or accepted by the Organization in cooperation with other appropriate international organizations and which, to the greatest extent practicable, are common to all modes of transport.

#### **C. Special facilities for marine transport of elderly and disabled passengers**

**3.16 Recommended Practice.** Measures should be taken to ensure that all necessary information on transport and safety is readily available for passengers who have impaired hearing or vision.

**3.17 Recommended Practice.** For elderly and disabled passengers being set down or picked up at a port terminal building, reserved points should be located as close as possible to main entrances. These should be clearly marked with appropriate signs. Access routes should be free of obstacles.

**3.18 Recommended Practice.** Where access to public services is limited, every effort should be made to provide accessible and reasonably priced public transportation services by adapting current and planned services or by providing special arrangements for passengers who have impaired mobility.

**3.19 Recommended Practice.** Provisions of suitable facilities should be made in port terminals and on ships, as appropriate, to allow safe embarkation and disembarkation for elderly and disabled passengers.

#### **D. Facilitation for ships engaged on cruises and for cruise passengers**

**3.20 Standard.** Public authorities shall authorize granting of *pratique* by electronic means to a cruise ship when, on the basis of information received from it prior to its arrival, the health authority for the intended port of arrival is of the opinion that its arrival will not result in the introduction or spread of a disease or any other significant public health risk.

*The International Health Regulations provide that: "States parties may subject the granting of free pratique to inspection and, if a source of infection or contamination is found on board, the carrying out of necessary disinfection, decontamination, disinfection or deratting, or other measures necessary to prevent the spread of the infection or contamination".<sup>36</sup>*

**3.21 Recommended Practice.** For cruise ships, the General Declaration, the Passenger List and the Crew List should be required only at the first port of arrival and final port of departure in a country, provided that there has been no change in the circumstances of the voyage.

**3.22 Standard.** For cruise ships, the Ship's Stores Declaration and the Crew's Effects Declaration shall be required only at the first port of arrival in a country.

**3.23 Standard.** Passports or other official documents of identity shall at all times remain in the possession of cruise passengers.

*Cruise passengers are responsible for safeguarding their travel documents. The responsibility for safeguarding the documents should not lie with the master of the vessel.*

**3.24 Recommended Practice.** If a cruise ship stays at any port within the Contracting Government's territory for less than 72 hours, it should not be necessary for cruise passengers to have visas, except in special circumstances determined by the public authorities concerned.

*It is the intention of this Recommended Practice that each Contracting Government may issue to such passengers, or accept from them upon arrival, some form indicating that they have permission to enter the territory.*

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<sup>36</sup> Refer to article 28 of the International Health Regulations.

*Subject to the national legislation of the State where the passenger is located, public authorities may choose not to require a cruise passenger to possess a visa at ports of call where the stay is for less than 72 hours within the territory of the Contracting Government.*

**3.25 Standard. Cruise passengers shall not be unduly delayed by the control measures exercised by public authorities.**

*Depending on the schedule of the cruise ship, public authorities shall ensure that clearance of passengers begins as soon as practicable. Public authorities should, where appropriate, coordinate their control activities and perform them at the same time.*

**3.26 Standard. In general, except for security purposes and for the purposes of establishing identity and admissibility, cruise passengers shall not be subject to personal examination by public authorities responsible for immigration control.**

*Normally, immigration controls for cruise passengers can be performed on the basis of the information included in the Passenger List, provided that the information about the identity of the passengers is included in the Passenger List. Immigration controls for cruise passengers in the presence of the passenger should be performed as an exception.*

**3.27 Standard. If a cruise ship calls consecutively at more than one port in the same country, passengers shall, in general, be examined by public authorities at the first port of arrival and at the final port of departure only.**

**3.28 Recommended Practice. To facilitate their prompt disembarkation, the inward control of passengers on a cruise ship, where practicable, should be carried out on board before arrival at the place of disembarkation.**

*Where possible, public authorities of the receiving State should meet the arriving ship either prior to departure to the port of destination or en route to the port of destination and begin the clearance of passengers prior to arrival.*

**3.29 Recommended Practice. Cruise passengers who disembark at one port and rejoin the same ship at another port in the same country should enjoy the same facilities as passengers who disembark and rejoin a cruise ship at the same port.**

*Without prejudice to national legislation, cruise passengers who disembark at one port and rejoin the same ship at another port in the same country should not lose their status as cruise passengers.*

**3.30 Recommended Practice. The Maritime Declaration of Health should be the only health control necessary for cruise passengers.**

*Where no special health measures based on health risk assessment conducted by health authorities with information provided by the Maritime Declaration of Health are necessary, formalities for health control should be limited as much as possible.*

**3.31 Standard. Duty-free ship's stores shall be allowed aboard ship for cruise passengers during the ship's stay in port in accordance with national law.**

**3.32 Standard. Cruise passengers shall not normally be required to provide a written declaration for their personal effects. However, in the case of articles which involve a high amount of customs duties and other taxes and charges, a written declaration and a security may be required.**

*Normally, personal effects of cruise passengers can be declared to customs by means of an oral declaration. It is also possible that a cruise terminal is equipped with the dual-channel system as mentioned in Recommended Practice 3.11.2.*

*Personal effects of passengers are in most countries relieved from the payment of duties and taxes. For high dutiable goods, such as alcohol and tobacco, relief will be allowed to a certain limit. For additional amounts many countries will allow for a simplified procedure instead of a normal declaration.<sup>36</sup>*

**3.33 Recommended Practice. Cruise passengers should not be subject to any currency control.**

**3.34 Standard. Embarkation/disembarkation cards shall not be necessary for cruise passengers.**

**3.35 Not in use.**

**E. Special measures of facilitation for passengers in transit**

**3.36 Standard. A passenger in transit who remains on board the ship on which he or she arrived and departs with it shall not normally be subjected to routine control by public authorities except in extraordinary circumstances determined by the public authorities concerned.**

*Passengers in transit who will not disembark from the ship during the stay in the port will normally not have any contact with the country of transit and its people. Any formalities by public authorities, apart from health and security related concerns, could be considered as unnecessary and superfluous.*

**3.37 Recommended Practice. A passenger in transit should be allowed to retain his or her passport or other identity document.**

*A passenger in transit should be allowed the same consideration for document control as passengers who are not in transit, and is still subject to inspection by public authorities, where required by national legislation.*

**3.38 Recommended Practice. A passenger in transit who remains on board the ship on which he or she arrived and departs with it should not be required to complete a disembarkation/embarkation card.**

*A passenger in transit should not be required to complete the disembarkation/embarkation card, provided that he or she remains aboard the ship and is duly registered in the passenger list.*

**3.39 Recommended Practice. A passenger in transit who is continuing his or her journey from the same port in the same ship should normally be granted temporary permission to go ashore during the ship's stay in port if he or she so wishes subject to the public authorities' admissibility and visa requirements.**

*A passenger who is continuing on board the ship between ports, regardless of being a passenger in transit, should be granted temporary permission to disembark at the ports of call within his or her itinerary as long as the passenger possesses the correct travel documents as required by national legislation.*

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<sup>36</sup> Reference is made to Specific Annex J, Chapter 1, of the Revised Kyoto Convention.

**3.40 Recommended Practice.** A passenger in transit who is continuing his or her journey from the same port in the same ship and does not wish to go ashore should not be required to have a visa, except in special circumstances determined by the public authorities concerned.

**3.41 Recommended Practice.** A passenger in transit who is continuing his or her journey from the same port in the same ship should not normally be required to give a written Customs Declaration.

*Passengers in transit do not normally import goods or leave goods behind in the country of transit. For that reason, a written customs declaration would not add any value to normal customs control. Where necessary, customs could ask the passenger if he or she has any goods in addition to the amounts and values above the allowed relief thresholds. For these goods separate formalities could be created. These formalities should be as simple as possible.*

**3.42 Recommended Practice.** A passenger in transit who leaves the ship at one port and embarks in the same ship at a different port in the same country should enjoy the same facilities as a passenger who arrives and departs in the same ship at the same port.

*This Recommended Practice is aimed at passengers who travel from the port of arrival to the port of departure by other means of transport in the same country. For example, passengers could be transported by bus or coach for sightseeing in the country of arrival. The formalities for these passengers should not be more complicated than for passengers who arrive and depart from the same port in that country and have similar excursions.*

#### **F. Measures of facilitation for ships engaged in scientific services**

**3.43 Recommended Practice.** A ship engaged in scientific services carries personnel who are necessarily engaged on the ship for such scientific purposes of the voyage. If so identified, such personnel should be granted facilities at least as favourable as those granted to the crew members of that ship.

#### **G. Further measures of facilitation for foreigners belonging to the crews of ships engaged in international voyages – shore leave**

**3.44 Standard.** Crew members shall be allowed ashore by the public authorities while the ship on which they arrive is in port, provided that the formalities on arrival of the ship have been fulfilled and the public authorities have no reason to refuse permission to come ashore for reasons of public health, public safety and security or public order. Shore leave shall be allowed in a manner which excludes discrimination such as on the grounds of nationality, race, colour, sex, religion, political opinion, or social origin and irrespective of the flag State of the ship on which they are employed, engaged or work.

*Subject to the national legislation of the State where the crew member is located, public authorities may permit a crew member to go ashore as long as the ship by which the crew member arrived is still in port. This does not preclude the shipowner from being responsible for the reporting of any crew member that has deserted after being granted temporary landing privileges. A crew member who has been granted temporary landing privileges is still under the shipowner's responsibility.*

**3.44bis Standard.** In any case where permission for shore leave has been refused, the relevant public authorities shall communicate their reasons for shore leave denial to the seafarer concerned and the master. If requested by the seafarer concerned or the master, such reasons shall be provided in writing.

**3.45 Standard.** Crew members shall not be required to hold a visa for the purpose of shore leave.

**3.46 Recommended Practice.** Crew members, before going on or returning from shore leave, should not normally be subjected to personal checks.

**3.47 Standard.** Crew members shall not be required to have a special permit, e.g. a shore leave pass, for the purpose of shore leave.

**3.48 Recommended Practice.** If crew members are required to carry documents of identity with them when they are on shore leave, these documents should be limited to passports or, if applicable, identity documents accepted by the relevant Contracting Government in lieu of a passport, as mentioned in Recommended Practice 3.10.

