

FACILITATION COMMITTEE  
44th session  
Agenda item 21

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**REPORT OF THE FACILITATION COMMITTEE  
ON ITS FORTY-FOURTH SESSION**

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## 1 INTRODUCTION – ADOPTION OF THE AGENDA

1.1 The forty-fourth session of the Facilitation Committee, originally scheduled to be held from 20 to 24 April 2020, was postponed due to the COVID-19 pandemic, as advised in Circular Letter No.4213/Add.2 of 17 March 2020.

1.2 The session was held remotely from 28 September to 2 October 2020, chaired by Ms. Marina Angsell (Sweden). The Vice-Chair of the Committee, Ms. Hadiza Bala Usman (Nigeria), was also present.

1.3 The session was attended by Member States and Associate Members, representatives from a United Nations regional commission, specialized agencies and other entities; observers from intergovernmental organizations with agreements of cooperation; and observers from non-governmental organizations in consultative status, as listed in document FAL 44/INF.1.

### Opening address of the Secretary-General

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

### Chair's remarks

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

### General statements

1.6 The Committee noted statements by the delegation of Denmark and the observers from ICS and IFSMA regarding the rescue of people in distress at sea by **Maersk Etienne** and its aftermath, as set out in annex 8.

1.7 In this regard, the Committee agreed to inform the Maritime Safety Committee (MSC) of the statements made and invited interested Member States and international organizations to submit proposals for further action on this important matter to that Committee.

### Measures taken to facilitate the remote session

1.8 The Committee noted that the thirty-second extraordinary session of the Council had been held by correspondence from 4 May to 3 August 2020. The Council had adopted, inter alia, a priority list for meeting reconstruction, giving priority to a regular session of the Council, followed by meetings of the Marine Environment Protection Committee (MEPC) – to be preceded by the seventh meeting of the Intersessional Working Group on Reduction of GHG Emissions from Ships – and of MSC and the FAL Committee. As requested by the Council, the Secretariat then developed the calendar of meetings for September-December 2020, which has been issued by means of Circular Letter No.4213/Add.6.

1.9 The Committee further noted that the Council had decided that the submission of additional documents would be allowed with the guidance that, if a meeting were postponed for 6 months or more, additional submissions would be allowed, whereas if a meeting were postponed for only a short period of time, additional submissions might not be allowed, and that, notwithstanding this procedure, additional submissions should be accepted to comment on new documents submitted by the Secretariat to the postponed meetings of the committees beyond respective deadlines (C/ES.32/D).

1.10 The Committee also noted that the Council had issued a statement in recognition of the importance of the flow of trade by sea during the pandemic (C/ES.32/D, annex); had adopted *Interim guidance to facilitate remote sessions of the Council during the COVID-19 pandemic*, with the aim of standardizing the conduct of remote sessions in view of exceptional circumstances during the pandemic; and had invited the committees and the governing bodies of the London Convention and London Protocol to consider using the interim guidance when developing the way forward for their future work during the COVID-19 pandemic.

1.11 The Committee noted further that, pursuant to the request of Member States, the Secretary-General had convened an extraordinary session of all IMO Committees (ALCOM/ES) in September 2020, in order to agree on a number of procedural issues concerning the holding of remote sessions of the Committees. The session was extended by one day (MSC/ES.2) to enable MSC to discuss concerns regarding compliance with international maritime regulations for ensuring the safety, health and welfare of crews and the prevention of fatigue, in particular a draft MSC resolution to urgently address the ongoing crew change crisis.

1.12 The Committee noted that ALCOM/ES had decided to invoke rule 49 of the respective rules of procedure of the Committees to waive parts of rules 3, 4 and 11 for the purpose of remote sessions, concerning the requirements for a session to be held at IMO Headquarters; to notify Member States and other participants at least 2 months in advance of the holding of a session; and to communicate the provisional agenda and supporting documents to Member States and other participants 2 months before the opening of a session.

1.13 The Committee also noted that ALCOM/ES, pursuant to the respective rules of procedure of the Committees, had agreed to accept electronically submitted credentials, with originals to follow; had agreed that translation of meeting documents and interpretation during remote meetings should only be waived in exceptional circumstances; had considered a Member "present" if they had registered on the Online Meeting Registration System (OMRS) and were listed as a participant in the remote session; and had agreed that their respective rules of procedure and organization and method of work (MSC-MEPC.1/Circ.5/Rev.1, LEG.1/Circ.9, TC.1/Circ.72 and FAL.3/Circ.214, respectively) would continue to be applicable and should only be waived when necessary.

1.14 The Committee further noted that ALCOM/ES had approved MSC-LEG-MEPC-TCC-FAL.1/Circ.1 on *Interim guidance to facilitate remote sessions of the Committees during the COVID-19 pandemic* and had agreed to keep the guidance under review, based on the experience gained in conducting remote sessions.

1.15 The Committee noted that MSC/ES.2, having considered the crew change crisis, had adopted resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic*, inviting other IMO Committees to note and consider taking action with regard to the resolution. Consequently, the Committee agreed to consider resolution MSC.473(ES.2) under agenda item 20 (Any other business) where it would consider the impact of the COVID-19 pandemic on the facilitation of maritime traffic and the need to start the study of possible measures to prepare the maritime sector for possible future pandemics.

### **Adoption of the agenda**

1.16 The Committee, taking into account the limited time available at this session, agreed to postpone the consideration of agenda items 3, 5, 8, 9, 10, 11, 12 and 14, and the respective documents submitted under those items, to FAL 45. The Committee further agreed to postpone to FAL 45 the consideration of the documents under agenda item 20 submitted before the postponement of FAL 44.

1.17 Having noted that FAL 44 had been scheduled less than 6 months after the postponement, the Committee also agreed to consider new documents related to the impact of the COVID-19 pandemic on the facilitation of maritime traffic submitted under agenda item 20 (Any other business).

1.18 The Committee adopted the provisional agenda (FAL 44/1/Rev.1) and agreed to be guided in its work by the annotated agenda (FAL 44/1/1/Rev.1).

### **Credentials**

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

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

2.1 The Committee noted the information provided in documents FAL 44/2, FAL 44/2/1, FAL 44/2/2 and FAL 44/2/3 (Secretariat), in relation to the outcome of the work of A 31, LEG 106, MSC 101, MEPC 74, TC 69, C 122, C/ES.30, CCC 6, NCSR 7, C/ES.31 and C/ES.32 on matters of relevance to its work and decided to consider the various issues which warranted action by the Committee under the relevant agenda items.

### **Greater public access to information**

2.2 The Committee recalled the decisions of FAL 43 concerning measures to allow greater public access to information at IMO (FAL 43/20, paragraph 2.3).

2.3 In this regard, the Committee recalled the decision of FAL 43 that all Secretariat documents for that session would be made publicly available prior to the meeting, and agreed to revisit the matter when considering the items to be included in the agenda for FAL 45 (see paragraph 18.17).

## **4 REVIEW AND UPDATE OF THE ANNEX OF THE FAL CONVENTION**

4.1 The Committee recalled that FAL 42 had approved a new output on "Review and update of the annex of the FAL Convention" for inclusion in its 2018-2019 biennial agenda and the provisional agenda for FAL 43, with a target completion year of 2021.

4.2 The Committee also recalled that FAL 43 had re-established the Correspondence Group on the Review and Update of the Annex of the FAL Convention under the coordination of France.

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

4.3 Taking into account the time limitations during this remote session, the Committee agreed not to establish a working group on facilitation instruments, and to postpone the approval of amendments to the annex of the FAL Convention to FAL 45.

4.4 The Committee noted with appreciation the report of the aforementioned Correspondence Group (FAL 44/4), in particular the work carried out by its coordinator, Mr. Fabien Joret (France).

4.5 Having considered the proposals of the Correspondence Group, the Committee took the following actions:

- .1 Agreed to delete all the lists of data provided for each of the FAL declarations and replace those lists in Standard 2.10.5 with a single reference to a table that would sum up all the data required in the various declarations. The new list would be included as appendix 1 of the annex of the FAL Convention, and the existing appendices would be renumbered accordingly.
- .2 Agreed to merge, in a single Standard, the existing Standards related to the authentication requirements for each of the declarations in the annex of the FAL Convention (new Standard 1.8.2).
- .3 In respect of the use of FAL Form 2 and the possibility of deleting it in the FAL Convention, and having considered the questionnaire prepared by the Correspondence Group to collect more information to determine whether FAL Form 2 was used in practice and for what purpose, approved the questionnaire on the use of the document Cargo Declaration, set out in annex 1, and invited Member States to complete it and submit it not later than 15 December 2020.<sup>1</sup> Furthermore, the Committee instructed the Secretariat to forward any completed questionnaires received to the Correspondence Group.

4.6 The Committee considered document FAL 44/4/1 (Cameroon and Ghana), proposing to amend section 4 of the annex of the FAL Convention on stowaways, based on the outcome and recommendations of the seminars organized by IMO in Africa in 2014 and 2018 to reduce the number of incidents involving stowaways. Following discussion, the Committee agreed to instruct the Correspondence Group on the Review and Update of the Annex of the FAL Convention, if re-established, to further consider the proposal.

#### **Terms of reference of the Correspondence Group on the Review and Update of the Annex of the FAL Convention**

4.7 The Committee agreed to re-establish the Correspondence Group under the coordination of France,<sup>2</sup> and instructed it, taking into account documents FAL 42/10/1, FAL 44/4 and FAL 44/4/1, as well as the comments made and decisions taken at FAL 44, to:

- .1 further consider the draft definition of "authenticate";
- .2 on the basis of replies to the questionnaire, further consider if FAL Form 2 was still required;
- .3 further examine the drafting of Recommended Practice 3.10 and its related provisions in order to provide clarity and ensure consistency in their application;
- .4 further consider the proposals regarding stowaways included in the annex to document FAL 42/10/1 and in document FAL 44/4/1;

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<sup>1</sup> To facilitate processing, questionnaires should be submitted in Microsoft Word (please click here to download it), preferably by email to: falsec@imo.org.

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- .5 further examine whether some current standards and Recommended Practices were relevant only in a paper environment but not in the case of exchanging information electronically;
  - .6 identify any other areas where amendments might be needed in order to ensure a harmonized and more effective application of the annex of the FAL Convention; and
  - .7 submit a report in time for consideration at FAL 45.

4.8 The Committee agreed to extend the target completion year for this output to 2023 and to inform C 125 of this extension.