*Standards 3.45 and 3.47 and Recommended Practices 3.46 and 3.48 seek to enable crew members to take shore leave with a minimum of formalities. The requirement to carry only a valid seafarer's identity document or a passport should be sufficient for the purpose of shore leave.*

**3.49 Recommended Practice.** Public authorities should provide a system of pre-arrival clearance to allow the crew of ships which call regularly at their ports to obtain advance approval for temporary shore leave. Where a ship has no adverse immigration record and is locally represented by a shipowner or a ship agent, the public authorities should normally, after satisfactory consideration of such pre-arrival particulars as they may require, permit the ship to proceed directly to its berth and be subject to no further routine immigration formalities, unless otherwise required by the public authorities.

## **Section 4**

### **Stowaways**

#### **A. General principles**

**4.1 Standard.** The provisions in this section shall be applied in accordance with international protection principles as set out in international instruments, such as the UN Convention relating to the Status of Refugees of 28 July 1951 and the UN Protocol relating to the Status of Refugees of 31 January 1967, and relevant national legislation.<sup>37</sup>

*The standards and recommended practices in this section shall be implemented according to international principles on the protection of human rights as stated in the different international conventions.*

*According to the 1951 UN Convention and the 1967 UN Protocol relating to the Status of Refugees, a Contracting State shall not expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his or her life or freedom is being threatened on account of his or her race, religion, nationality, membership of a particular social group or*

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<sup>37</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)).



*political opinion (article 33.1). Not only does the principle of non-refoulement forbid the expulsion of refugees to their country of origin, but to any country in which they might be subject to persecution.*

*Also relevant are articles 6 and 7 of the 1966 International Covenant on Civil and Political Rights. Where there are substantial grounds for believing that a stowaway will be in danger of being subject to torture, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 will also be relevant.*

*The regulations in section 4 regarding stowaways are drawn up in such a manner that they allow Contracting Governments some flexibility as to how the standards and recommended practices in the section should be implemented. Contracting Governments freedom of implementation. Contracting Governments are obliged to exercise this flexibility, when necessary, in order to make sure that the principles of international human rights conventions are not violated.*

*Standard 4.1 also implies that the Facilitation Convention's regulations must give way if, contrary to all expectations, a situation arises where, despite the flexibility of the regulations, the wording is not compatible with the international protection principles as set out in international conventions.*

**4.2 Standard. Public authorities, port authorities, shipowners and masters shall cooperate to the fullest extent possible in order to prevent stowaway incidents and to resolve stowaway cases expeditiously and securely, so that an early return or repatriation of the stowaways will take place. All appropriate measures shall be taken in order to avoid situations where stowaways must stay on board ships for a significant period of time.**

*Standard 4.2 is the core provision of section 4 regarding stowaways. It obliges all parties involved to cooperate in order to prevent persons from stowing away on-board ships and, where stowaway cases do occur, to resolve them. The shared responsibility for all the parties involved continues until the stowaway is returned or repatriated, which should be undertaken as quickly as possible.*

*All provisions in section 4 should be applied in the light of the general obligation to cooperate which follows from Standard 4.2.*

*The expeditious disembarkation of stowaways is a key factor in resolving stowaway cases. For more information on the disembarkation and return of stowaways, reference is made to section 4 parts D and E.*

**4.2.1 Recommended Practice. Public authorities, ports, shipowners or masters should not give any payments, or other benefits to the stowaways, beyond the minimal requirements to ensure the security, general health, welfare and safety of the stowaways while on board or onshore, as that might act as an incentive to reoffend or as an encouragement to other persons attempting to stow away on board ships.**

## **B. Preventive measures**

### **4.3 Ship/Port preventive measures**

#### **4.3.1 Port/terminal authorities**

**4.3.1.1 Standard.** Contracting Governments shall 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 shoreside entities, with the aim of preventing stowaway occurrences in the individual port.

*This standard sets out obligations for port States, in cooperation with the users of the port (ships, cargo handlers, port authorities, etc.), to establish the necessary arrangements to prevent persons attempting to stow away on-board ships. When adopting these measures, the risk of persons stowing away from the individual port should be considered, taking into consideration, amongst other things, the size of the individual port and the types of cargo that are handled in the port. When adopting these measures, modern technology and risk management should be used (see Standard 1.11 and Recommended Practice 1.3).*

*Guidance concerning what could be included in "necessary infrastructure, and operational and security arrangements" can be sought in the identical IMO resolutions FAL.13(42) and 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.*

*Relevant findings and observations may also be found in document FAL 42/10/1, incorporating the conclusions and recommendations agreed by the regional seminars on stowaways held in Durban and in Abidjan in 2014, and the seminar in Cameroon in 2018.*

**4.3.1.2 Recommended Practice.** 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>38</sup>

*Operational arrangements and/or security plans should preferably be drawn up in cooperation with all parties involved, including public authorities, shipowners and shoreside entities.*

*A port facility security assessment, as described in section A/15 and paragraph B/15 of the International Ship and Port Facility Security Code (ISPS Code), should be used to identify and evaluate all possible threats and weaknesses of the port/terminal including but not limited to unauthorized access or use of the facility such as the presence of (attempted) stowaways. According to the ISPS Code, a port facility security plan shall thus be developed and maintained for each port facility, adequate for the ship/port interface. The plan shall make provisions for the three security levels, as defined in the Code. In addition, the plan should, as a minimum:*

- .1 detail the security organization of the port facility;*
- .2 detail the organization's links with other relevant authorities and the necessary communication systems to allow the effective continuous operation of the organization and its links with others, including ships in port;*
- .3 detail the basic security level 1 measures, both operational and physical, that will be in place;*

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ISPS Code: The International Ship and Port Facility Security Code, 2002.

- .4 *detail the additional security measures that will allow the port facility to progress without delay to security level 2 and, where necessary, to security level 3;*
- .5 *provide for regular review, or audit, of the plan and for its amendments in response to experience or changing circumstances; and*
- .6 *detail reporting procedures to the appropriate Contracting Government's contact points.*

**4.3.1.3 Recommended Practice.** All cases of stowaways detected in port while attempting to board a ship or ships should be reported to the appropriate port authorities, which will inform all nearby ships. Ships should follow the guidance of the appropriate port and law enforcement authorities.

Any procedures should be conducted in such a manner as to cause a minimum of interference and to prevent unnecessary delays to ships.

*Relevant guidance or observations may also be found in IMO resolutions FAL.13(42) and MSC.448(99), as well as ISPS Code.*

#### **4.3.2 Shipowner/Master**

**4.3.2.1 Standard.** Contracting Governments shall require that shipowners and masters, as well as other responsible persons, have security arrangements 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.

*Shipowners and masters, as well as other responsible persons, should have specific security arrangements preventing stowaways from getting aboard their ships. These security arrangements may be part of the ship security plan under the ISPS Code and should at least be equivalent to those contained in the relevant provisions of section A/9 and paragraph B/9 of the ISPS Code. See Recommended Practice 4.3.2.2.*

*Relevant guidance or observations may also be found in IMO resolutions FAL.13(42) and MSC.448(99), and in document FAL 42/10/1, whose full references are given in the explanatory text to Standard 4.3.1.1.*

**4.3.2.2 Recommended Practice.** 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.

*A Ship Security Assessment should consider all possible threats, including unauthorized access or use, such as the presence of stowaways.*

*The Ship Security Plan should, inter alia, establish the security measures covering all means of access to the ship, and for each of these, identify the appropriate locations where access restrictions or prohibitions should be applied. It should also establish the means of identification required to allow access to the ship and for individuals to remain on the ship without challenge. The Ship Security Plan should also establish the frequency of application of any access controls. Paragraph B/9 provides further details regarding the application of these measures for each security level.*

**4.3.2.3 Standard.** Contracting Governments shall require that ships entitled to fly their flag, except passenger ships, when departing from a port, where there is risk of stowaway embarkation, have undergone 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 shall not be used.

*When a thorough search for stowaways on a ship is performed, the conduct of the search should be in compliance with existing IMO instruments such as the ISPS and ISM Codes. The health of the possible stowaway shall always be taken into account in determining the methodology of the search.*

*Relevant guidance or observations may also be found in IMO resolutions FAL.13(42) and MSC.448(99), and in document FAL 42/10/1, whose full references are given in the explanatory text to Standard 4.3.1.1.*

**4.3.2.4 Standard.** Contracting Governments shall require that fumigation or sealing of ships entitled to fly their flag may not be carried out until a search which is as thorough as practicable of the areas to be fumigated or sealed has taken place in order to ensure that no stowaways are present in those areas. Such searches should take place as early as possible, as referenced in the ISPS Code,<sup>39</sup> and after all cargo operations have finished.

*The crew should make every possible effort to ensure that no stowaways are in areas of the ship that will be sealed or fumigated, to avoid the possibility that the stowaway will suffer physical injuries.*

*Relevant guidance or observations may also be found in IMO resolutions FAL.13(42) and MSC.448(99), and in document FAL 42/10/1, whose full references are given in the explanatory text to Standard 4.3.1.1.*

**4.3.2.5 Recommended Practice.** Contracting Governments are encouraged to ensure the use of appropriate non-intrusive means and technologies or measures to detect stowaways.

**4.3.2.6 Recommended Practice.** Contracting Governments should consider entering into arrangements for exchange of information and best practices regarding detection of stowaways. The confidentiality and integrity of the information collated and shared should be ensured. The use of the information should be for official purposes only. However, Contracting Governments should also consider sharing relevant information to the extent necessary and as appropriate with shipowners and other parties to prevent future stowaway incidents.

*An example for exchange of information can be to upload the necessary information in the database on stowaways incidents in the module on facilitation of International Maritime Traffic in GISIS.<sup>40</sup> The information that can be shared within this database is the following:*

- .1 on the activity (embarkation and disembarkation);*
- .2 the place of the before mentioned activity;*

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<sup>39</sup> Refer to paragraph B/8.9 of the ISPS Code.

<sup>40</sup> The GISIS module on Facilitation of International Maritime Traffic can be accessed here: <https://gisis.imo.org/Public/FAL/Default.aspx>

- .3 the date;
- .4 the total number of stowaways; and
- .5 the nationality of the stowaways.

*Additional information can also be included on experience gained with the provisions of the FAL Convention, section 4, and Resolution FAL.13(42), and the measures taken and obstacles encountered with their implementation. Further reference is also made to FAL.2/Circ.50/Rev.3.*

#### **4.3.3 National Sanctions**

**4.3.3.1 Recommended Practice.** Where appropriate, Contracting Governments should be encouraged to incorporate into their national legislation legal grounds to allow prosecution of stowaways, attempted stowaways and any individual or company aiding a stowaway or an attempted stowaway with the intention to facilitate access to the port area, any ship, cargo or freight containers.

*The provision leaves it to the individual Contracting Government to decide whether and how stowaways, attempted stowaways and persons aiding stowaways are to be prosecuted. Generally, it would not be considered appropriate to prosecute stowaways who, in the opinion of the authorities, have a well-founded fear of being persecuted for reasons of race, religion or political opinion.<sup>41</sup>*

### **C. Treatment of the stowaway while on board**

#### **4.4 General principles – humane treatment**

**4.4.1 Standard.** Stowaway incidents shall be dealt with in a manner consistent with humanitarian principles, including those mentioned in Standard 4.1. Due consideration must always be given to the operational safety and security of the ship and the safety and well-being of the crew, the stowaways and any other persons present on board.

*When stowaways are discovered on board a ship, the crew shall treat the stowaway respectfully and according to international humanitarian rules and principles. Although this is the basic principle, the shipmaster and the crew members shall also take into consideration the safety and security of the ship, persons present on board and, where possible, the cargo.*

**4.4.2 Standard.** Contracting Governments shall require that shipowners and masters operating ships entitled to fly their flag take appropriate measures to ensure the security, general health, welfare and safety of the stowaway while he or she is on board, including providing him or her with adequate provisioning, accommodation, proper medical attention and sanitary facilities.

*Contracting Governments may include in the security arrangements mentioned in Standard 4.3.2.1 the requirements included in this Standard 4.4.2 for the protection of stowaways on board the ship.*

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<sup>41</sup> UNHCR 1951 Refugee Convention.

#### **4.5 Work on board**

**4.5.1 Standard.** Stowaways shall not be permitted to work on board the ship, except in emergency situations or in relation to the stowaway's accommodation and provisioning on board.

*Contracting Governments shall ensure that stowaways are not permitted to work on board ships entitled to fly their flag except in the situations mentioned in the standard. Standard 4.5.1 generally precludes that stowaways help out on board the ship even if they so volunteer.*

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

**4.6.1 Standard.** Contracting Governments shall require masters to take practicable steps to establish the identity, including nationality/citizenship of the stowaway and the port of embarkation of the stowaway, and to notify the existence of the stowaway along with relevant details to the public authorities of the first planned port of call. This information shall also be provided to the shipowner, public authorities at the port of embarkation, the flag State and, if necessary, subsequent ports of call.

*Establishing the identity of stowaways is ultimately the responsibility of public authorities. However, masters should make every effort to get as much information as possible on the identity of the stowaway, as they are generally the first to make contact with the stowaway. Establishing the identity and nationality of the stowaway at an early stage, and notifying this as soon as possible to the public authorities in the first planned port of call, will enable those authorities to be better prepared for the arrival of the stowaway.*

**4.6.2 Recommended Practice.** When gathering relevant details for notification, masters should use the document as specified in appendix 3.

*By using the document specified in appendix 3 of the annex to the FAL Convention, the work of the shipmaster will be simplified. The document contains details on the ship, the personal details of the stowaway and other details such as the method of boarding, an inventory of the stowaway's possessions and a statement (in free text) from the stowaway.*

*The document should be transmitted to those parties identified in Standard 4.6.1.*

**4.6.3 Standard.** Contracting Governments shall instruct shipowners and masters operating ships entitled to fly their flag that when a stowaway declares himself or herself to be a refugee or an asylum seeker, this information shall be treated as confidential to the extent necessary for the security of the stowaway. When stowaways declare themselves to be a refugee or an asylum seeker, information regarding the declaration or intention of the stowaway shall not be shared with public authorities of the stowaway's country of origin or of habitual residence.

*It is the responsibility of a Contracting Government to instruct the master to treat a declaration by the stowaway that he or she is a refugee or that he or she intends to seek asylum as confidential to the extent necessary for the security of the stowaway.*

#### **4.7 Notification to the International Maritime Organization**

**4.7.1 Standard.** Contracting Governments shall report all stowaway incidents of which they become aware to the Secretary-General of the International Maritime Organization, taking into account the relevant guidelines of the Organization.<sup>42</sup>

*Public authorities of Contracting Governments shall report all stowaway incidents to the Secretary-General of the International Maritime Organization as soon as possible after becoming aware of such incident. They should do so in an agreed format for this purpose.*

#### **D. Deviation from the planned route**

**4.8 Recommended Practice.** Contracting Governments and their public authorities should recommend shipowners operating ships entitled to fly their flag to advise their masters not to deviate from the planned voyage to seek the disembarkation of stowaways discovered on board the ship after it has left the territorial waters of the country where the stowaways embarked, unless:

- permission to disembark the stowaways 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 for disembarkation; or
- 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 stowaways remain on board for a significant period of time.

**Irrespective of whether or not a ship deviates from the planned route, the disembarkation of stowaways who declare themselves to be a refugee or an asylum seeker should not be conducted in their (alleged) country of origin or any other country from which they have fled and in which they claim a risk of harm.**

*Masters shall, in principle, not deviate from their planned voyage to seek disembarkation of stowaways if these are discovered after the ship has left the territorial waters of the State in which they embarked.*

*Masters may decide otherwise in the cases mentioned in this Recommended Practice.*

*The ship may deviate when permission has been granted by the public authorities of the State to whose port the ship intends to deviate.*

*Deviation is furthermore permitted in cases of extenuating security circumstances or for health or safety reasons, for example when the stowaway remaining on board would result in grave security risks or pose a severe threat to the health of the stowaway and/or the crew or to the safe operation of the ship.*

*Also, deviation is permitted for compassionate reasons when the stowaway remaining on board would result in a situation conflicting with humanitarian principles. The ship should deviate if necessary to avoid acting in conflict with the international protection principles set*

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<sup>42</sup> Refer to Information on stowaway incidents (FAL.2/Circ.50/Rev.3).

*out in international instruments, such as the 1951 UN Convention relating to the Status of Refugees and its provisions regarding treatment of refugees.*

## **E. Disembarkation and return of a stowaway**

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

**4.9.1 Standard.** Public authorities in the country of the ship's first scheduled port of call after discovery of a stowaway shall decide in accordance with national legislation whether the stowaway is admissible to that State and shall do their utmost to cooperate with the parties involved in resolving the issue.

*The expeditious disembarkation of stowaways is a key factor in resolving stowaway cases.*

*Public authorities shall decide whether the stowaway is admissible to that State. They shall do so in accordance with relevant national legislation, such as their legislation regarding admissibility to their territory and their legislation regarding foreign nationals. If the stowaway asks for asylum, public authorities shall process this application in accordance with both their national legislation and other relevant international instruments, e.g. the 1951 Convention and the 1967 Protocol relating to the Status of Refugees.*

**4.9.2 Standard.** Public authorities in the country of the ship's first scheduled port of call after discovery of a stowaway shall allow disembarkation of the stowaway, when the stowaway is in possession of valid travel 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.

*If the stowaway is in possession of valid travel documents, the authorities are obligated to allow disembarkation when timely arrangements for return or repatriation are made and all requisites for transit are fulfilled or the authorities are satisfied that they will be made. Until the actual departure of the stowaway takes place, the authorities may, in accordance with national legislation, decide to transfer the stowaway from the ship into their custody or (other) reception location. Permission for disembarkation of the stowaway does not affect the decision as to the admissibility of the stowaway to the territory of the State concerned.*

**4.9.3 Standard.** Public authorities in the country of the ship's first scheduled port of call after discovery of a stowaway shall allow disembarkation of the stowaway when the public authorities are satisfied that they or the shipowner will obtain valid travel documents, make timely arrangements for repatriation of the stowaway, and fulfil all the requisites for transit. Public authorities shall, further, favourably consider allowing disembarkation of the stowaway, when it is impracticable for the stowaway to remain on the ship or other factors exist which would preclude the stowaway from remaining on the ship. Such factors may include, but are not limited to, when:

- a case is unresolved at the time of sailing of the ship; or
- the presence on board of the stowaway would endanger the safe operation of the ship, or the health of the crew, of other persons present on board or of the stowaway.

*If the stowaway is not in possession of valid travel documents, but public authorities are satisfied that these documents will be obtained either by the shipowner or the authorities themselves and all other formalities connected with the return or repatriation of the stowaway will be dealt with, they shall allow disembarkation, where it is appropriate and national*



*legislation allows it. As mentioned in the explanatory text to Standard 4.9.2, public authorities may decide to transfer the stowaway into custody until the time of the actual return of the stowaway. This decision does not affect the decision on the admissibility of the stowaway.*

*When impracticalities or other factors stand in the way of remaining on board the ship on which the stowaway arrived, public authorities shall also favourably consider the possibility of disembarking the stowaway. Standard 4.9.3 mentions two examples of such situations. One is that disembarkation should be considered favourably if the case is unresolved at the time of departure of the ship. This will generally be the case when the stowaway applies for refugee or asylum status. The other example is when the continued presence on board of the stowaway would be a source of danger.*

*A decision in these cases to allow disembarkation of the stowaway shall not affect the responsibility of the shipowner to remove the stowaway from the territory of the affected State. Neither will the allowing of disembarkation in these cases affect the decision on admissibility of the stowaway to the territory of that State.*

*It should be noted that this standard is not limited to these two situations.*

#### **4.10 Subsequent ports of call**

**4.10.1 Standard.** When disembarkation of a stowaway has failed in the first scheduled port of call after discovery of the stowaway, public authorities of subsequent ports of call shall examine the stowaway as for disembarkation in accordance with Standards 4.9.1, 4.9.2 and 4.9.3.

*If disembarkation at the first scheduled port of call fails, the obligation to cooperate with the master regarding disembarkation of the stowaway passes to the authorities in subsequent ports of call. If a previous port of call has not met the obligations stated in the regulations, this does not limit the obligations of subsequent port authorities.*

#### **4.11 State of Nationality or Right of Residence**

**4.11.1 Standard.** Public authorities shall in accordance with international law accept the return of stowaways with full nationality/citizenship status or accept the return of stowaways who in accordance with their national legislation have a right of residence in their State.

*The standard reflects the general principle of international law that every State is obliged to receive its own citizens.*

**4.11.2 Standard.** Public authorities shall assist in determining the identity and nationality/citizenship of stowaways claiming to be a national or having a right of residence in their State. Where possible, the local embassy, consulate or other diplomatic representation of the country of the stowaway's alleged nationality will be required to assist in verifying the stowaway's nationality and providing emergency travel documentation.