## **6 REVIEW AND REVISION OF THE IMO COMPENDIUM ON FACILITATION AND ELECTRONIC BUSINESS, INCLUDING ADDITIONAL E-BUSINESS SOLUTIONS**

6.1 The Committee recalled that FAL 43 had agreed to:

- .1 move the future maintenance of the Compendium from WCO to IMO; costs would be absorbed under existing resources, and an intersessional group of technical experts should be established, the IMO Expert Group on Data Harmonization (EGDH), open to all interested Member States and international organizations;
- .2 bring this work to the attention of MSC, for example in relation to e-navigation and Maritime Services;
- .3 convert the target year of the output to continuous, taking into account the developing and changing nature of the work and the views expressed with regard to including further data elements in the IMO Compendium in the future; and
- .4 provide electronic access to the IMO Compendium through an IMO server.

6.2 The Committee also recalled that FAL 43 had approved FAL.5/Circ.41 on *Revised IMO Compendium on Facilitation and Electronic Business* and a priority list of data elements and agreed to the terms of reference of EGDH, to be hosted at IMO twice annually.

6.3 The Committee further recalled that FAL 43 had agreed to convene meetings of EGDH in the second half of 2019, in the first half of 2020 (consecutive with FAL 44), in the second half of 2020 and in the first half of 2021 (consecutive with FAL 45).

6.4 The Committee acknowledged the partnership agreement between IMO, WCO, UNECE and ISO concerning the maintenance of the IMO Reference Data Model, which had entered into force on 15 March 2020.

6.5 In relation to the proposal of the Secretariat at FAL 43 to provide electronic access to the IMO Compendium through an IMO server (FAL 43/20, paragraphs 7.10 and 7.11), the Committee noted that the Compendium was now available through an IMO server.<sup>3</sup>

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<sup>3</sup> <http://www.imo.org/en/OurWork/Facilitation/Pages/IMOCompendium.aspx>

## Report of the Expert Group on Data Harmonization

6.6 The Committee considered the report of the first meeting of EGDH (EGDH 1) (FAL 44/6), which had been held at IMO Headquarters from 4 to 8 November 2019, chaired by Mr. Mikael Renz (Sweden), together with documents FAL 44/6/3/Rev.1 and FAL 44/6/4/Rev.1 (UNECE et al.), providing modelling of the data sets approved by EGDH 1: the revised Data structure report, i.e. table 2 of the IMO Compendium, and the revised UML class diagram of the Compendium, i.e. figure 3 of the Compendium, respectively. It also considered document FAL 44/6/2 (UNECE et al.), containing the amendments introduced to the data set in the Compendium approved by FAL 43 (FAL.5/Circ.41), including some inconsistencies with the outcome of EGDH 1 found by the co-sponsors during the modelling exercise. In this connection, the Committee noted the following views:

- .1 delegations welcomed the progress made by EGDH and thanked the Chair of EGDH and the Secretariat for the report of EGDH 1;
- .2 delegations thanked the sponsors of the documents submitted in relation to the IMO Compendium;
- .3 the COVID-19 pandemic had shown the relevance of digitalization and the importance of working fast on developing the Compendium, since it enabled digitalization and the development of automation;
- .4 pull systems for authorities in contrast to push systems, which were gaining prevalence due to the COVID-19 impact, were a relevant issue and could be considered in the scope of the work of EGDH;
- .5 interest had been expressed in sharing experience and technology among Member States;
- .6 prioritizing real-time data in the work of the Compendium was important to make automation possible;
- .7 privacy and cybersecurity were important aspects of electronic data exchange; and
- .8 data sets on privately contracted armed guards could be considered to be included in the Compendium.

6.7 The Chair expressed her appreciation to the Chair and the members of EGDH. Further, the Committee invited Member States to submit proposals in relation to data sets on privately contracted armed guards.

6.8 The Committee also agreed to forward documents FAL 44/6/2, FAL 44/6/3/Rev.1 and FAL 44/6/4/Rev.1 (UNECE et al.) to the Working Group on Electronic Business for further consideration.

6.9 The Committee noted that the action requested in document FAL 44/6 relating to the questionnaire on the use of FAL Form 2 would be discussed under agenda item 4, due to its relation to the amendments to the annex of the FAL Convention (see paragraph 4.5).



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## **Working procedure of EGDH**

6.10 The Committee considered document FAL 44/6/1 (Secretariat), describing the working procedure of EGDH prepared by the Secretariat based on the discussions held at EGDH 1, and the procedure to include new data sets in the IMO Compendium. The document also proposed a new format of the priority list of data sets to facilitate keeping track of and monitoring the work undertaken by the Group.

6.11 The Committee agreed to submit the document to the Working Group on Electronic Business for further consideration.

## **Inclusion of sequence diagrams as an annex to the IMO Compendium**

6.12 The Committee considered document FAL 44/6/5 (ISO and BIMCO), proposing to include sequence diagrams in the IMO Compendium to clarify the flow of data between different parties involved in a ship arriving at port, based on document FAL 44/7. The sponsors believed that EGDH was the right place to develop such sequence diagrams. The annex to the document contained some examples of how such sequence diagrams could look for some reporting cases.

6.13 In this connection, the Committee noted the following views:

- .1 sequence diagrams were considered as beneficial for the understanding of the processes but they should be placed in the right context and be country, organization and system independent;
- .2 sequence diagrams were useful for the modernization of the dialogue between ship and ports and suitable for the Just in Time Arrival of ships; and
- .3 a message should not be accepted if it did not contain all the correct message requirements and syntax and in such cases a receipt of "no acknowledgement" should be sent.

6.14 In this regard, the Committee agreed to submit the document, together with the views expressed, to the Working Group on Electronic Business for further consideration.

## **Just In Time Arrival Guide – barriers and solutions**

6.15 The Committee noted document FAL 44/INF.4 (Secretariat), containing the text of the Just In Time Arrival Guide developed by the Global Industry Alliance to Support Low Carbon Shipping (GIA).

6.16 The Committee also noted a statement by the observer from IAPH, as set out in annex 8, with regard to the launch of an IAPH survey on the state of electronic data exchange systems implemented in world ports, with the aim of evaluating the current level of implementation of electronic data exchange systems worldwide and of identifying the remaining gaps and challenges; and that the deadline for completing the survey was 16 October 2020.

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

6.17 Following consideration, the Committee established the Working Group on Electronic Business and instructed it, taking into account documents FAL 44/6, FAL 44/6/1, FAL 44/6/2, FAL 44/6/3/Rev.1, FAL 44/6/4/Rev.1 and FAL 44/6/5 and the comments made and decisions taken in plenary, to:

- .1 finalize the IMO Compendium on Facilitation and Electronic Business;
- .2 prepare the working procedure of EGDH, taking into account the proposal to include sequence diagrams;
- .3 review the priority list of data sets, if necessary; and
- .4 amend the terms of reference of EGDH, if necessary.

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

6.18 Having considered the report of the Working Group (FAL 44/WP.5), the Committee approved it in general and took action as indicated below.

6.19 The Committee noted the invitation of IALA to IMO to become a Maritime Resources Name (MRN) domain manager.

### **IMO Compendium**

6.20 The Committee agreed to issue a revision of the circular containing the IMO Compendium in case of minor amendments such as editorial changes, and to issue a new FAL circular for major amendments that affected the data set and data models, as the procedure to keep track of the progress with the Compendium.

6.21 The Committee noted that the modelling of the Maritime Declaration of Health was not yet finalized and would be discussed at a next session of EGDH, as well as potential improvements to the modelling.

6.22 The Committee approved FAL.5/Circ.43 on *IMO Compendium on Facilitation and Electronic Business*.

6.23 The Committee approved the revised priority list of data sets, as set out in annex 2.

### **Submission of Data Maintenance Requests (DMRs) to UNECE**

6.24 The Committee agreed to submit the following Data Maintenance Requests (DMRs) to UNECE:

- .1 DMR for the review of the code list of UN/EDIFACT 8273;
- .2 DMR to add to ISO 7372/UNTD/EDIFACT a new Tag UID 7411; and
- .3 DMR for the review of the code list of UN/EDIFACT 8025 to include a code list on "Transfer of personnel",

and noted the offer of UNECE to support the drafting of the requests.

### **Terms of reference and working procedure of EGDH**

6.25 The Committee agreed to the revised terms of reference of EGDH, as set out in annex 3.

6.26 The Committee approved the working procedure of EGDH, including the new format for the priority list of data sets, as set out in annex 4.

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## **Terms of reference of the Correspondence Group on Developing Guidelines on Electronic Signature Systems and Operational Port Data for the Purpose of Digital Information Exchange**

6.27 The Committee, having noted the close relationship between the 'guidance for authentication, integrity and confidentiality of content for the purpose of exchange via maritime single window' and the 'guidelines for harmonized communication and electronic exchange of operational data for port calls', agreed to establish a single Correspondence Group on Developing Guidelines on Electronic Signature Systems and Operational Port Data for the Purpose of Digital Information Exchange to develop both sets of guidelines, under the coordination of Singapore,<sup>4</sup> and instructed it to:

- .1 develop guidelines on authentication, integrity and confidentiality of information exchanges to maritime single windows and related services with the view to be finalized at FAL 45;
- .2 take into account existing and emerging standards, methodologies and legal frameworks to promote interoperability;
- .3 consider how common functions related to the authentication, integrity and confidentiality of information exchanges to maritime single windows and related services can be organized; and
- .4 submit a report in time for consideration at FAL 45.

6.28 The Committee noted further that the work of the Correspondence Group was subject to the endorsement of the new output on "Development of guidelines for harmonized communication and electronic exchange of operational data for port calls" by C 124.

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

7.1 The Committee recalled that FAL 43, when considering document FAL 43/8 (ISO) proposing a first draft of the guidelines for authentication, integrity and confidentiality of content for the purpose of exchange via maritime single window, had agreed that MSC and MEPC should be advised on the progress of the work related to the draft guidelines; and had encouraged further comments to be submitted for consideration at this session.

7.2 The Committee recalled also that FAL 43 had invited ISO TC8 to develop relevant international standards for possible consideration at this session.

7.3 The Committee considered document FAL 44/7 (ISO), providing draft revised guidance for authentication, integrity and confidentiality of content for the purpose of electronic exchange of information, based on the comments made at FAL 43, and converting the previous document into a set of more general requirements.

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

- .1 data pull systems were becoming common in the maritime domain and authentication, integrity and confidentiality of the content in such systems should be considered;
- .2 consideration should be given to the validity of foreign digital signatures through mutual recognition of signatures;
- .3 consideration should be given to what adaptations were needed in Member States' single windows;
- .4 consideration should be given to management of signatures;
- .5 securing information and systems was considered important in this exercise;
- .6 work done by IEC and IHO in this area should be taken into account; and
- .7 authentication and signature were not sector specific and different scenarios would exist in Member States, requiring technology neutrality and that the use of new technologies would not be hindered.

7.5 The Committee thanked ISO for the document and agreed to send it to the Working Group on Electronic Business for further consideration, together with the comments raised in plenary.

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

7.6 The Committee instructed the Working Group on Electronic Business, established under agenda item 6 (see paragraph 6.17), taking into account the decisions, comments and proposals made in plenary, to:

- .1 further develop the guidelines for authentication, integrity and confidentiality of content for the purpose of exchange via maritime single window; and
- .2 consider whether it was necessary to establish a correspondence group on guidelines for an electronic signature system for the purpose of digital information exchange and, if so, prepare terms of reference for consideration by the Committee.

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

7.7 Having considered the relevant part of the Working Group's report (FAL 44/WP.5), the Committee took action as indicated in the following paragraphs.

7.8 The Committee, having recalled its earlier decision to establish a single Correspondence Group on Developing Guidelines on Electronic Signature Systems and Operational Port Data for the Purpose of Digital Information Exchange to develop both sets of guidelines, agreed to add the following to the terms of reference of the Group set out in paragraph 6.27:

"if time permits, start work on developing a table of contents for guidelines for harmonized communication and electronic exchange of operational data for port calls for consideration by FAL 45, subject to endorsement of the output by C 124."

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## 13 GUIDANCE TO ADDRESS MARITIME CORRUPTION

### Background

13.1 The Committee recalled that FAL 42, when considering document FAL 42/16/3 (ICS et al.), had requested the Secretariat, in coordination with the Legal Affairs and External Relations Division (LED), to provide advice to FAL 43 on a possible way forward to address maritime corruption, including alternatives for using GISIS as a reporting mechanism; and had invited Member States and international organizations to submit proposals to this session with suggested actions to address this problem.

13.2 The Committee recalled also that FAL 43, when considering document FAL 43/17 (Liberia et al.), had agreed to include in the 2020-2021 biennial agenda of the FAL Committee and the provisional agenda for FAL 44 an output on "Guidance to address maritime corruption", with a target completion year of 2021.

13.3 The Committee recalled further that FAL 43, recognizing that capacity-building on the subject of corruption in the maritime industry could contribute to the achievement of Sustainable Development Goal 16, Target 16.5 (Substantially reduce corruption and bribery in all their forms), had agreed to inform the Technical Cooperation Committee about its decision to embark on this work.

13.4 The Committee recalled also that FAL 43, when considering document FAL 43/19 (Secretariat), describing a possible way forward to address the issue (advice provided by the Secretariat as instructed by FAL 42), had agreed that the proposal for using GISIS as a reporting and restricted dissemination mechanism, and any legal implications, should be discussed under the new output. LED was invited to inform FAL 44 regarding the potential legal exposure, if any, pertaining to the dissemination of potential cases of corruption to parties concerned.

### Discussion

13.5 The Committee considered document FAL 44/13 (Liberia et al.), providing a proposal with respect to developing IMO guidance to address bribery and corruption in the maritime sector. The proposal aimed to align actions in the maritime sector with the United Nations Convention against Corruption (UNCAC) (General Assembly resolution 58/4 of 31 October 2003) and other relevant instruments.

13.6 In this connection, the Committee noted additional information provided by the Director of LED, the full text of which is set out in annex 8, stating that the questions raised in document FAL 43/19 were still valid and would still benefit from a thorough discussion by the Committee before a complete analysis of a potential legal exposure could be considered; that there were also national jurisdictional and legal matters that would need to be considered; that there were a number of other legal and policy concerns which might be raised in respect of all information management systems; that, in terms of liability, the comprehensively worded disclaimer already displayed in GISIS and the Organization's privileges and immunities provided the Organization with a fair measure of legal protection, and issues of liability of governments should be considered; and that consideration should also be given to who would be managing this database and the resources required to do so properly.

13.7 The Committee also noted, inter alia, the following views expressed during the discussion:

- .1 a correspondence group should be established with a view to continuing the development of guidance for consideration by FAL 45;

- .2 currently there were no applicable industry standards and, therefore, the draft guidance in the annex to document FAL 44/13 should be approved as interim guidance;
- .3 the title of the guidance should read "IMO Guidance to implement and embrace anti-bribery and anti-corruption practices and procedures";
- .4 future submissions related to a database were necessary in order to further consider this matter;
- .5 confidentiality and data sensitivity were critical elements which needed to be considered in the development of the guidance and all political and legal ramifications would need to be carefully considered before a decision to develop a database was made; and
- .6 a decision to develop a database would have to be approved by the Council, as this would have budgetary implications for the Organization.

### **Terms of reference of the Correspondence Group on the Guidance to Address Maritime Corruption**

13.8 Following discussion, the Committee agreed to establish the Correspondence Group on Guidance to Address Maritime Corruption under the coordination of the Marshall Islands<sup>5</sup> and instructed it, taking into account document FAL 44/13, as well as the comments made and decisions taken at FAL 44, to:

- .1 develop draft guidance to implement and embrace anti-bribery and anti-corruption practices and procedures, based on the annex to document FAL 44/13; and
- .2 submit a report in time for consideration at FAL 45.

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

15.1 The Committee considered document FAL 44/15 (Secretariat), reporting on the status of activities relevant to the implementation of the FAL Convention, conducted under ITCP in the period from December 2018 to December 2019, and noted that:

- .1 two national seminars had been held, in Djibouti and Georgia, to promote accession to the FAL Convention and to encourage better implementation of its provisions. The seminars addressed, in particular, the requirements of the FAL Convention, electronic means for the clearance of ships and the use of the single window; and
- .2 the regional seminar in Alexandria, Egypt, referred to in document FAL 44/15, had been postponed to 2020.

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<sup>5</sup>

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15.2 The Committee urged Member States and the maritime industry to contribute to the Organization's technical cooperation programme.

15.3 The Committee noted the information contained in document FAL 44/INF.7 (Georgia) concerning the results of the national workshop on the maritime single window held in Georgia from 24 to 26 September 2019, in cooperation with IMO.

## **16 RELATIONS WITH OTHER ORGANIZATIONS**

16.1 In considering document FAL 44/16 (Secretariat), the Committee noted the relevant decisions of C 122 and A 31 with regard to relations with non-governmental organizations, applications for consultative status and related matters.

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

17.1 The Committee recalled that MSC 100 had decided to discontinue the preliminary assessment of capacity-building implications and technical assistance needs related to new outputs for amending mandatory instruments at the time of approval of such outputs, and had also requested the Secretariat, subject to concurrent action by MEPC 74, to:

- .1 prepare associated draft amendments to the Committees' method of work (MSC-MEPC.1/Circ.5/Rev.1), for consideration at MSC 101; and
- .2 provide to MSC 101 an analysis of past capacity-building assessments to determine whether the findings resulted in any "added value" action being taken.

17.2 The Committee recalled further that MSC 101:

- .1 had agreed to no longer assess capacity-building implications for new outputs at the time of their approval, and to undertake in future the assessment of capacity-building implications at the stage of adoption of amendments to mandatory instruments;
- .2 had agreed that the standing Drafting Group on Amendments to Mandatory Instruments should carry out the assessment when considering the final text of such amendments; and
- .3 had approved a revised version of the MSC-MEPC.1 circular on *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies*, subject to concurrent approval by MEPC 75.

17.3 The Committee considered a draft revised FAL circular on Organization and method of work of the Facilitation Committee, prepared by the Secretariat in line with the decisions taken by MSC 101 and set out in the annex to document FAL 44/17 (Secretariat), and approved FAL.3/Circ.217 on *Organization and method of work of the Facilitation Committee*.

## **18 WORK PROGRAMME**

### **Proposals for new outputs**

#### ***Inclusion of facilitation in the scope of IMSAS***

18.1 The Committee considered document FAL 44/18 (Bangladesh) proposing a new output to include facilitation in the scope of the IMO Member State Audit Scheme (IMSAS).

18.2 Following consideration of the proposal, the Committee agreed to include in its post-biennial agenda an output on "Analysis of possible means of auditing compliance with the Convention on Facilitation of International Maritime Traffic", with two sessions needed to complete the item. In this regard, the Committee noted that the outcome of the deliberations may be of interest to the Joint Working Group on the Member State Audit Scheme, and that the Council should be informed accordingly.

18.3 In this context, the Committee noted concerns regarding the creation of parallel audit systems within IMO and the inclusion of the FAL Convention in IMSAS, due to the differences between the Convention and the mandatory IMO instruments already included in the scope of IMSAS. The Committee also noted that there may be challenges with auditing different national authorities; as well as the need to ensure that any audit scheme identifies the possible need of related technical cooperation activities.

***Guidelines for the prevention and suppression of the smuggling of wildlife on ships engaged in international maritime traffic***

18.4 The Committee considered document FAL 44/18/1 (Kenya), proposing a new output to develop guidelines for the prevention and suppression of the smuggling of wildlife on ships engaged in international maritime traffic, and, following consideration, agreed to include in its 2020-2021 biennial agenda and the provisional agenda for FAL 45 an output on "Development of guidelines for the prevention and suppression of the smuggling of wildlife on ships engaged in international maritime traffic", with a target completion year of 2023.

18.5 In this context, the Committee noted that the guidelines should be developed taking into account the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), including the definition applicable to "wildlife".

18.6 The Committee further noted that MSC should be kept informed about the progress of the work on this output, as appropriate.

***Guidelines for harmonized communication and electronic exchange of operational data for port calls***

18.7 The Committee considered document FAL 44/18/2 (China et al.), proposing a new output to develop guidelines for harmonized communication and electronic exchange of operational data for port calls, and agreed to include in its 2020-2021 biennial agenda and the provisional agenda for FAL 45 an output on "Development of guidelines for harmonized communication and electronic exchange of operational data for port calls", with a target completion year of 2023.

18.8 Taking into account that the Facilitation Convention mandates that public authorities should have established electronic systems to assist ship clearance processes by April 2019, and considering that the availability of guidelines for the interface of new systems would ensure uniformity internationally, the Committee agreed to submit this as an urgent matter to C 124, for endorsement of the output. The Committee also agreed to instruct the Working Group on Electronic Business, established under agenda items 6 and 7, to develop terms of reference for a correspondence group to work intersessionally, if the new output was endorsed by the Council.