*When a stowaway does not possess valid identification documents, the shipowner or his or her representatives should, in coordination with the authorities at the port of call, contact, as soon as possible and where practicable, the representation of the stowaway's country of residence/nationality in order to obtain help to determine the stowaway's identity. The authorities of the State where the stowaway claims to be a national or to have a right of residence are obliged to assist where necessary.*

*If the stowaway applies for asylum or refugee status, contact with the authorities of the stowaway's home country shall not be undertaken.*

*Relevant guidance may be found in IMO resolutions FAL.13(42) and MSC.448(99), whose references are given in the explanatory text to Standard 4.3.1.1.*

**4.11.3 Recommended Practice. Cooperation with foreign embassies in determining the nationalities of stowaways should be sought through cooperation mechanisms to mutually understand and resolve the true facts of each case.**

*With reference to standard 4.6.3 if the stowaway applies for asylum or refugee status, contact with the authorities of the stowaway's home country, including their embassy, should not be undertaken.*

#### **4.12 State of embarkation**

**4.12.1 Standard.** When it has been established to their satisfaction that stowaways have boarded a ship in a port in their State, public authorities shall accept for examination such stowaways being returned from their point of disembarkation after having been found inadmissible there. The public authorities of the State of embarkation shall not return such stowaways to the country where they were earlier found to be inadmissible.

*Stowaways found to be inadmissible by the authorities in the ship's ports of call should in principle be returned to the State in which they embarked. This may differ if it is known that the stowaway is allowed to stay in other States, or if the stowaway applies for asylum or refugee status. The State of embarkation, however, is obliged to accept for examination stowaways who are being transported back to their territory, if it has been established in a satisfactory way that the stowaway has embarked in a port in this State. After accepting the stowaway for examination, the authorities of the State of embarkation shall not transport the stowaway back to the country in which he or she was earlier found to be inadmissible. They may, however, based on their national legislation, decide whether the stowaway is permitted to stay on their territory or is to be repatriated elsewhere.*

**4.12.1.1 Recommended Practice.** The designated authority of the port where the stowaways boarded should undertake an investigation into how the stowaways managed to gain access to the ship and consider modifying security provisions, as appropriate, and thereafter provide feedback to the appropriate public authority at the port of disembarkation.

**4.12.2 Standard.** When it has been established to their satisfaction that attempted stowaways have boarded a ship in a port in their State, public authorities shall accept disembarkation of attempted stowaways, and of stowaways found on board the ship while it is still in their territorial waters or if applicable according to the national legislation of that State in the area of immigration jurisdiction of that State. No penalty or charge in respect of detention or removal costs shall be imposed on the shipowner.

*If an attempted stowaway is discovered before the ship leaves the territorial waters, public authorities in the port of embarkation shall allow the stowaway to disembark, without any judicial or financial repercussions for the shipowner, when they are satisfied that the stowaway embarked in a port on their territory. If a State exercises immigration functions in a wider area than the territorial sea, it shall also allow disembarkation if the ship has not left this zone. Reference is made to the United Nations Convention on the Law of the Sea, article 33, which allows coastal States to exercise the controls necessary to prevent an infringement of its*

*immigration laws and regulations in the contiguous zone. This zone may extend up to 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.*

*Relevant guidance may be found in IMO resolutions FAL.13(42) and MSC.448(99).*

*Regarding the difference between "stowaway" and "attempted stowaway", it may be noted that the distinction has been made in the Convention's definition as in many cases persons have been detected while the ship was still in port. The master in several of those cases was not able to remove those persons from the ship. Therefore, the term "attempted stowaway" was introduced so as to facilitate the disembarkation of persons who had been detected while the ship was still in port.*

**4.12.3 Standard. When an attempted stowaway has not been disembarked at the port of embarkation, he or she is to be treated as a stowaway in accordance with the regulation of this section.**

*If it has not been possible to disembark an attempted stowaway in the port of embarkation, the rules and guidelines established in accordance with international instruments must be applied and in no case should he or she be treated or considered as a member of the crew.*

*Guidance may be found in IMO resolutions FAL.13(42) and MSC.448(99), whose references are given in the explanatory text to Standard 4.3.1.1.*

#### **4.13 The flag State**

**4.13.1 Standard. The public authorities of the flag State of the ship shall assist and cooperate with the master/shipowner and the appropriate public authority at ports of call in:**

- **identifying the stowaway and determining his or her nationality;**
- **making representations to the relevant public authority to assist in the removal of the stowaway from the ship at the first available opportunity; and**
- **making arrangements for the removal or repatriation of the stowaway.**

*For this purpose, the same information that is sent to the authorities in the next port of call should also be copied to the flag State, so they can assist in the handling of the case.*

*The flag State should provide the assistance required as a matter of priority to enable the stowaways to be removed and repatriated as soon as possible. Clear guidelines should be developed and published by the flag State regarding the procedures the shipowner should follow in order to ensure the flag State's immediate assistance.*

#### **4.14 Return of stowaways**

**4.14.1 Recommended Practice. When a stowaway has inadequate documents, public authorities should, 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 country 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 affecting the removal of the stowaway. This letter will include information required by the authorities at transit points and/or the point of disembarkation.**

*If a stowaway is not in possession of valid travel documents, public authorities should issue a covering letter for the return of the stowaway. This practice is recommended for the return of the stowaway on board the ship as well as for the return of the stowaway by any other means. By issuing a covering letter, public authorities will promulgate the information they have on the identity of the stowaway. Also, the covering letter attests to the presence of the stowaway in a port of call, and to the inadmissibility of the stowaway into the territory of the State that issued the covering letter. The covering letter will provide authorities at transit points and/or authorities at the point of disembarkation with the information they might need for transiting the stowaway to his or her final destination or for accepting the disembarkation of the stowaway for examination. For this purpose, the covering letter may contain the following information, which is not to be considered as exhaustive:*

- *name;*
- *name of father;*
- *gender;*
- *age;*
- *ethnic origin;*
- *nationality;*
- *any documents in the possession of the stowaway;*
- *former documents;*
- *country of origin;*
- *country of residence;*
- *place and country of birth;*
- *date of departure; and*
- *countries traversed.*

**4.14.2 Recommended Practice.** Public authorities in the State where the stowaway has disembarked should contact the relevant public authorities at transit points during the return of a stowaway, in order to inform them of the status of the stowaway. In addition, public authorities in countries of transit during the return of any stowaway should 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 public authorities of the country of the port of disembarkation.

*When returning the stowaway to the State of which he or she is a national, or to the State of embarkation, or to a State where the stowaway is admissible, the public authorities in the State where the stowaway has disembarked should, as far as practicable, cooperate with the subsequent transit State(s). If all known information on the stowaway to the transit State(s) is provided, the repatriation process would be executed quickly, as this would enable the transit State(s) to make any necessary preparations in advance that might be connected with the transit. Transit State(s) should, in accordance with their national legislation, allow any stowaway returning under the instruction of the State of disembarkation to transit through their ports or airports.*

**4.14.3 Recommended Practice.** When a port State has refused disembarkation of a stowaway, that State should, without undue delay, notify the flag State of the ship carrying the stowaway of the reasons for refusing disembarkation.

In accordance with Standard 4.6.3, the flag State should not be notified if stowaways declare themselves to be a refugee or an asylum seeker and the flag State is their (alleged) country of origin from which they have fled and in which they claim a risk of harm.

#### **4.15 Cost of return and maintenance of stowaways**

**4.15.1 Recommended Practice.** The public authorities of the State where a stowaway has been disembarked should inform the shipowner on whose ship the stowaway was found 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.

*It is up to Contracting Governments to establish rules on which types of costs are to be refunded and for which period of time. However, the level of costs should be made available to the shipowner or its agent or insurer as soon as possible. The insurer would usually be represented by a P & I correspondent. Furthermore, the authorities that allowed the stowaway to disembark should endeavor to minimize such costs.*

**4.15.2 Recommended Practice.** The period during which shipowners are held liable to defray costs of maintenance of a stowaway by public authorities in the State where the stowaway has been disembarked should be kept to a minimum.

*The public authorities of the jurisdiction where the stowaway is kept should keep the cost of maintenance to a minimum. There are different models in various jurisdictions. In some, a time limit is set after which the shipowner is free from additional costs arising from detention. In general, the shipowners do not have to pay maintenance costs while the authorities are handling an application for asylum.*

**4.15.3 Standard.** Public authorities shall, according to national legislation, consider mitigation of penalties against ships where the master of the ship has properly declared the existence of a stowaway to the appropriate authorities in the port of arrival, and has shown that all reasonable preventive measures had been taken to prevent stowaways gaining access to the ship.

*Some States have national legislation that prohibits the carrying of stowaways. If a master or shipowner can show that reasonable preventive measures have been taken to avoid stowaways, including application of measures in accordance with relevant sections of part B of the ISPS Code, those States shall, in accordance with national legislation, consider the possibility of mitigation of penalties against the master or shipowner and preferably the ability to drop the charges.*

**4.15.4 Recommended Practice.** Public authorities should, according to national legislation, consider mitigation of other charges that might otherwise be applicable, when shipowners have cooperated with the competent authorities to the satisfaction of those authorities in measures designed to prevent the transportation of stowaways.

*As in Standard 4.15.3, public authorities should consider the mitigation of any charges under their national legislation that are applicable to shipowners where stowaways are found on board their ships.*

## **Section 5**

### **Arrival, stay and departure of cargo and other articles**

**This section contains the provisions concerning the formalities required by public authorities from the shipowner, his or her agent or the master of the ship.**

*The provisions in this section are related to the arrival and departure of cargo. The public authorities in charge of cargo are primarily customs, as well as veterinary and phytosanitary authorities. The explanation given in this section is therefore related to these authorities but does not exclude other relevant public authorities.*

#### **A. General**

**5.1 Recommended Practice.** Public authorities should, with the cooperation of shipowners, port authorities and port facilities and terminals, take appropriate measures to ensure that port time may be kept to a minimum, and should frequently review all procedures in connection with the arrival and departure of ships, including arrangements for embarkation and disembarkation, loading and unloading, servicing and the like and the security measures associated therewith. They should also make arrangements whereby cargo ships and their cargoes can be entered and cleared, insofar as may be practicable, at the ship working area.