18.9 In this context, the Committee noted that MSC and the NCSR Sub-Committee would need to be kept informed about the progress of the work.



### **Endorsement of new outputs**

18.10 In accordance with the relevant provisions of the *Application of the Strategic Plan of the Organization* (resolution A.1111(30)), the Committee invited the Council to note that the following two new outputs had been included in the biennial agenda for 2020-2021:

- .1 development of guidelines for the prevention and suppression of the smuggling of wildlife on ships engaged in international maritime traffic (see paragraph 18.4); and
- .2 development of guidelines for harmonized communication and electronic exchange of operational data for port calls (see paragraph 18.7).

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

18.11 The Committee endorsed the status of outputs for the 2020-2021 biennium, which had been prepared by the Secretariat in consultation with the Chair (FAL 44/WP.3), and accordingly invited C 125 to note the report on the status of outputs of the Facilitation Committee, as set out in annex 5.

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

18.12 The Committee endorsed the status of outputs accepted for inclusion in the post-biennial agenda, which had been prepared by the Secretariat in consultation with the Chair (FAL 44/WP.3), and accordingly invited C 125 to note the post-biennial agenda of the Facilitation Committee, as set out in annex 6.

### **Proposals for meeting weeks for the biennium 2022-2023**

18.13 The Committee recalled that FAL 40 had agreed to meet in future in regular sessions once a year, and to reduce the meeting days of the Committee to 4 days with 8 associated interpretation sessions, applicable from FAL 41 and to subsequent sessions of the Committee, and that the duration of the sessions would be reviewed periodically, taking into account the workload of the Committee.

18.14 The Committee recalled further that FAL 42, noting that the arrangement of 4-day meetings did not give enough time for working groups to complete their work and taking into account that the provisional agenda for FAL 43 had included four additional new outputs, agreed that subsequent meetings of the Committee should last 5 days with eight associated interpretation sessions. This decision would be applicable to FAL 43 and subsequent sessions of the Committee, and the duration of the sessions would be reviewed periodically taking into account the workload of the Committee.

18.15 The Committee agreed to hold one meeting in 2022 and one meeting in 2023 (5 days with eight associated interpretation sessions for each meeting), but that this may need to be adapted, depending on the impact of the COVID-19 pandemic on the holding of physical meetings at IMO Headquarters; and invited the Secretary-General to take this into account when preparing relevant budgetary proposals for the 2022-2023 biennium for consideration by the Council.

### **Intersessional meetings**

18.16 The Committee recalled that FAL 43 had approved the holding of the following intersessional meetings in 2020 which had been endorsed by C 122:

- .1 the second meeting of EGDH, to be held back-to-back with FAL 44, in April 2020; and
- .2 the third meeting of EGDH, to be held in the second half of 2020.

18.17 The Committee approved the following intersessional meetings, to be held in 2021, one of them back-to-back with FAL 45, if possible:

- .1 the fourth meeting of EGDH, to be held back-to-back with FAL 45; and
- .2 the fifth meeting of EGDH, to be held in the second half of 2021,

and agreed to also submit this as an urgent matter to C 124 for endorsement.

### **Substantive items for inclusion in the agenda for FAL 45**

18.18 Having considered the proposals in document FAL 44/WP.3, the Committee agreed to the substantive items to be included in the agenda of its forty-fifth session, as set out in annex 7. In this connection, the Committee also agreed that all Secretariat documents for that session would be made publicly available prior to the meeting (see also paragraph 2.3).

### **Establishment of working and drafting groups at FAL 45**

18.19 The Committee, taking into account the decisions made under the various agenda items, anticipated that working and drafting groups on the following subjects may be established at FAL 45:

- .1 electronic business;
- .2 facilitation instruments; and
- .3 other facilitation subjects.

18.20 The Committee further agreed that, should the need arise, FAL 45 could consider establishing any other working or drafting groups when considering the various agenda items and requested the Secretariat, in consultation with the Chair, to prepare and circulate the provisional timetable for FAL 45 and a list of the likely working or drafting groups to be established well in time before the meeting.

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

18.21 The Committee noted that the dates for FAL 45 had not yet been decided and that further details regarding the place and date would be communicated by the Secretariat in due course.

## **19 ELECTION OF CHAIR AND VICE-CHAIR FOR 2021**

19.1 In accordance with its Rules of Procedure, the Committee unanimously re-elected Mrs. Marina Angsell (Sweden) as Chair and Mrs. Hadiza Bala Usman (Nigeria) as Vice-Chair, both for 2021.

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## 20 ANY OTHER BUSINESS

20.1 The Committee recalled its decision to postpone to FAL 45 the consideration of documents under agenda item 20 submitted before the postponement of FAL 44 (see paragraph 1.16) but to consider at this session new documents related to the impact of the COVID-19 pandemic on the facilitation of maritime traffic submitted under the item (see paragraph 1.17).

### **Impact of the COVID-19 pandemic on the facilitation of maritime traffic**

20.2 The Committee noted that MSC/ES.2, having considered the crew change crisis, adopted resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic*, inviting other IMO committees to note and consider taking action with regard to the resolution. The Committee recalled that it had agreed to consider the resolution under this agenda item, when it would consider the impact of the COVID-19 pandemic on the facilitation of maritime traffic and the need to start studying possible measures to prepare the maritime sector for possible future pandemics (see paragraph 1.15).

20.3 Having noted the outcome of MSC/ES.2, the Committee strongly endorsed resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic*.

### **Proposal to mitigate the risks of COVID-19 cases on board ships**

20.4 The Committee considered document FAL 44/20/6 (China) containing a draft FAL circular to be brought to the attention of all parties concerned and encourage Member States to take effective and efficient measures to reduce infection risks on board.

20.5 In considering the proposed circular, the Committee noted the following views:

- .1 the actions taken by the Secretary-General and the Organization as a whole to facilitate ship crew change and mitigate disruption of the maritime sector caused by the COVID-19 pandemic were highly appreciated;
- .2 the adoption of resolution MSC.473(ES.2) sent a clear signal from the Organization regarding recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic;
- .3 the proposed FAL circular would enhance awareness regarding safe transfer of crew and should therefore be supported in principle;
- .4 there was a need for IMO to develop additional guidance on medical care for seafarers;
- .5 preventive measures should be developed and applied during all stages of a voyage and by all stakeholders;
- .6 the possibilities of digitalization including automation should be fully used to facilitate recovery and prepare for future pandemics. This would mean advanced analytics and processing data. If it was possible to safely reduce the number of crew members on board and to carry out some of the tasks requiring critical expertise from the shore, the ship's operational capacity could be better maintained in the event of a pandemic. Thus automation is an important theme to discuss at FAL 45 and holistically between the committees;

- .7 the information in the proposed FAL circular was similar to resolution MSC.473(ES.2) and an overlap between the resolution and the proposed circular should be avoided;
- .8 the MSC resolution referred to testing as an example of possible prevention measures, but did not provide details on any specific method for testing crew before embarkation to reduce the risk of crew infections; nor did it take into consideration that multiple testing methods were available and that new methods were continuously being developed; and
- .9 similar elements regarding preventive measures were outlined in document FAL 44/20/5 (ICS et al.).

20.6 WHO acknowledged the great efforts in taking effective measures for safe and quick embarkation/disembarkation of crew but called the attention of the Committee to the limitations of rRT-PCR testing in this context, due to the following reasons:

- .1 after infection by the SARS-CoV-2 virus, the mean time to symptoms onset (the incubation period) is 5-6 days (range 1-14), while the virus becomes detectable in the upper respiratory tract 1-3 days before symptoms onset. Thus, a traveller may be in the initial phases of the incubation period but not having detectable amounts of virus at the time of sampling. Additionally, a traveller may become infected during the period between sampling and departure; and
- .2 such negative testing results may generate a false sense of security and may lead to less diligent adherence to hand and respiratory hygiene, physical distancing and use of personal protective equipment.

20.7 WHO further acknowledged that many countries face situations where there were not enough resources to test cases and to contact them, therefore the feasibility to conduct testing and deliver results for healthy seafarers within the time window, for instance 48 hours or 72 hours, would be a great challenge.

20.8 The Committee noted general support for the intention of the proposed FAL circular and recognized the need to send a strong message to encourage Member States and all parties concerned to take effective and efficient measures to mitigate the risk of cases on board ships during the COVID-19 pandemic.

20.9 In view of the above, the Committee reiterated its strong endorsement of resolution MSC.473(ES.2), which covered similar issues, but agreed not to approve a separate FAL circular to avoid unintended overlaps with the resolution, and decided to bring the discussion on this matter to the attention of MSC.

### **Suggestions for possible amendments to the annex of the FAL Convention to ensure the facilitation of maritime traffic during a public health emergency of international concern**

20.10 The Committee considered document FAL 44/20/5 (ICS et al.), containing preliminary suggestions for possible amendments to the annex of the FAL Convention to ensure the facilitation of maritime traffic during a public health emergency of international concern and inviting the Committee to submit the proposals to the Correspondence Group on the Review and Update of the Annex of the FAL Convention, if re-established.

20.11 Having noted general support for the proposals, the Committee agreed to forward the document to the Correspondence Group on the Review and Update of the Annex of the FAL Convention, established under agenda item 4 (see paragraph 4.7), and instructed the Group, taking into account document FAL 44/20/5 as well as the comments made and decisions taken at FAL 44, to consider possible amendments to the annex of the FAL Convention to ensure the facilitation of maritime traffic during a public health emergency of international concern.

20.12 One delegation expressed concerns that the proposed amendments to the annex of the FAL Convention could affect similar provisions of instruments of other Organizations, e.g. proposed Standard 6.8*bis* in relation to the Maritime Labour Convention, 2006, as amended (MLC, 2006), and suggested that the Correspondence Group on the Review and Update of the Annex of the FAL Convention should analyse the proposed amendments and any other existing maritime international instruments and consider alignment of the proposed amendment(s) to avoid duplication and inconsistency.

20.13 The Committee agreed that the Correspondence Group should take into account all comments made and decisions taken under agenda item 20, not only those related to document FAL 44/20/5, when carrying out its work.

20.14 The Committee underlined that, in accordance with its terms of reference, the Correspondence Group should also consider new proposals for possible amendments to the annex of the FAL Convention on this subject.

20.15 Further, the Committee noted concerns about the footnote to paragraph 7.26 in the annex to document FAL 44/20/5, referring to "MSC.1/Circ.[XXXX] on [Recommended framework of protocols for safe crew travel and changes.]" In this regard, the Committee agreed to instruct the Correspondence Group to avoid any presumption regarding the outcome of discussions of other IMO bodies.