*The efficient operation of the ports, and the timely dispatch of the vessels are key elements of international maritime trade. For the rapid movement of cargo, many ports have introduced special areas for container ships, oil, ore, chemicals and other bulk shipments. The separation of different kinds of cargo has proven to be an effective method for enhancing the flow of goods through the port. Minimum port time can also be achieved by good coordination between appropriate trade partners and subsequent cooperation with public and port authorities on the handling and processing of cargo. This will be based on the quantities of ships, passengers and cargo. Public authorities should have the necessary numbers of staff, efficient procedures and other facilities, including operating hours that reflect the 24/7/365 nature of shipping and electronic systems, with the highest possible rate of availability.*

*The provisions of the International Ship and Port Facility Security Code (ISPS Code) should also be considered.*

*Arrangements and practices to minimize port time should never compromise the safety of the ship and the safety and well-being of personnel both on board and ashore.*

**5.2 Recommended Practice.** Public authorities should, with the cooperation of shipowners, port authorities and port facilities and terminals, take appropriate measures to ensure that satisfactory port traffic flow arrangements are provided so that handling and clearance procedures for cargo will be smooth and uncomplicated. These arrangements should cover all phases from the time the ship arrives at the dock

**for unloading and public authority clearance, and also free zones, storage facilities, warehousing and onward movement of cargo if required. There should be convenient and direct access between the free zone, storage facilities and cargo warehouse and the public authority clearance area, which should be located close to the dock area with, whenever possible, easy access and transfer capabilities and infrastructure.**

*The cross-border traffic of goods will inevitably be subject to the intervention of public authorities, such as customs. This intervention may hamper the logistical chain. To reduce these obstacles to a minimum it is important that the public and port authorities and industry establish a good relationship. The use of information technology will assist the efficient flow of goods in the port area, in particular, if supported by a single window involving all public authorities concerned.*

*The location of customs warehouses, temporary storage facilities for containers and lanes for trailers to be parked should ideally be in the direct vicinity of the place where the ships are loaded or unloaded. Sufficient space should also be available for trans-shipped cargo. Public authorities' clearance areas and facilities for the checking of the cargo, including X-ray equipment, should be close to these locations. The combined use of such facilities by the public authorities concerned should be encouraged. This is to avoid the extensive relocation of cargo within the dock area and the associated costs.*

*National maritime transport facilitation committees, as provided for in Recommended Practice 7.12 or similar local consultation bodies, can play an important role in achieving these objectives.*

**5.3 Recommended Practice. Public authorities should encourage owners and/or operators of port terminals to equip them with storage facilities for special cargo (e.g. valuable goods, perishable shipments, human remains, radioactive and other dangerous goods, as well as live animals), as appropriate; those areas of port terminals in which general and special cargo and postal items are stored prior to shipment by sea or importation should implement access control measures at least equivalent to those contained in the relevant text of paragraph B/16 of the ISPS Code.**

*Because of its nature, special cargo often needs unusual and extraordinary treatment. Different storage facilities, such as cold stores for perishable goods or stables or pens for live animals, may be necessary to accommodate these goods. High security storage facilities may be required for valuable goods, such as precious stones (e.g. diamonds) and precious metals (e.g. gold). Port and public authorities, such as customs, veterinary and phytosanitary authorities, should allow private companies to establish such specialized storage facilities within the clearance area or other places in the dock area. Port facilities, including terminals, should also be equipped with secured, fenced areas and storage facilities to prevent the unlawful removal of cargo, at the minimum in accordance with the measures set out in paragraph B/16 of the ISPS Code regarding port facility security plans. The port facility security plan should, inter alia, and for each security level, establish the security measures covering all means of access to the port facility; identify the restricted areas within the port facility; implement measures relating to cargo intended to prevent tampering and prevent cargo not meant for carriage from being accepted and stored within the port facility; and implement appropriate measures regarding the checking, notification and timing of the delivery of ship's stores.*

**5.3bis Recommended Practice.** Public authorities should require only a minimum of data necessary for the identification of the cargo that is to be placed in storage prior to release for re-export or importation, and should, whenever available, use the information contained in the pre-arrival declaration for this purpose, provided that it has been provided in a timely and complete manner.

*Where customs, in conformance with the WCO Safe Framework of Standards, requires pre-arrival or, in the case of deep-sea containerized traffic, pre-loading information for risk assessment purposes, that information can also be used as, or referenced to form, the declaration for temporary storage. The same functionality can also be arranged for the ship's (cargo) manifest for ports of call where no advance cargo information is required for risk assessment purposes. In any event, the information in the declaration for temporary storage should be kept to a minimum.*

**5.4 Standard.** A Contracting Government which continues to require export, import and transshipment licences or permits for certain types of goods shall establish simple procedures whereby such licences or permits can be obtained and renewed rapidly.

*Many countries require licences or permits for the importation and exportation of certain goods from and to certain countries. Sometimes licences are also required for trans-shipment. To simplify the procedures for obtaining such licences or permits, public authorities shall make publicly available, for example by leaflets or the Internet, in which cases licences or permits are required, together with information concerning the name and address of the public authorities responsible for granting the licences or permits. Application forms could also be made available on the Internet or by other simple means. To avoid repeated requests, public authorities could consider granting blanket licences or permits for more than one shipment for a certain period with regard to successive consignments. However, it should be recalled that the obligation to obtain licences and permits, where required, lies with either the party causing the transportation and/or the shipper or consignee, not the carrier.*

**5.5 Recommended Practice.** When the nature of a consignment could attract the attention of different agencies authorized to carry out inspections, such as customs and veterinary or sanitary controllers, Contracting Governments should authorize either customs or one of the other agencies to carry out the required procedures or, where that is not feasible, take all necessary steps to ensure that such inspections are carried out simultaneously at one place and with a minimum of delay and whenever possible carried out with prior coordination with the party having custody of the consignment.

*The authorization to allow only one public authority to carry out the primary processing of the received information means that the person subject to the required procedure, in the first instance, should only be directed to one public authority. All necessary checks will be performed by that authority and other public authorities will only be involved where, for example, specialized knowledge or equipment is required. In the latter case the primary responsible public authority will coordinate the separate checks and arrange that the checks be carried out simultaneously at the same place to avoid the unnecessary movement of cargo from one place to another.*

*This Recommended Practice can be read in conjunction with the objectives of Standard 1.3quin, the single window concept. This concept allows for an efficient flow of information between public authorities and the trade involved.*

*To facilitate the inspection(s), the party having custody of the consignment should be informed beforehand, unless security or other concerns dictate otherwise.*



**5.6 Recommended Practice.** Public authorities should provide simplified procedures for the prompt clearance of private gift packages and trade samples not exceeding a certain value or quantity which should be set at as high a level as possible.

*In many countries special arrangements have been made for private gifts or trade samples, often based on international agreements, such as the provisions of the Universal Postal Convention. Thresholds for value or quantities should be based on national legislation and made public. Thresholds could also be based on a certain amount, below which no duties or taxes will be collected.*

## **B. Clearance of cargo**

**5.7 Standard.** Public authorities shall, subject to compliance with any national prohibitions or restrictions and any measures required for port security or the prevention of trafficking of narcotics, grant priority clearance to live animals, perishable goods and other consignments of an urgent nature.

*The goods mentioned in this Standard have to be transported rapidly because of their nature. A delay in the clearance procedure may harm the quality or the appearance of the goods. The formalities connected to the movement of these goods have to be kept to a minimum where possible. Many countries already have special procedures in force for the expeditious clearance of such goods. Public authorities may need to implement special or additional requirements or conditions to make rapid clearance possible, such as timely presentation, preferably pre-arrival, of the required documentation or a guarantee for the duties and taxes due. When similar goods are dispatched on a regular basis, special clearance procedures could be authorized.*

**5.7.1 Recommended Practice.** In order to protect the quality of goods awaiting clearance, public authorities should, in collaboration with all the concerned parties, take all measures to permit practical, safe and reliable storage of goods at the port.

*This Recommended Practice should be read in connection with Recommended Practice 5.3 where public authorities are invited to encourage the parties concerned to establish specialized storage facilities that are necessary in relation to goods that require special attention, inter alia to prevent the unlawful removal of cargo, at a minimum in accordance with the measures set out in paragraph B/16 of the ISPS Code regarding port facility security plans.*

**5.8 Recommended Practice.** Contracting Governments should facilitate the temporary admission of specialized cargo-handling equipment arriving by ships and used onshore at ports of call for loading, unloading and handling cargo.

*Normally, all goods that are brought into the territory of a country are subject to supervision, duties and taxes and sometimes import restrictions, until the goods are cleared. However, the specialized cargo-handling equipment mentioned in this Recommended Practice may only be landed for a short period in the port to unload and load the cargo of the ship on which the equipment arrived. The availability of such equipment on a ship may be necessary, based on the specific nature of the goods or the fact that such equipment is not available in the port of call, e.g. in small ports. To apply the normal rules on such equipment, which will be re-exported within a short period, would not facilitate the fast movement of goods and would unduly prolong the stay of the ship in the port.*

*Customs rules on the temporary admission of goods, including cargo-handling equipment, can be found in the Revised Kyoto Convention (1999) and its Guidelines on simplifying and harmonizing customs procedures and the Istanbul Convention on Temporary Admission.*

*In particular, the International Convention on Temporary Admission (Istanbul, 1990) covers rules on temporary admission.*

*Temporary admission is defined as:*

*"the customs procedure under which certain goods (including means of transport) can be brought into a customs territory conditionally relieved from payment of import duties and taxes and without application of import prohibitions or restrictions of economic character; such goods (including means of transport) must be imported for a specific purpose and must be intended for re-exportation within a specific period and without having undergone any change except normal depreciation due to the use made of them".*

*Annex C of the Istanbul Convention covers temporary admission concerning means of transport together with the equipment carried on board the means of transport, including special equipment for the loading, unloading, handling and protection of cargo. Annex C provides for the temporary admission of commercial means of transport (including the special equipment mentioned above), without a customs document or security for the period necessary to complete the transport operation.*

## **5.9 Not in use.**

**5.10 Recommended Practice. Public authorities should provide procedures for the clearance of cargo based on the relevant provisions of and associated guidelines to the *International Convention on the simplification and harmonization of Customs procedures* – the revised Kyoto Convention.**

*The Revised Kyoto Convention (1999), and its Guidelines, is widely regarded as the blueprint for modern and efficient customs procedures in the twenty-first century for all modes of transport. It contains provisions for harmonized customs procedures and practices, including the importance of a risk-based approach, on which national customs legislation should be based and is accompanied by guidelines for easy implementation.*

**5.10.1 Recommended Practice. Public authorities should introduce simplified procedures for authorized persons allowing:**

- (a) release of the goods on the provision of the minimum information necessary to identify the goods, to accurately identify and assess risk as it relates to concerns such as health, safety and security, and permit the subsequent completion of the final goods declaration;**
- (b) clearance of the goods at the declarant's premises or another place authorized by the relevant public authority; and**
- (c) provision of a single goods declaration for all imports or exports in a given period where goods are imported or exported frequently by the same person.**

*The simplified procedures proposed in this recommendation relate to (customs) procedures subsequent to formalities connected with the arrival of goods in a port, which can be considered as a first phase. The subsequent procedures relating to the onward movement of goods to their (final) destination – for import or transit, for example – can be regarded as the second phase. In many cases, the responsibility for the goods for such subsequent procedures shifts to another party, e.g. a forwarding agent. The implementation of the simplified*

*procedures, suggested in this Recommended Practice, is based on the Revised Kyoto Convention (1999) on the harmonization and simplification of customs procedures and is intended to facilitate rapid release or clearance. They are only offered to authorized persons with a satisfactory record of compliance with customs rules and obligations and the relevant requirements of other public authorities.*

- (a) *The simplified procedure based on minimum information allows for the release of the goods when all relevant information may not be available immediately. While information on description, quantity, value and origin are needed to identify the goods, data may be temporarily lacking, e.g. on the transport arrangements in sufficient detail to complete valuation. A supplementary declaration is then necessary and this must be provided within a prescribed time limit, e.g. 24 hours, which should be specified in national legislation along with the information essential for the initial declaration. It is also possible that the initial declaration is completed and followed by a periodic supplementary declaration mentioned under (c).*
- (b) *The simplified procedure by which the goods are placed under a certain (customs) procedure at the premises of the declarant can be of great benefit for trade and will also help avoid congestion at ports. Public authorities should be satisfied with the quality of the declarant's compliance and recording systems before granting an authorization for this procedure. The public authorities are notified immediately when the goods arrive at the premises and can decide, on the basis of risk management, whether they need to proceed to physical examination at the declarant's premises. This procedure is often combined with a periodic (supplementary) declaration.*
- (c) *When public authorities base their controls on an incomplete declaration or when local clearance at the premises of the declarant has been allowed, it is often cumbersome to provide a separate supplementary declaration for each consignment. Suitably compliant declarants can be allowed to provide a periodic declaration which summarizes all initial declarations or all notifications. Such procedures can be accompanied by the granting of arrangements for payment of duties and taxes on the basis of self-assessment.*

**5.11 Standard. Public authorities shall limit physical interventions to the minimum necessary to ensure compliance with applicable law.**

*Industry demands fast and reliable procedures to be applied by the public authorities. In addition, public authorities feel the pressure of reduced budgets and staff, which makes it necessary to find more efficient working methods. These developments require modern procedures and control techniques. Aside from the unacceptable burden for trade, for public authorities it is impossible to control all consignments. Therefore, modern control methods have to be developed to detect high-risk consignments. Risk management as mentioned in Standard 1.11 has proven to be an effective and efficient control method that makes it possible to limit the physical controls to a minimum.*

**5.12 Recommended Practice. Public authorities should, on the basis of a valid request, conduct physical examinations of cargo, where necessary, at the point where it is loaded into its means of transport and while loading is in progress, either at the dockside or, in the case of unitized cargo, at the place where the freight container is packed and sealed.**

*The intervention of public authorities should be limited where possible and minimally hamper the logistical process. However, physical examinations by public authorities, based on risk assessment, are inevitable. To facilitate the flow of goods, physical examinations, where required, should be carried out at the most efficient and convenient moment. Physical examinations of cargo already loaded onto a means of transport should be avoided where possible, and for containerized cargo are impractical. They not only interrupt the flow of goods but are also inefficient for the public authorities. To maximize efficiency, export cargo could be examined at the premises of the exporter or where the freight container is packed. To safeguard the integrity of a containerized shipment, sealing of the transport unit should be done immediately upon completion of the packing of the container by the party packing the freight container. On import, an examination of the cargo, where required, can be performed by using non-intrusive imaging or sensing equipment. When detailed examinations are necessary on voluminous shipments, public authorities should perform such examinations in special areas or buildings, so as to be able to make quick progress and again to limit the intervention to a minimum.*

**5.13 Standard. Public authorities shall ensure that requirements for collection of statistics do not significantly reduce the efficiency of maritime trade.**

*In many countries the collection of statistical information is linked to the customs formalities. In determining their requirements, public authorities, in particular customs, should take into account and include the requirements of the statistical authorities to avoid a duplication of requirements. The use of information technology makes it possible to collect the information required by public authorities efficiently. The single window as mentioned in Standard 1.3quin simplifies the collection and further distribution of information required by public authorities even further.*

**5.14 Recommended Practice. Public authorities should use systems for the electronic exchange of information in order to accelerate and simplify storage, clearance and re-export processes.**

*This Recommended Practice elaborates on a theme of using information technology mentioned in several provisions in section 1 and underpins the requirement that since 8 April 2019, all required information shall be transmitted, received and processed electronically.*

**5.14.1 Recommended Practice. Public authorities should facilitate and terminate as quickly as possible the transit procedure covering goods from another State awaiting loading.**

*To facilitate the international movement of cargo, the transit procedure covering cargo arriving from another country pending loading on an outward-bound ship could be terminated and cleared the moment the cargo is under customs supervision in the port of loading and not be kept under the transit procedure until the cargo has left the customs territory. However, in many countries the cargo has to be declared for another procedure until loading. This procedure should be kept simple and could be based on the information already available in the transit declaration, e.g. through a reference to the transit declaration. Clearing the transit procedure is important for the declarant because, in general cases, a guarantee at departure would have to be provided which should be released again at the earliest moment possible.*

## **C. Freight containers and pallets**

**5.15 Standard.** Public authorities shall, in conformity with their respective regulations, permit the temporary admission of freight containers, pallets and freight container equipment and accessories that are affixed to the container or are being transported separately without payment of customs duties and other taxes and charges and shall facilitate their use in maritime traffic.

*Section 5, part C of the annex to the FAL Convention deals with the temporary admission of containers, pallets, freight container equipment and accessories that are affixed to the container or are being transported separately. These instrumentalities are used frequently in all modes of transport. Although these items are, in principle, subject to duties and taxes in connection with their temporary importation, in practice almost all of these items will leave the country of importation rapidly and will be exempted. The provision of a guarantee may be required to cover the payment of duties and taxes in case they are not actually re-exported. These items will not stay in the country of importation and will probably be imported and re-exported in a number of countries on repeated occasions. The imposition of duties and taxes is considered unnecessary and will also hamper international trade due to additional procedures. This has been recognized for many years and therefore international instruments for the reduction of procedures connected with the temporary importation of these items have been developed, such as the International Convention relating to Temporary Admission (Istanbul Convention), which covers rules on temporary admission. (See explanatory note under Recommended Practice 5.8 for definition.)*

*Annex B3 of the Istanbul Convention covers temporary admission of containers, pallets, packings, samples and other goods (including container accessories and equipment) imported in connection with a commercial operation. Annex B3 covers the obligations and recommendations mentioned in the provisions from 5.14 up to and including 5.18.*

*The 1972 Customs Convention on Containers specifically covers temporary admission of freight containers and their equipment and accessories whether the latter are affixed to the freight container or are transported separately. The provisions of this Convention are generally aligned with those of the Istanbul Convention.*

*It should be noted that both Conventions have been amended to require that multimodal containers used for maritime traffic be marked in accordance with international standard ISO 6346.<sup>43</sup>*

**5.16 Recommended Practice.** Public authorities should provide in their regulations, referred to in Standard 5.15, for the acceptance of a simple declaration to the effect that temporarily imported freight containers, pallets and freight container equipment and accessories will be re-exported within the time limit set by the State concerned. Such declaration may take the form of an oral declaration or any other act acceptable to the authorities.

*Annex B3 of the Istanbul Convention provides for temporary admission for at least six months and for a simplified customs procedure, for example an oral declaration, and a more simplified procedure, such as a general undertaking for persons who use the temporary admission regularly.*

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<sup>43</sup> See also Part XII of the WCO Handbook – Customs Convention on Containers, 1972.

*The 1972 Customs Convention on Containers, while encompassing a shorter period for temporary provision, also promotes usage of a simplified customs procedure for declaring freight containers and their equipment and accessories and pallets for temporary admission.*

**5.17 Standard.** Public authorities shall permit freight containers, pallets and freight container equipment and accessories entering the territory of a State under the provisions of Standard 5.15 to depart the limits of the port of arrival for clearance of imported cargo and/or loading of export cargo under simplified control procedures and with a minimum of documentation.

*This Standard clarifies that the temporary admission of freight containers and their equipment and accessories and pallets includes the movement inland to the consignee's premises for unpacking and to the shipper's or packer's premises for packing, including affixing or de-mounting of accessories and equipment. The container operator may be required to implement minimum monitoring measures to ensure compliance with the conditions for the granting of the temporary admission.*

**5.18 Standard.** Contracting Governments shall permit the temporary admission of component parts of freight containers without payment of customs duties and other taxes and charges when these parts are needed for the repair of freight containers already admitted under the terms of Standard 5.15.

*Annex B3 of the Istanbul Convention allows the temporary admission not only of containers, but also of the component parts for the repair of containers and of container accessories and equipment. The 1972 Customs Convention on Containers includes similar provisions.*

#### **D. Cargo not discharged at the port of intended destination**

**5.19 Standard.** Where any cargo identified on the Cargo Declaration is not discharged at the port of intended destination, public authorities shall permit amendment of the Cargo Declaration and shall not impose penalties if satisfied that the cargo was not in fact loaded on the ship, or, if loaded, was landed or is to be landed at another port.

*In today's international trade it is not uncommon for cargo to change its destination or ownership during the ship's voyage. For the same reason, it is possible that cargo is not loaded at the final moment before departure of the ship. In some cases, goods can be sold more than once during a journey, e.g. in the case of goods sold on futures markets, such as oil, ore, metals and grain. In order not to interfere with common commercial practices and not to complicate matters, public authorities should allow for the amendment of the Cargo Declaration, or alternatively, the ship's (cargo) manifest in cases where they are satisfied with the reasons given, and not impose any penalties.*

*This same principle applies to pre-arrival and in particular, in the case of deep-sea containerized traffic, pre-loading information.*

**5.20 Standard.** When, by error or for another valid reason, any cargo is discharged at a port other than the port of intended destination, public authorities shall facilitate reloading or onward movement to its intended destination. This provision does not apply to prohibited or restricted cargo.