### **Statement on crew change crisis at the UN General Assembly**

20.16 The Committee noted a statement by the delegation of Indonesia, set out in annex 8, urging Member States to join their efforts to bring the issue of seafarers and the crew change crisis during the COVID-19 pandemic to the UN General Assembly (UNGA) by proposing a stand-alone resolution on crew change for adoption by UNGA.

20.17 The Secretary General encouraged Member States to support this initiative and recalled his respective communication, issued by means of Circular Letter No.4204/Add.29.

## **21 ACTION REQUESTED OF OTHER IMO ORGANS**

21.1 The Assembly, at its thirty-second session, is invited to note the developments regarding the IMO Compendium on Facilitation and Electronic Business, including the approval of a revised version of the IMO Compendium (section 6).

21.2 The Council, at its 124th session, is invited to, as urgent matters:

- .1 note the decision of the Committee to include a new output on "Development of guidelines for harmonized communication and electronic exchange of operational data for port calls" in its biennial agenda for 2020-2021 (paragraphs 18.7 and 18.8); and
- .2 endorse the holding of two intersessional meetings of the EGDH Working Group in 2021 (paragraph 18.17).

21.3 The Council, at its 125th session, is invited to:

- .1 consider the report of the forty-fourth session of the Facilitation Committee and, in accordance with Article 21(b) of the IMO Convention, transmit it, with its comments and recommendations, to the thirty-second session of the Assembly;
- .2 note the decision to postpone the consideration of agenda items 3, 5, 8, 9, 10, 11, 12, 14 and 20, and the respective documents submitted under those items, to FAL 45 (paragraph 1.16);
- .3 note the decisions taken regarding measures for greater public access to information (paragraphs 2.3 and 18.17);
- .4 note the progress made on the review of the annex of the FAL Convention (section 4);
- .5 note the developments regarding the IMO Compendium on Facilitation and Electronic Business, including the approval of a revised version of the Compendium (section 6);
- .6 note the progress made on the guidelines on electronic signature systems (section 7);
- .7 note the progress made on the guidance to address maritime corruption (section 13);
- .8 note the approval of the revised *Organization and method of work of the Facilitation Committee* (FAL.3/Circ.217) (paragraph 17.3);
- .9 note the decision of the Committee to include a new output on "Analysis of possible means of auditing compliance with the Convention on Facilitation of International Maritime Traffic" in its post-biennial agenda, the outcome of which may be of interest to the Joint Working Group on the Member State Audit Scheme (paragraphs 18.2 and 18.3);
- .10 note the decision of the Committee to include a new output on "Development of guidelines for the prevention and suppression of the smuggling of wildlife on ships engaged in international maritime traffic" in its biennial agenda for 2020-2021 (paragraph 18.4);
- .11 note the biennial status report of the Facilitation Committee (paragraphs 18.11 and annex 5);
- .12 note the post-biennial agenda of the Facilitation Committee (paragraphs 18.12 and annex 6);
- .13 endorse the decision of the Committee to hold one meeting during 2022 and one meeting during 2023 (5 days with eight associated interpretation sessions for each meeting), pending the impact of the COVID-19 pandemic on the holding of physical meetings at IMO Headquarters (paragraph 18.15); and

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- .14 note that the Committee strongly endorsed resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic* (paragraph 20.3).

21.4 The Maritime Safety Committee, at its 103rd session, is invited to note the report the Committee and, in particular, to:

- .1 note the statements made regarding the rescue of people in distress at sea by **Maersk Etienne** and its aftermath, and the invitation by the Committee to interested Member States and international organizations to submit proposals for further action on this important matter to MSC (paragraphs 1.6 and 1.7 and annex 8)
- .2 note the decision of the Committee to postpone consideration of a number of agenda items, some of which may be of interest to MSC, such as unsafe mixed migration at sea; reports and information on stowaways; reports and information on persons rescued at sea; consideration of descriptions of Maritime Services in the context of e-navigation; and regulatory scoping exercise for the use of maritime autonomous surface ships (paragraph 1.16);
- .3 note the developments regarding the IMO Compendium on Facilitation and Electronic Business, including the approval of a revised version of the Compendium (section 6);
- .4 note the decision of the Committee to instruct EGDH to provide the NCSR Sub-Committee with information on the work in progress, when relevant (paragraph 6.25 and annex 3);
- .5 note the progress made by the Committee on the guidelines on electronic signature systems (section 7);
- .6 note the decision of the Committee to keep MSC and the NCSR Sub-Committee informed on the progress of the work on the new output on "Development of guidelines for harmonized communication and electronic exchange of operational data for port calls" (paragraphs 18.7 to 18.9 and 6.27);
- .7 note the approval of the revised *Organization and method of work of the Facilitation Committee* (FAL.3/Circ.217) (paragraph 17.3); and
- .8 note that the Committee strongly endorsed resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic* (paragraph 20.3).

21.5 The Marine Environment Protection Committee, at its [seventy-fifth] session, is invited to note the report of the Committee and, in particular, to:

- .1 note the decision of the Committee to postpone consideration of a number of agenda items, one of which may be of interest to MSC, i.e. regulatory scoping exercise for the use of maritime autonomous surface ships (paragraph 1.16);

- .2 note the developments regarding the IMO Compendium on Facilitation and Electronic Business, including the approval of a revised version of the Compendium (section 6);
- .3 note the progress made by the Committee on the guidelines on electronic signature systems (section 7);
- .4 note the approval of the revised *Organization and method of work of the Facilitation Committee* (FAL.3/Circ.217) (paragraph 17.3); and
- .5 note that the Committee strongly endorsed resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic* (paragraph 20.3).

21.6 The Technical Cooperation Committee, at its [seventieth] session, is invited to note the report of the Committee and, in particular, to:

- .1 note the approval of the revised *Organization and method of work of the Facilitation Committee* (FAL.3/Circ.217) (paragraph 17.3); and
- .2 note that the Committee strongly endorsed resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic* (paragraph 20.3).

21.7 The Legal Committee, at its [107th] session, is invited to note the report of the Committee and, in particular, to:

- .1 note the decision of the Committee to postpone consideration of a number of agenda items, one of which may be of interest to LEG, i.e. regulatory scoping exercise for the use of maritime autonomous surface ships (paragraph 1.16);
- .2 note the developments regarding the IMO Compendium on Facilitation and Electronic Business, including the approval of a revised version of the Compendium (section 6);
- .3 note the progress made by the Committee on the guidelines on electronic signature systems (section 7);
- .4 note the progress made by the Committee on the guidance to address maritime corruption and the decision to establish a Correspondence Group on Guidance to Address Maritime Corruption (section 13);
- .5 note the approval of the revised *Organization and method of work of the Facilitation Committee* (FAL.3/Circ.217) (paragraph 17.3); and
- .6 note that the Committee strongly endorsed resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic* (paragraph 20.3).

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## ANNEX 1

### QUESTIONNAIRE ON THE USE OF THE DOCUMENT CARGO DECLARATION (IMO FAL FORM 2)

1 During the review and update of the annex of the FAL Convention, the question of the actual use and relevance of the document *Cargo Declaration* (named FAL Form 2) referred to in Recommended Practice 2.3.1,\* was raised, particularly in view of the widespread use of the cargo manifest and the requirement of cargo advance security information.

2 To take a sound-basis decision, a more extensive knowledge of the user case for the FAL Form 2 is needed before any decision is taken, in the context of a review of the annex of the Convention, whether to suppress the document Cargo Declaration, amend its data, or to reconsider how Cargo Declarations in general are dealt with in the FAL Convention.

3 To gain the necessary knowledge, FAL 44 decided to issue the questionnaire set out in appendix 1.

4 Member Governments are invited to submit completed questionnaires to the Secretariat, preferably not later than 15 December 2020. To facilitate processing, questionnaires should be submitted in Microsoft Word, preferably by email to: [falsec@imo.org](mailto:falsec@imo.org).

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\* See appendix 2.

**APPENDIX 1**

**QUESTIONNAIRE\* ON THE USE OF THE DOCUMENT CARGO DECLARATION  
(IMO FAL FORM 2)**

**Country:** \_\_\_\_\_

Is the IMO FAL Form 2 requested in your country? If yes, please answer the table below. If not, please tick: No

Please answer in a different column for every authority requesting the FAL Form 2. Add more columns if needed

	Authority 1	Authority 2	Authority 3
Please provide the name of the authority requesting the IMO FAL Form 2			
Please describe the use(s) made of the IMO FAL Form 2 by the authority			
Please specify for which cargo traffic(s) the IMO FAL Form 2 is requested by the authority			
Does the authority request other existing cargo declarations (e.g. cargo manifest)? If yes, please specify which?			

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\* To facilitate processing, questionnaires should be submitted in Microsoft Word (please [click here](#) to download it), preferably by email to: [falsec@imo.org](mailto:falsec@imo.org).

## APPENDIX 2

Extract from the annex to the Convention on Facilitation of International Maritime Traffic, related to the document Cargo Declaration (named FAL Form 2):

2.3.1 **Recommended Practice.** In the Cargo Declaration, public authorities should not require more than the following data:

(a) on arrival

- name and IMO number of ship;
- flag State of ship;
- name of master;
- voyage number;
- port of loading;
- port where report is made;
- freight container identification, where appropriate; marks and numbers; number and kind of packages; quantity and description of the goods or, if available, the Harmonized System (HS) code;
- transport document numbers for cargo to be discharged at the port in question;
- ports at which cargo remaining on board will be discharged; and
- original ports of shipment in respect of goods shipped under multimodal transport documents or through bills of lading.

(b) on departure

- name and IMO number of ship;
- flag State of ship;
- name of master;
- voyage number;
- port of discharge;
- in respect of goods loaded at the port in question: freight container identification, where appropriate; marks and numbers; number and kind of packages; quantity and description of the goods or, if available, the Harmonized System (HS) code; and
- transport document numbers for cargo loaded at the port in question.

**CARGO DECLARATION**  
(IMO FAL Form 2)

		Arrival	Departure	Page number
1.1 Name of ship		1.2 IMO number		
1.3 Voyage number		2. Port where report is made		
3. Flag State of ship		4. Name of master		
5. Port of loading/Port of discharge				
B/L No.	6. Marks and numbers	7. Number and kind of packages; description of goods or, if available, the HS Code	8. Gross weight	9. Measurement
	10. Date and signature by master, authorized agent or officer			

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**ANNEX 2**

**EGDH PRIORITY LIST OF DATA SETS**

<b>Data set</b>	<b>Brief description</b>	<b>Priority</b>	<b>Descriptive criteria</b>	<b>Status of the data set</b>	
Maritime Declaration of Health (FAL 43/INF.3)	Form filled in by the ship master to report to the port health administration an illness or an outbreak occurring on board a ship as mandated by the FAL Convention.	1	Administrative data FAL Convention B2G	Submission	EGDH 1/5
				<del>pending/done</del>	
				Data set	EGDH 1
				<del>pending/agreed</del>	
Port Logistics Operational Data related to JIT Concept (FAL 43/INF.3)	Minimum data set relevant to the data exchange in port calls necessary to implement the JIT Arrival concept from MEPC.323(74).	1	Operational data MEPC.323(74) B2B and B2G	Modelling	FAL 44/5/1
				<del>pending/done</del>	
				Approved by	FAL 44
				<del>pending/done</del>	
Stowaways (e.g. according to the FAL Convention, Recommended Practice 4.6.2)	Form of stowaway details referred in Recommended Practice 4.6.2. (Appendix 3, FAL Convention).	1	Administrative data FAL Convention B2G	Submission	EGDH 1/7
				<del>pending/done</del>	
				Data set	EGDH 1
				<del>pending/agreed</del>	
Acknowledgement receipt(s) (FAL 44/7)	Message patterns, data exchanges and messaging management information (MMI). Data set related to acknowledgement receipt(s) from the "receiver" to inform the "sender".	1	Message exchange data B2B and B2G	Modelling	FAL 44/5/1
				<del>pending/done</del>	
				Approved by	FAL 44
				<del>pending/done</del>	
Acknowledgement receipt(s) (FAL 44/7)	Message patterns, data exchanges and messaging management information (MMI). Data set related to acknowledgement receipt(s) from the "receiver" to inform the "sender".	1	Message exchange data B2B and B2G	Submission	EGDH 1/6
				<del>pending/done</del>	
				Data set	
				<del>pending/agreed</del>	
Acknowledgement receipt(s) (FAL 44/7)	Message patterns, data exchanges and messaging management information (MMI). Data set related to acknowledgement receipt(s) from the "receiver" to inform the "sender".	1	Message exchange data B2B and B2G	Modelling	EGDH 2/3
				<del>pending/done</del>	
				Approved by	EGDH 1/9
				<del>pending/done</del>	

Data set	Brief description	Priority	Descriptive criteria	Status of the data set	
Information of ship certificates (according to FAL.2/Circ.131)	Minimum data set covering high level-information of ships certificates and documents as set out in FAL.2/Circ.131.	1	Administrative data FAL.2/Circ.131 B2G	Submission <del>pending</del> /done	EGDH 2/4 EGDH 2/4/1 EGDH 2/4/2
				Data set <del>pending</del> /agreed	
				Modelling <del>pending</del> /done	
				Approved by	
Ship reporting system (resolution A.851(20))	Data elements found in Resolution A.851(20) on ship reporting systems and ship reporting requirements.	1	Administrative data Resolution A.851(20) B2G	Submission <del>pending</del> /done	EGDH 2/5 EGDH 2/INF.2
				Data set <del>pending</del> /agreed	
				Modelling <del>pending</del> /done	
				Approved by	
Audits and surveys	N/A	2	NA	Submission <del>pending</del> /done	
				Data set <del>pending</del> /agreed	
				Modelling <del>pending</del> /done	
				Approved by	

Data set	Brief description	Priority	Descriptive criteria	Status of the data set	
Port State Control inspection history data	Port State Control (PSC) is the inspection of foreign ships in national ports to verify that the condition of the ship and its equipment comply with the requirements of relevant international conventions and that the ship is crewed and operated in compliance with these rules. PSC inspections are intended to provide assistance to flag State Administrations in securing compliance of the ship and sharing their history provides a record which would streamline the calculation of vessel risk factors and facilitate States in prioritizing targeted inspections of high-risk vessels.	2	N/A	Submission pending/ <del>done</del>	
				Data set pending/ <del>agreed</del>	
				Modelling pending/ <del>done</del>	
				Approved by	
Notice of Hazardous Condition	<i>Hazardous condition</i> means any condition that may adversely affect the safety of any vessel, bridge, structure, or shore area or the environmental quality of any port, harbor, or navigable waterway of the United States. It may, but need not, involve collision, allision, fire, explosion, grounding, leaking, damage, injury or illness of a person aboard, or manning-shortage.	2	Operational Data B2G, B2B	Submission pending/ <del>done</del>	
				Data set pending/ <del>agreed</del>	
				Modelling pending/ <del>done</del>	
				Approved by	

Data set	Brief description	Priority	Descriptive criteria	Status of the data set	
Information on specific shipping conditions (FAL 43/7/3)	N/A	2	N/A	Submission pending/done	
				Data set pending/agreed	
				Modelling pending/done	
				Approved by	
Port logistic operational data and real time data (e.g. International Harbour Masters Association (IHMA) Functional definitions for nautical port information)	Port logistics operational data and real-time data such as maritime services time stamps which are important for the implementation of JIT.	2	Operational data MEPC.323(74) B2B and B2G	Submission pending/done	EGDH 2/7
				Data set pending/agreed	
				Modelling pending/done	
				Approved by	
IMO safety information (e.g. ship particulars) (FAL 43/INF.3; FAL 43/7/1)	Information related to "Class and Statutory data exchange" (Recommendation 75, revision 3, Format for Electronic Exchange of Class and Statutory Data).	2	Administrative data Ship Class and Statutory Data B2G	Submission pending/done	EGDH 2/8 EGDH 2/4/2
				Data set pending/agreed	
				Modelling pending/done	
				Approved by	
IMO environmental information (e.g. waste delivery, information on bunker, ballast water and emissions) (FAL 43/INF.3; FAL 43/7/1)	N/A	2	N/A	Submission pending/done	
				Data set pending/agreed	
				Modelling pending/done	
				Approved by	
Added cargo details on dangerous goods (FAL 43/INF.3; FAL 43/7/1)	N/A	2	N/A	Submission pending/done	
				Data set pending/agreed	
				Modelling pending/done	
				Approved by	



Data set	Brief description	Priority	Descriptive criteria	Status of the data set	
Information regarding Maritime Services 1, 2, 3 in the context of e-navigation and IALA S210	N/A	2	N/A	Submission pending/ <del>done</del>	
				Data set pending/ <del>agreed</del>	
				Modelling pending/ <del>done</del>	
				Approved by	
Other persons on board	Information related to special personnel on board ships	2	N/A	Submission pending/ <del>done</del>	
				Data set pending/ <del>agreed</del>	
				Modelling pending/ <del>done</del>	
				Approved by	
Ship Safety Information (FAL 43/7/3)	N/A	3	N/A	Submission pending/ <del>done</del>	
				Data set pending/ <del>agreed</del>	
				Modelling pending/ <del>done</del>	
				Approved by	
Added cargo details at consignment level (FAL 43/INF.3; FAL 43/7/1)	N/A	3	N/A	Submission pending/ <del>done</del>	
				Data set pending/ <del>agreed</del>	
				Modelling pending/ <del>done</del>	
				Approved by	

Data set	Brief description	Priority	Descriptive criteria	Status of the data set	
Notice of readiness	N/A	3	N/A	Submission pending/ <del>done</del>	
				Data set pending/ <del>agreed</del>	
				Modelling pending/ <del>done</del>	
				Approved by	

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### ANNEX 3

#### TERMS OF REFERENCE OF THE EXPERT GROUP ON DATA HARMONIZATION (EGDH)

The Committee agreed to the following terms of reference of the IMO Expert Group on Data Harmonization:

- 1 continue work related to the maintenance of the IMO Compendium on Facilitation and Electronic Business;
- 2 consider data sets beyond the FAL Convention, based on the priority list of data sets and the data model, and giving priority to data sets with priority 1;
- 3 update the priority list of data sets;
- 4 provide the NCSR Sub-Committee with information on the work in progress, when relevant;
- 5 consider the acknowledgment receipt data set in detail; taking into account the silent clearance procedure;
- 6 consider the use of child codes for terminals taking into account the existing codes and its usages;
- 7 consider how to include sequence diagrams, reflecting the data exchanges in the IMO Compendium; and
- 8 submit a report in time for consideration by the Facilitation Committee.

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## ANNEX 4

### WORKING PROCEDURES OF THE EXPERT GROUP ON DATA HARMONIZATION (EGDH)

#### Inclusion of new data sets

1 Proposals for new data sets are discussed by EGDH when considering the priority list of data sets and allocated a priority (1 to 3) to each data set according to the degree of urgency to address it. New data sets are approved by the FAL Committee following consideration of the list proposed by EGDH.

#### Details of the working procedure of EGDH

2 EGDH examines only data sets that are included in the priority list of data sets.

3 To discuss a new data set from the list, a detailed submission with relevant information at the data element level is required. The appendix outlines the fields to be submitted for each data element and a description of the sequence of data exchanges, when known.

4 The modelling and mapping of the data sets by the main standards partner organization (WCO, ISO and UNECE) and other contributing Member States and international organizations starts after EGDH has discussed and agreed a draft data set.

5 At the following meeting, the FAL Committee considers the inclusion of the data sets prepared by EGDH in the IMO Compendium.

6 EGDH prepares terms of reference as generic as possible so that they can be used at the two annual meetings. EGDH meets twice a year and the FAL Committee approves the terms of reference for the two annual EGDH meetings.

#### EGDH priority list of data sets

7 To facilitate understanding and keeping track of the progress made by EGDH, the following information fields are included in the list for each data set:

- .1 name of the data set and reference to the FAL submission that put forward the data set (i.e. FAL 43/8/11);
- .2 a description of the data set (this will facilitate understanding of the data set);
- .3 the priority (1-3);
- .4 descriptive criteria such as "administrative or operational data"; "origin in FAL Convention or other instruments"; and "in the scope of B2G or B2B"; and
- .5 status of the work: "submission pending/done"; "data set agreed/pending"; "modelling pending/completed".