*It may occur that cargo is discharged unintentionally in a port and the cargo has to be sent to the intended port of destination. When the cargo is still under customs supervision and temporary storage and the goods have not yet been declared for a final customs procedure,*

*whereby no duties and taxes have been paid, a simple procedure for re-exportation should be allowed based on the information submitted at entry. In other cases, customs should allow repayment of duties and taxes, often based on a drawback procedure. To allow a repayment of duties and taxes, there should be ample proof that the incorrect discharge is due to an unintentional occurrence.*

#### **E. Limitation of shipowner's responsibilities**

**5.21 Standard. Public authorities shall not require a shipowner to place special information for use by such authorities on a transport document or a copy thereof, unless the shipowner is, or is acting for, the importer or exporter.**

*In general, the task of the shipowner is limited to his or her obligation to carry cargo from the port of departure to the port of destination on the order of the shipper, based on commercial documents, such as a sea waybill, bill of lading or contract of carriage. As a result of this, the information concerning the cargo available to the shipowner is in many cases limited. Importantly, the shipowner is not party to the sales contract or purchasing order, which is between the seller and buyer. Other parties in the logistical chain, such as forwarders, are involved and responsible for the necessary formalities regarding importation or exportation. Aside from cases where the shipowner is, or is acting on behalf of, the importer or exporter, public authorities should address these parties for the required information related to the importation or exportation of the cargo. Due to the security requirements in many parts of the world, more detailed information about the cargo, its origin and the buyer and seller is being required.*

*Such information should be obtained from the parties with direct knowledge, not from the carrier.*

**5.22 Standard. Public authorities shall not hold the shipowner responsible for the presentation or accuracy of documents which are required of the importer or exporter in connection with the clearance of cargo, unless the shipowner is, or is acting for, the importer or exporter.**

*Based on the explanation given related to Standard 5.21, shipowners should not be held responsible for information given to the public authorities that originates from other parties in the logistical chain. However, this does not indemnify shipowners from their obligation to accurately, and in a timely fashion, transmit the provided information to the public authorities.*

**5.23 Standard. The shipowner shall be obliged to provide the information regarding the entry or exit of goods known to the shipowner at the time of providing such data and as set out in the transport document that is or evidences the contract of carriage. Thus, the shipowner can base the provision of the information on data provided by the shipper customer, unless the shipowner has reason to believe that the data provided is untrue.**

*For sealed, packed freight containers, the shipowner unavoidably needs to rely on the shipping instructions, including the cargo description, provided by the shipper customer for submitting the various cargo declarations required by public authorities. Ocean carriers cannot visually inspect or ascertain the contents of sealed freight containers. A party, such as an ocean carrier, can provide to public authorities the information that is known to it as part of its ordinary way of doing business. In maritime traffic, "known" means as set out in the transport document, e.g. the bill of lading or seaway bill that evidences or is the contract of carriage. The above principles have been recognized and embraced by multiple jurisdictions. This Standard reflects, for example, the European Commission's publicly stated position, GUIDANCE DOCUMENT on Customs Formalities on Entry and Import into the European Union.<sup>44</sup>*

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<sup>44</sup> [https://taxation-customs.ec.europa.eu/customs-4/union-customs-code/ucc-guidance-documents\\_en](https://taxation-customs.ec.europa.eu/customs-4/union-customs-code/ucc-guidance-documents_en).

**5.24 Recommended Practice.** Public authorities should implement regulations pursuant to which the person who initiates and contractually agrees with a party (e.g. a consolidator, a freight forwarder or a shipowner) for the carriage of a maritime cargo shipment to the territory of another State must provide complete and accurate cargo shipment information to that party.

*The Recommended Practice is a logical extension of the principle that a shipowner can only provide the information "known" to it in the bill of lading or its equivalent, which, in turn, is based on the shipper's shipping instructions. It is also in conformance with, for example, the European Commission's publicly stated position (see explanatory text to 5.23).*

## **Section 6**

### **Public health and quarantine, including sanitary measures for animals and plants**

#### **A. General**

**6.1 Standard.** Public authorities of a State not Party to the International Health Regulations shall endeavour to apply the provisions of these Regulations relevant for international shipping.

*A State which is not Party to the International Health Regulations shall apply, as much as possible, the provisions of those regulations in order to safeguard the sanitary conditions of the States that are Party to those regulations and international maritime traffic as a whole.*

**6.1.1 Standard.** Public authorities of a State not Party to the standards and regulations set out by the World Organization for Animal Health and the International Plant Protection Convention shall endeavour to apply the provisions of these standards and regulations relevant for international shipping.

*A State which is not Party to the World Organization for Animal Health and the International Plant Protection Convention shall apply, as much as possible, the provisions of those regulations in order to safeguard the sanitary conditions of the States that are Party to those regulations and international maritime traffic as a whole.*

**6.2 Recommended Practice.** Contracting Governments having certain interests in common owing to their health, geographical, social or economic conditions should conclude special arrangements pursuant to the International Health Regulations<sup>45</sup> when such arrangements will facilitate the application of those Regulations, in particular, but not exclusive to:

- (a) the direct and rapid exchange of public health information between neighbouring territories of different States;
- (b) the health measures to be applied to international coastal traffic and to international traffic in waters under their sovereignty and jurisdiction;
- (c) the health measures to be applied in contiguous territories of different States at their common frontier;
- (d) arrangements for carrying affected persons or affected human remains by means of transport specially adapted for the purpose; and

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<sup>45</sup> Refer to Article 57 of the International Health Regulations (2005).



- (e) **deratting, disinsection, disinfection, decontamination or other treatment designed to render goods and ship free of disease-causing agents.**

**6.3 Recommended Practice.** Where Sanitary or Phytosanitary Certificates or similar documents are required in respect of shipments of certain animals, plants or derived food products thereof or other regulated articles, requests by public authorities for such certificates and documents and their required content should be technically justified, exact and concise and widely publicized. Contracting Governments should cooperate with a view to harmonizing such requirements, including the possibility of providing the required information by electronic means.

**6.4 Standard.** Public authorities shall seek the cooperation of shipowners to ensure compliance with any requirements, including those in the International Health Regulations,<sup>46</sup> that illness on a ship is to be reported promptly by electronic means to health authorities for the port for which the ship is destined, in order to facilitate provision for the presence of any special medical personnel and equipment necessary for health procedures on arrival.

**6.4.1 Standard.** Ships shall not be refused free pratique by Contracting Governments (public health authorities) for public health reasons; in particular, they shall not be prevented from embarking or disembarking, discharging or loading cargo or stores, or taking on fuel, water, food and supplies. Contracting Governments may subject the granting of free pratique to inspection and, if a source of infection or contamination is found on board, the carrying out of necessary disinfection, decontamination, disinsection or deratting, or other measures necessary to prevent the spread of the infection or contamination.

**6.4.2 Recommended Practice.** Subject to a public health risk assessment, public authorities may require on arrival or departure inspection of baggage, cargo, containers, ships, goods, postal parcels and human remains, subject to applicable international agreements and relevant articles of the International Health Regulations,<sup>47</sup> duly taking into account Recommended Practice 5.5.

**6.5 Standard.** Public authorities shall make arrangements to enable all travel agencies and others concerned to make available to passengers, sufficiently in advance of departure, lists of the vaccinations or prophylaxis required by the public authorities of the countries concerned, as well as the International Certificate of Vaccination or Prophylaxis conforming to the International Health Regulations. Public authorities shall take all possible measures to have vaccinators use the International Certificate of Vaccination or Prophylaxis in order to assure uniform acceptance.

*In addition, travel agencies, other bodies such as ship and port operators and tourism agencies, should support health authorities in explaining to passengers the need to obtain vaccinations, as well as the International Certificate of Vaccination or Prophylaxis required by countries using the form<sup>48</sup> specified in the International Health Regulations, with the aim of harmonizing proof of vaccination to facilitate verification between different countries.*

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<sup>46</sup> Refer to Articles 28(4) and 28(5) of the International Health Regulations (2005).

<sup>47</sup> Refer to Article 23 of the International Health Regulations (2005).

<sup>48</sup> Model International Certificate of Vaccination or Prophylaxis in the International Health Regulations.

**6.6 Recommended Practice.** Public authorities should provide facilities for the completion of the International Certificate of Vaccination or Prophylaxis as well as facilities for vaccination at as many convenient locations as feasible.

*Every port should cooperate with health authorities to provide information with regard to health facilities issuing the International Certificate of Vaccination or Prophylaxis.*

**6.7 Standard.** Public health authorities shall ensure that health and phytosanitary measures and formalities are initiated forthwith, completed without delay and applied without discrimination.

*Health and phytosanitary procedures shall start from the moment of receipt of the health and phytosanitary information concerning the vessel.*

**6.8 Recommended Practice.** To ensure efficient maritime traffic, public authorities should maintain at as many ports as feasible adequate facilities for the administration of public health, animal and plant quarantine measures.

**6.8bis Standard.** Contracting Governments and relevant authorities shall ensure that ship's crew who require immediate medical care while in their territory are given access to medical facilities ashore and that ship's crew are able to replenish their medication during a ship's call.

**6.9 Standard.** There shall be maintained readily available at as many ports in a State as feasible such medical facilities as may be reasonable and practicable for the emergency treatment of crews and passengers.

**6.9bis Recommended Practice.** Contracting Governments and relevant authorities should facilitate prompt and efficient disembarkation of crew to receive medical care at medical facilities ashore, including access to medical prescriptions, and should ensure that this is effectively managed through good communication and cooperation between the ship and the relevant authorities ashore.

**6.9ter Recommended Practice.** Contracting Governments and relevant authorities should ensure that ship's crew are promptly admitted to clinics and hospitals ashore, without difficulty and irrespective of nationality, religious belief or flag of their ship, and, whenever possible, arrangements should be made to ensure, when necessary, the continuation of treatment to supplement the medical facilities available to ship's crew.

**6.10 Standard.** Except in the case of an emergency constituting a grave danger to public, plant or animal health, a ship shall not, on account of any other public, plant or animal health reason, be prevented by the public authorities for a port from discharging or loading cargo or ship's stores.

## **B. Response to a public health emergency of international concern<sup>49</sup>**

*This sub-section contains provisions concerning the handling of health emergency issues of international concern. These provisions are based on lessons learnt from COVID-19 pandemic, when many countries around the world imposed unprecedented containment measures as a means to prevent the spread of the disease. These restrictions progressively produced changes to social behavior and global mobility patterns, evidently disrupting social and economic activities including shipping. The International Maritime Organization responded*

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<sup>49</sup> Defined and determined in accordance with the International Health Regulations (2005).