**APPENDIX**

**FORM OF NEW DATA ELEMENTS FOR THE CONSIDERATION OF EGDH**

**1 Description of the sequence of data exchanges**

**2 Description of data elements**

<b>Change Indicator</b>	<b>Data Number</b>	<b>Data Element</b>	<b>Definition*</b>	<b>Format*</b>	<b>Code lists*</b>	<b>Business rules</b>	<b>Notes</b>

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\* Required





**ANNEX 5**

**BIENNIAL STATUS REPORT OF THE FACILITATION COMMITTEE**

Facilitation Committee (FAL)									
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status of output for Year 1	Status of output for Year 2	References
1. Improve implementation	1.2	Input on identifying emerging needs of developing countries, in particular SIDS and LDCs, to be included in ITCP.	Continuous	TCC	MSC/MEPC/FAL/LEG		Ongoing		
1. Improve implementation	1.7	Identify thematic priorities within the area of maritime safety and security, marine environmental protection, facilitation of maritime traffic and maritime legislation.	Annual	TCC	MSC/MEPC/FAL/LEG		Postponed		
2. Integrate new and advancing technologies in the regulatory framework	2.7	Regulatory scoping exercise for the use of Maritime Autonomous Surface Ships (MASS).	2021 <sup>1</sup>	MSC	FAL		Postponed		MSC 98/23, paragraph 20.2.11; FAL 43/20, paragraph 17.1

<sup>1</sup> TCY to be extended as this output has been postponed to FAL 45.

Facilitation Committee (FAL)									
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status of output for Year 1	Status of output for Year 2	References
2. Integrate new and advancing technologies in the regulatory framework	2.11	Consideration of descriptions of Maritime Services in the context of e-navigation.	2021	MSC	FAL/NCSR		Postponed		FAL 43/20, paragraph 7.21; MSC 101/24, paragraphs 11.10 and 11.11; resolution MSC.467(101); MSC.1/Circ.1610
Notes:	Having completed the work on the development of guidance on definition and harmonization of the format and structure of Maritime Services within the context of e-navigation and recognizing the need for a continuous review process of maritime service descriptions and the harmonization of related services, MSC 101 agreed with the request of NCSR 6 to rename the output "Develop guidance on definition and harmonization of the format and structure of Maritime Service Portfolios (MSPs)" as "Consideration of descriptions of Maritime Services in the context of e-navigation" with a target completion year of 2021. MSC 101 also noted the decision of FAL 43 to include the FAL Committee as an associated organ for this output (FAL 43/20, paragraphs 7.21 to 7.23).								
4. Engage in ocean governance	4.2	Input to ITCP on emerging issues relating to sustainable development and achievement of SDGs.	Continuous	TCC	MSC/MEPC/ FAL/LEG		In progress		MEPC 72/17, section 12; MEPC 73/19, section 13; MEPC 74/18, section 12
5. Enhance global facilitation and security of international trade	5.1	Application of single-window concept.	Continuous	FAL			Ongoing		FAL 39/16, paragraph 13.4.1

Facilitation Committee (FAL)									
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status of output for Year 1	Status of output for Year 2	References
5. Enhance global facilitation and security of international trade	5.8	Review and revision of the IMO Compendium on Facilitation and Electronic Business, including additional e-business solutions.	Continuous	FAL			In progress		FAL 41/17, paragraph 14.1; FAL 42/17, paragraph 14.5; TCT extended to 2021. FAL decided to convert this output to a continuous output (FAL 43/20, paragraph 7.11.4)
5. Enhance global facilitation and security of international trade	5.9	Developing guidance for authentication, integrity and confidentiality of content for the purpose of exchange via maritime single window.	2021	FAL			In progress		FAL 41/17, paragraph 14.3
5. Enhance global facilitation and security of international trade	5.10	Review and update the annex of the FAL Convention.	2023	FAL			In progress		FAL 42/17, paragraph 14.1

Facilitation Committee (FAL)									
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status of output for Year 1	Status of output for Year 2	References
5. Enhance global facilitation and security of international trade	5.11	Development of amendments to the Recommendations on the establishment of National Facilitation Committees (FAL.5/Circ.2).	2021 <sup>2</sup>	FAL			Postponed		FAL 42/17, paragraph 14.6
5. Enhance global facilitation and security of international trade	5.12	Development of guidelines on creating a tool to measure domestic implementation of the FAL Convention.	2021 <sup>3</sup>	FAL			Postponed		FAL 42/17, paragraph 14.8
5. Enhance global facilitation and security of international trade	5.14	Guidance to address maritime corruption.	2022	FAL			In progress		FAL 43/20, paragraph 17.1
5. Enhance global facilitation and security of international trade	[..] <sup>4</sup>	Development of guidelines for the prevention and suppression of the smuggling of wildlife on ships engaged in international maritime traffic.	2023						

<sup>2</sup> TCY to be extended as this output has been postponed to FAL 45.

<sup>3</sup> TCY to be extended as this output has been postponed to FAL 45.

<sup>4</sup> Output number to be decided by the Council in due course.

Facilitation Committee (FAL)									
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status of output for Year 1	Status of output for Year 2	References
5. Enhance global facilitation and security of international trade	[..] <sup>5</sup>	Development of guidelines for harmonized communication and electronic exchange of operational data for port calls.	2023	FAL					
6. Ensure regulatory effectiveness	6.1	Unified interpretation of provisions of IMO safety, security, environment, facilitation, liability and compensation-related conventions.	Continuous	MSC/MEPC/ FAL/LEG	III/PPR/CCC/ SDC/SSE/ NCSR		In progress		MSC 76/23, paragraph 20.3; MSC 78/26, paragraph 22.12
Notes:	A 28 expanded the output to include all proposed unified interpretations to provisions of IMO safety, security and environment-related conventions.								
6. Ensure regulatory effectiveness	6.6	Consideration and analysis of reports and information on persons rescued at sea and stowaways.	Annual	MSC/FAL			Postponed		

<sup>5</sup> Output number to be decided by the Council in due course.

Facilitation Committee (FAL)									
Reference to SD, if applicable	Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ	Status of output for Year 1	Status of output for Year 2	References
7. Ensure organizational effectiveness	7.1	Endorsed proposals for the development, maintenance and enhancement of information systems and related guidance (GISIS, websites, etc.).	Continuous	Council	MSC/MEPC/ FAL/LEG/ TCC		Ongoing		
7. Ensure organizational effectiveness	7.9	Revised documents on organization and method of work, as appropriate.	2021	Council	MSC/MEPC/ FAL/LEG/ TCC		Completed		
OW. Other work	OW 23	Cooperate with the United Nations on matters of mutual interest, as well as provide relevant input/guidance.	2021	Assembly	MSC/MEPC/ FAL/LEG/ TCC	Council	In progress		C 120/D, paragraphs 17(a).1-17(a).5
OW. Other work	OW 24	Cooperate with other international bodies on matters of mutual interest, as well as provide relevant input/guidance.	2021	Assembly	MSC/MEPC/ FAL/LEG/ TCC	Council	In progress		C 120/D, paragraphs 17(a).1-17(a).5
OW. Other work	OW 44	IMO's contribution to addressing unsafe mixed migration by sea.	2021	MSC/FAL/ LEG			Postponed		FAL 41/17, paragraph 7.15; MSC 98/23, paragraph 16.14; FAL 43, paragraph 10.7; MSC 101/24, paragraph 19.8

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**ANNEX 6**

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

Facilitation Committee (FAL)								
Number	Biennium (when the output was placed on the post-biennial agenda)	Reference to Strategic direction, if applicable	Description	Parent organ(s)	Associated organs(s)	Coordinating organ(s)	Timescale (sessions)	References
165	2018-2019	5	Review and update the Explanatory Manual to the FAL Convention.	FAL			2	FAL 43/20, paragraph 5.7
	2020-2021	5	Analysis of possible means of auditing compliance with the Convention on Facilitation of International Maritime Traffic.	FAL			2	FAL 44/21, paragraph 18.2

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## ANNEX 7

### LIST OF SUBSTANTIVE ITEMS FOR INCLUSION IN THE PROVISIONAL AGENDA FOR THE FORTY-FIFTH SESSION OF THE COMMITTEE<sup>1</sup>

Opening of the session

Decisions of other IMO bodies

Consideration and adoption of proposed amendments to the Convention

Review and update of the annex of the FAL Convention

Application of single window concept

Review and revision of the IMO Compendium on Facilitation and Electronic Business, including additional e-business solutions

Developing guidance for authentication, integrity and confidentiality of content for the purpose of exchange via maritime single window

Consideration of descriptions of Maritime Services in the context of e-navigation

Development of guidelines for harmonized communication and electronic exchange of operational data for port calls<sup>2</sup>

Development of amendments to the *Recommendations on the establishment of National Facilitation Committees (FAL.5/Circ.2)*

Development of guidelines on creating a tool to measure domestic implementation of the FAL Convention

Unsafe mixed migration by sea

Consideration and analysis of reports and information on persons rescued at sea and stowaways

Guidance to address maritime corruption

Regulatory scoping exercise for the use of Maritime Autonomous Surface Ships (MASS)

Development of guidelines for the prevention and suppression of the smuggling of wildlife on ships engaged in international maritime traffic<sup>2</sup>

Technical cooperation activities related to facilitation of maritime traffic

Relations with other organizations

Application of the Committee's procedures on organization and method of work

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<sup>1</sup> The list of agenda items would be reviewed at a later stage, depending on the documents received and time available.

<sup>2</sup> Subject to endorsement by the Council.

Work programme

Election of Chair and Vice-Chair for 2022

Any other business

Consideration of the report of the Committee on its forty-fifth session

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## ANNEX 8

### STATEMENTS BY DELEGATIONS, OBSERVERS AND THE SECRETARIAT\*

#### AGENDA ITEM 1

##### Statement by the delegation of Denmark

"Thank you Chair,

First of all, I hope that all delegates are safe and healthy as well as their families and friends.

On 5 August 2020, the Danish flagged chemical tanker **Maersk Etienne** conducted a search and rescue operation bringing 27 persons in distress on board.

The vessel immediately contacted the authorities of the coastal states closest to where the rescue operation took place and requested for disembarkation of the rescued persons.

The requests for disembarkation were denied.

Hereafter the vessel was anchored in international waters for more than 5 weeks until finally the rescued persons were transferred to an NGO ship due to serious medical conditions among the rescued persons.

During more than 5 weeks:

- The ship was waiting for permission to disembark the rescued persons.
- The vessel was hindered in continuing its planned route in order to complete its operations.
- The 27 additional people remained on board the ship all though, the ship was only suited for crew members as regards accommodation and safety equipment.

Such a long period under difficult circumstances is not reasonable for anyone neither the crew nor the rescued persons.

The obligation to render assistance to persons in distress at sea is deeply rooted within the DNA of shipping industry both as a moral duty as well as a legal and humanitarian obligation.