*promptly and effectively providing necessary guidance<sup>50</sup> to the Member States related to crew change and repatriation of seafarers, access to medical care, "key worker" designation and seafarers' prioritization for COVID-19 vaccination. This established framework, in conjunction with the provision of sub-section B "Response to a public health emergency of international concern", should be taken into account by all involved parties, when handling similar cases in the future.*

**6.11 Standard. Contracting Governments and their relevant authorities shall, to the greatest extent possible, allow ships and ports to remain fully operational, in order to maintain complete functionality of supply chains during a public health emergency of international concern in line with the International Health Regulations and any relevant recommendations of WHO.**

**6.12 Recommended Practice. Contracting Governments and their relevant authorities should facilitate the continuing operation of shipping, and of ports under their jurisdiction, to allow the transport of marine cargoes so that supply chains are not disrupted and to allow the global economy to continue to function during a public health emergency of international concern.**

**6.13 Recommended Practice. Contracting Governments and their relevant authorities, when implementing policies and measures to protect public health, should also avoid the introduction of unnecessary interference to ship and port operations, including the movement of ship's crew for the purposes of crew changes, repatriation and travel of crews, as well as the wider functionality of port ecosystems (terminals, warehouses, rail and trucking services, etc.) during a public health emergency of international concern.**

**6.14 Recommended Practice. Contracting Governments and their relevant authorities, when implementing policies and measures to protect public health, should engage with appropriate stakeholders within their national shipping and port sectors to discuss coordination and arrangements, and any contingencies to secure continued facilitation of maritime trade, including port hinterland connections, during a public health emergency of international concern.**

**6.15 Standard. Public authorities shall provide ships with relevant information, where available, about the applicable public health measures, prior to arrival at a port or anchorage in its territory, to enable ships to implement their relevant plans and procedures and to provide their crews with the necessary guidance.**

**6.16 Recommended Practice. Contracting Governments and their relevant authorities are encouraged to provide ships visiting ports or anchorages in their territory with information related to the public health emergency of international concern, including on recommended health protection measures based on scientific or medical advice (e.g. on standard infection prevention measures, personal protective equipment (PPE) and cleaning and disinfection procedures).**

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<sup>50</sup> Resolution A.1160(32): *Comprehensive action* to address seafarers' challenges during the Covid-19 pandemic; Circular Letter No.4204/Add.14/Rev.1: Recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic; MSC.1/Circ.1636/Rev.1: *Industry Recommended Framework of Protocols for ensuring safe ship crew changes and travel during coronavirus pandemic (COVID 19) pandemic*.

**6.17 Recommended Practice.** Without prejudice to the relevant Articles of the International Health Regulations (2005),<sup>51</sup> Contracting Governments and their relevant authorities should request the masters of ships visiting ports or anchorages in their territory, to:

- a) report any cases of illness or symptoms on board, related to the public health emergency of international concern, using the Maritime Declaration of Health in accordance with the International Health Regulations, as early as possible before arrival, to the relevant authority in the port;
- b) monitor shipboard personnel regularly, while the ship is visiting ports or anchorages in their territory, for the exhibition of any symptoms; and
- c) report any changes in circumstances of the health of shipboard personnel to the relevant authority in the port.

**6.18 Standard.** Contracting Governments and their relevant authorities shall ensure to the greatest extent possible a safe ship-shore interface during a public health emergency of international concern.

**6.19 Recommended Practice.** Contracting Governments and their relevant authorities should assess any risks to ships and ports during a public health emergency of international concern and ensure that they are effectively managed through good communication and cooperation between relevant authorities ashore and the ship.

**6.20 Recommended Practice.** Contracting Governments and their relevant authorities should also ensure that policies and measures to protect public health do not obstruct the provision of essential services to ships, including the delivery of provisions, supplies or spare parts during the public health emergency of international concern.

**6.21 Recommended Practice.** Contracting Governments and their relevant authorities should take account of recommendations of the Organization relevant to ensuring to the greatest extent possible a safe ship shore interface between ship and shore-based personnel.

**6.22 Standard.** Contracting Governments and their relevant authorities shall ensure that port workers and ship's crew, regardless of their nationality or flag of their ship, when in their territory, are designated as key workers (or equivalent) providing an essential service during a public health emergency of international concern.

**6.23 Standard.** Contracting Governments and their relevant authorities shall, in accordance with relevant international maritime regulations,<sup>52</sup> continue to facilitate ship's crew changes to the greatest extent possible, including the travel and repatriation of crew, during a public health emergency of international concern applying appropriate public health measures, as well as to ensure access to visas in accordance with the applicable national legislation and procedures.

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<sup>51</sup> Refer to Articles 24, 25, 27 and 28 and other relevant provisions of the International Health Regulations (2005).

<sup>52</sup> Including the Maritime Labour Convention, 2006 (MLC, 2006).

**6.24 Recommended Practice.** Contracting Governments and their relevant authorities should take account of recommendations of the Organization<sup>53</sup> relevant to the facilitation of crew changes and travel by ship's crew during a public health emergency of international concern.

#### Section 7

#### Miscellaneous provisions

#### A. Bonds and other forms of security

**7.1 Recommended Practice.** Where public authorities require bonds or other forms of security from shipowners to cover liabilities under the customs, immigration, public health, agricultural quarantine or similar laws and regulations of a State, they should permit the use of a single comprehensive bond or other form of security wherever possible.

*The measure aims at facilitating bureaucratic procedures carried out by the ship when a financial requirement is made by public authorities. A single bond may also constitute less of a financial burden on the shipowner.*

*Consideration should be given to reducing or waiving bond or guarantee requirements to industry parties that have status as "authorized economic operators" under Authorized Economic Operator programmes in conformance with the WCO SAFE Framework of Standards or similar national or regional bond or guarantee waiver programmes.*

#### B. Services at ports

**7.2 Recommended Practice.** The normal services of public authorities at a port should be provided without charge during normal working hours. Public authorities should establish normal working hours for their services at ports consistent with the usual periods of substantial workload.

*As a consequence of the requirement that the services have to be ordered by the public authorities themselves, this cost should not be charged to shipowners. The purpose of instituting regular schedules is to facilitate the efficient organization of the port call.*

**7.3 Standard.** Contracting Governments shall adopt all practicable measures to organize the normal services of public authorities at ports in order to avoid unnecessary delay of ships after their arrival or when ready to depart and reduce the time for completion of formalities to a minimum, provided that sufficient notice of estimated time of arrival (ETA) or departure (ETD) shall be given to the public authorities.

**7.4 Standard.** No charge shall be made by a health authority for any medical examination, or any supplementary examination, whether bacteriological or otherwise, carried out at any time of the day or night, if such examination is required to ascertain the health of the person examined, nor for visit to and inspection of a ship for quarantine purposes except inspection of a ship for the issue of a Ship Sanitation Control Certificate or Ship Sanitation Control Exemption Certificate or extensions thereto, nor shall a charge be made for any vaccination of a person arriving by ship nor for a certificate thereof. However, where measures other than these are necessary in respect of a ship or its passengers or crew and charges are made for them by a health authority,

<sup>53</sup> Refer to the *Industry recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic* (MSC.1/Circ.1636/Rev.1).

**such charges shall be made in accordance with a single tariff which shall be uniform to the territory concerned and every charge shall:**

- (a) conform to this tariff;**
- (b) not exceed the actual cost of the service rendered; and**
- (c) be levied without distinction as to nationality, domicile or residence of any person concerned or as to the flag, registry or ownership of the ship.**

**The tariff, and any amendment thereto, shall be published at least 10 days in advance of any levy thereunder.**

**7.5 Recommended Practice.** When the services of public authorities are provided outside the regular working hours referred to in Recommended Practice 7.2, they should be provided on terms which shall be reasonable and not exceed the actual cost of the services rendered.

**7.6 Standard.** Where the volume of traffic at a port warrants, public authorities shall ensure that sufficient services are provided for the accomplishment of the formalities in respect of both cargo and baggage, regardless of value or type.

*Public authorities should make every possible effort to maintain a steady flow of maritime traffic especially in cases where the volume of traffic exceeds the usual demand for vessel clearance.*

**7.7 Recommended Practice.** Contracting Governments should endeavour to make arrangements whereby one Government will permit another Government certain facilities before or during the voyage to examine ships, passengers, crew, baggage, cargo and documentation for customs, immigration, public health, plant and animal quarantine purposes when such action will facilitate clearance upon arrival in the latter State.

*By concluding bilateral agreements, States may make arrangements to enable one another to implement measures that will facilitate vessel clearance, for example by pre-clearance of passengers and cargo.*

## **C. Emergency assistance**

**7.8 Standard.** Public authorities shall facilitate the arrival and departure of ships engaged in:

- public health response activities;**
- disaster relief work;**
- the rescue of persons in distress at sea in order to provide a place of safety for such persons;**
- the combating or prevention of marine pollution; or**
- other emergency operations designated to enhance maritime safety, the safety of life at sea, the safety of the population or the protection of the marine environment.**

*These and similar operations are duties that, by their very nature, require States to act with urgency and speed. Therefore, ports shall adopt procedures facilitating the arrival and departure of ships used in these operations.*

**7.9 Standard.** Public authorities shall, to the greatest extent possible, facilitate the entry and clearance of persons, cargo, material and equipment required to deal with situations described in Standard 7.8.

**7.9.1 Recommended Practice.** In the situations described in Standard 7.8, public authorities should not require the declarations mentioned in Standard 2.1 with the exception of, if it is indispensable, the General Declaration. Public authorities should in such situations waive the time limits and any applicable penalties for the provision of the declaration.

**7.10 Standard.** Public authorities shall grant prompt customs clearance of specialized equipment needed to implement safety and security measures.

#### **D. National facilitation committees**

**7.11 Recommended Practice.** Each Contracting Government should consider establishing, in close cooperation with the maritime industry, a national maritime transport facilitation programme based on the facilitation requirements of this annex and ensure that the objective of its facilitation programme should be to adopt all practical measures to facilitate the movement of ships, cargo, crews, passengers, mail and stores, by removing unnecessary obstacles and delays, taking into account the need to combat illicit activities.<sup>54</sup>

*When establishing a national maritime transport facilitation programme, Contracting Governments are invited to take into account the Guidelines for the Prevention and Suppression of the Smuggling of Wildlife on Ships Engaged in International Maritime Traffic and the Revised Guidelines for the prevention and suppression of the smuggling of drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic.*<sup>55</sup>

**7.12 Recommended Practice.** Each Contracting Government should establish a national maritime transport facilitation committee or a similar national coordinating body, for the encouragement of the adoption and implementation of facilitation measures, between governmental departments, agencies and other organizations concerned with, or responsible for, various aspects of international maritime traffic, as well as port authorities, port facilities and port terminals and shipowners.

*When establishing a national maritime transport facilitation committee or a similar national coordinating body, Contracting Governments are invited to take into account the Guidelines<sup>56</sup> for national maritime transport facilitation committees and programs.*

*UNECE and UN/CEFACT have also published a recommendation on national trade facilitation bodies.*<sup>57</sup>

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<sup>54</sup> Refer to Recommended Practice 1.9.

<sup>55</sup> Resolution FAL.9(34).

<sup>56</sup> FAL.5/Circ.47, as revised.

<sup>57</sup> UNECE UN Recommendation 4, ECE/TRADE/425, 2015.