If this is to be preserved, ships must be allowed to fulfil this obligation. A place of safety ashore for the rescued persons should be provided within a reasonable timeframe.

If the balance of trust between States and rescuing merchant vessels in such rescue operations is to be maintained, immediate support from ashore should be ensured.

In order to live up to the letter and the spirit intended in the conventions, we therefore encourage cooperation among contracting states in solving unfortunate situations like this and in preventing them from happening in the future.

Thank you."

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

### Statement by the observer from ICS

"Thank you Chair,

ICS wishes to respond to comments made with respect to the **Maersk Etienne**, and deeply concerning circumstances in which it found itself last month.

As we have heard, on 5 August the **Maersk Etienne** responded to a SAR incident, rescuing 17 people in the Southern Mediterranean. The ship's crew provided immediate assistance to these distressed persons, including medical help and sustenance. Despite fulfilling its legal and humanitarian obligations, the ship found itself unable to disembark the rescued people, who remained onboard for over a month in increasingly desperate circumstances. At the time, ICS, UNHCR and IOM publicly called for a swift resolution to the humanitarian crisis, and ICS wrote to the Secretary General expressing its profound concern.

The issue of rescues in this region is not new, to date merchant ships have assisted in the rescue of over 80,000 people in distress in these waters. Incidents this year suggest that ships will continue to be called on to assist in these search and rescue operations. Merchant shipping will not shrink from this responsibility, but for it to do so effectively, States must equally meet their obligations in providing swift and predictable disembarkation of rescued people. The **Maersk Etienne** incident, and that of the **Talia** earlier in the year, signify a concerning development, suggesting that it is no longer guaranteed that such ships will receive prompt and adequate assistance when fulfilling their humanitarian responsibilities.

Merchant ships are neither built nor equipped to rescue and sustain large groups of distressed people. These incidents place huge pressure on the crews providing humanitarian help. Even when following best practice guidance, provisions for first aid, medical care and food and water are not adapted to large groups of distressed persons – it is therefore essential that rescued persons can be disembarked at the earliest opportunity in a place of safety, as the law demands.

Moreover, the transfer of rescued persons at sea is an atypical operation that carries significant risk for all those involved. Large numbers of rescued persons, for extended time on board can increase the difficulty for a Master and crew to comply with the requirement for humane treatment of persons rescued in SOLAS regulation V/34.6 through no fault of their own, and impede the ability of the Master to discharge his responsibility for ensuring the safety and security of ship's personnel.

It is essential that merchant vessels are able to conclude rescues safely, promptly and predictably both for those rescued and the rescuing seafarers. The safety of life at sea is a higher principle that must be respected in all circumstances. Therefore, States must ensure that the vessels and the masters of those vessels carrying persons in distress whom they have rescued at sea are relieved as soon as reasonably possible in accordance with international law.

We request that this statement be recorded in the report of the meeting.

Thank you."

### **Statement by the observer from IFSMA**

"Thank you Chair,

IFSMA fully supports the statements made by Denmark, and ICS. Chair, this is an ongoing problem in the Mediterranean where States fail to meet their international obligations and put unacceptable pressure on shipmasters and shipowners. IFSMA has raised this issue on a number of occasions over the last years and yet States take no notice. This is an intolerable situation and the IMO should make steps to stop this practice and demands that States meet their international obligations and repatriate rescued persons without delay. This situation puts pressure on shipmasters to make decisions which are not theirs to make and the IMO should pressure States in the region to meet up to their international obligations.

Thank you."

### **AGENDA ITEM 6**

#### **Statement by the observer from IAPH**

"Thank you, Chair.

We asked the floor to announce today the launch of the IAPH survey on the state of systems implemented by world ports to enable the electronic data exchange between ships and ports.

The COVID-19 crisis has painfully demonstrated the heterogeneous landscape that currently exists across ports worldwide regarding electronic data exchange. While some port communities seized the opportunities and developed into full-fledged 'smart' ports, others continue to struggle with larger reliance on personal interaction and paper-based transactions.

On their call for action on "Accelerating Digitalisation on Maritime Trade and Logistics", IAPH and Maritime Industry stakeholders set a list of 9 priorities and commit to jointly work towards progressing on those. The call for action was kindly sent to Member States by Circular Letter No.4204/Add.20.

Priority number one on the call for action is to assess the state of implementation and find ways to enforce the already mandatory requirements defined in the IMO FAL Convention to support transmission, receipt, and response of information required for the arrival, stay, and departure of ships, persons, and cargo via electronic data exchange.

The IAPH survey on the state of electronic data exchange systems implemented in world ports aims to address exactly that. With the survey we wish to evaluate the current level of implementation of electronic data exchange systems worldwide and to identify the remaining gaps and challenges.

As a neutral, non-governmental organisation representing the global port industry, IAPH is conducting this survey in complete confidentiality and will only share results on a global and regional aggregated scale. The survey will also identify the main challenges, and take these to work alongside colleagues at IMO, UNCTAD, the World Bank and other institutions to see what levels of assistance and support world ports need to digitalize, especially in emerging and developing countries. The deadline for completing the survey is set for 31 October.

Chair, we would like to disseminate the link to the survey through the FAL 44 committee report and we kindly ask the distinguished Member States delegates to support us in this exercise by disseminating the survey to the ports in their countries.

Thank you, Chair."

### **AGENDA ITEM 13**

#### **Additional information provided by the Director of IMO's Legal Affairs and External Relations Division**

"Thank you, Madam Chair.

Discussions at FAL 43 seem to indicate that some delegations were in favour of the development of a database on cases of maritime corruption and considered that IMO would collect this information and relay it to the party or parties concerned. In this context, the Legal Affairs and External Relations Division was invited to inform FAL 44 on the potential legal exposure, if any, pertaining to the dissemination of potential cases of corruption to parties concerned.

Madam Chair, this is the first opportunity the Committee has had to discuss the new item on its agenda. In this context, I would like to reiterate that the questions raised in document FAL 43/19 are still valid and would still benefit from a thorough discussion by the Committee before a complete analysis of a potential legal exposure can be considered. Madam Chair, I am aware that my intervention may bring more questions than answers, but it is very difficult to provide clear legal answers without knowing the intended content of the database, how it would be populated, who would make the reports and how the data would be used. There are also national jurisdictional and legal matters that would need to be considered.

In addition, there are a number of other legal and policy concerns which may be raised in respect of all information management systems, but which are even more important in respect of potential negative records regarding Member States and their officials who might be listed in the database: Who would provide the raw data? What level of discretion and judgement would be required to accept and process the data? Who would have control over the quality of the data being introduced into the database? Who would have primary responsibility for ensuring the records are accurate and up-to-date? Who would have access to the data and why? Who would have the ability to make changes/corrections to the data? What are the possible adverse consequences for having an incorrect, or out-of-date, in the database? How can such consequences be mitigated?

In terms of liability, the comprehensively worded disclaimer already displayed in GISIS and the Organization's privileges and immunities provide the Organization with a fair measure of legal protection. However, issues concerning the political exposure of the Organization should not be ignored. By creating this database, it may be difficult for the Organization to be considered a mere "relay" of the information, as was mentioned at FAL 43. The reputation of the Organization could be damaged if sensitive data communicated through the database were found to be incomplete, out-of-date or otherwise in error. Accordingly, IMO will have to take steps to satisfy itself as to the identity of those providing the initial data, as well as its factual accuracy, political sensitivity, among other things. Moreover, considering the policy implications of having a database which potentially contains records which may reflect adversely on Member States, it is recommended that the approval of Council be sought before the database is developed.

In addition, issues of liability of governments must be considered. In some countries, governments may be sued or otherwise challenged by individuals facing allegations of corruption. This may also damage the reputation of the Organization.

From a practical point of view, consideration should also be given to who would be managing this database and the resources required to do so properly. In this context, I would like to recall that most modules in GISIS are populated directly by Member States. As far as the database on reported incidents of abandonment of seafarers hosted by ILO is concerned, the database is managed jointly by the ILO and IMO Secretariats, and for IMO, the management duties are a considerable part of the workload of one IMO staff member. Information in the database is reported by flag States, port States, labour-sending States, and NGOs with consultative or observer status in IMO or in ILO. Individual seafarers or fishers who want an abandonment case to be reported have to consult their trade union or contact their consulate or flag State. I would also like to note that this database is the result of many years of collaboration between IMO, ILO Member States and relevant NGOs and was developed based on the implementation of ILO instruments. Even with this extensive coordination, disagreements do arise as to how data should be listed in the database, and which cases should be made public. I expect similar circumstances would occur in the implementation of an IMO database on corruption, and, given that government officials could be implicated, perhaps to a greater degree.

Thank you, Madam Chair."

## **AGENDA ITEM 20**

### **Statement by the delegation of Indonesia**

"Thank you, Madam Chair,

A very good day to everyone,

Allow me on behalf of Indonesia delegation to take this opportunity to convey our highest appreciation to all seafarers who have been tirelessly and bravely standing in the frontline to support global supply chain during this COVID-19 pandemic and also our hearts and minds go to those who have lost their lives and their families.

Indonesia would like extend our appreciation for the work of MSC during the ALCOM/ES session and MSC/ES.2 with regard to resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic*. We also take note that in the MSC resolution, as a follow up, member states should designate a national focal point on Crew Change and repatriation of Seafarers.

Madam Chair and distinguished delegates, allow me to share the update that Indonesia has designated several ports dedicated for facilitation of crew changes and we look forward to opening more. On the other aspects, we have also adjusted our immigration regulation to address the crew change need as an implementation of our commitment and keep on reviewing our health care capacity.

Furthermore, it is understood that the situation is not getting better for seafarers who need to do crew changes. We had around 300,000 seafarers waiting for repatriation and now the number is increased to estimated 400,000. In our experience, some of the efforts to repatriate facing challenges such as immigration and port access, and other technical challenges.

In this regard, as a way forward Indonesia would like to bring this matter to the UN by proposing a stand-alone resolution on crew change. The purpose of having this initiative is to gain greater response from all stakeholders. Our mission in New York is currently exploring on the Committees for this proposal to be discussed. The elements in the draft resolution are derived from resolution MSC.473(ES.2), Omnibus Resolution, and Human Rights Committee resolution 44/15 on business and human rights.

I am sure crew changes is our common interest and for that we would like to invite all member states to lend your support and share your inputs to the draft through the discussion process in New York.

At last but not least, I believe by protecting seafarers, we also protect the world economy in this fragile situation.

Thank you, Madam Chair."

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