

FACILITATION COMMITTEE  
37th session  
Agenda item 17

FAL 37/17  
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**REPORT OF THE FACILITATION COMMITTEE  
ON ITS THIRTY-SEVENTH SESSION**

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## 1 GENERAL – ADOPTION OF THE AGENDA

### Introduction

1.1 The Facilitation Committee held its thirty-seventh session from 5 to 9 September 2011 under the chairmanship of Mr. Charles Abela (Malta). The Vice-Chairman, Mr. E. Broekema (Netherlands), was also present.

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

ANGOLA	KENYA
ANTIGUA AND BARBUDA	KIRIBATI
ARGENTINA	LATVIA
AUSTRALIA	LIBERIA
AZERBAIJAN	MALAYSIA
BAHAMAS	MALTA
BAHRAIN	MARSHALL ISLANDS
BELGIUM	MEXICO
BELIZE	MOROCCO
BRAZIL	NETHERLANDS
BULGARIA	NIGERIA
CAMEROON	NORWAY
CANADA	PANAMA
CHILE	PAPUA NEW GUINEA
CHINA	PERU
COLOMBIA	PHILIPPINES
CYPRUS	POLAND
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	PORTUGAL
DENMARK	REPUBLIC OF KOREA
DOMINICA	RUSSIAN FEDERATION
DOMINICAN REPUBLIC	SAINT KITTS AND NEVIS
ECUADOR	SAUDI ARABIA
EGYPT	SINGAPORE
ESTONIA	SOUTH AFRICA
FINLAND	SPAIN
FRANCE	SWEDEN
GERMANY	THAILAND
GHANA	TONGA
GREECE	TRINIDAD AND TOBAGO
INDONESIA	TURKEY
IRAN (ISLAMIC REPUBLIC OF)	TUVALU
IRELAND	UKRAINE
ISRAEL	UNITED KINGDOM
ITALY	UNITED STATES
JAPAN	URUGUAY
KAZAKHSTAN	VANUATU

and the following Associate Member of IMO:

HONG KONG, CHINA

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

UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)

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

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

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

INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)  
INTERNATIONAL SHIPPING FEDERATION (ISF)  
INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)  
BIMCO  
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)  
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)  
INTERNATIONAL MARITIME PILOTS' ASSOCIATION (IMPA)  
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)  
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS  
(INTERTANKO)  
INTERNATIONAL GROUP OF P&I ASSOCIATIONS (P&I CLUBS)  
INTERNATIONAL SHIPSUPPLIERS & SERVICES ASSOCIATION (ISSA)  
INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS  
(INTERCARGO)  
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)  
INTERNATIONAL CHRISTIAN MARITIME ASSOCIATION (ICMA)  
THE FEDERATION OF NATIONAL ASSOCIATIONS OF SHIP BROKERS AND  
AGENTS (FONASBA)  
INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)  
THE INTERNATIONAL ASSOCIATION OF AIRPORT AND SEAPORT POLICE  
(IAASP)  
THE NAUTICAL INSTITUTE

### **Opening address**

1.5 In welcoming the participants, the Secretary-General welcomed the participants and delivered his opening address, the full text of which is reproduced in document FAL 37/INF.5. In his opening remarks, the Secretary-General, inter alia, introduced the World Maritime Day theme for 2012 – "IMO: One hundred years after the Titanic"; outlined the need to develop piracy-related guidance on the embarkation and disembarkation of firearms by privately contracted armed security personnel; and outlined the expected work of the Committee with respect to the comprehensive review of the FAL Convention, persons rescued at sea, and the electronic clearance of ships including the Single Window concept.

### **Chairman's remarks**

1.6 The Chairman, in thanking the Secretary-General, welcomed the information provided and stated that the Secretary-General's words of encouragement as well as his

advice and requests would be given every consideration in the deliberations of the Committee and its working groups.

### **Adoption of the agenda**

1.7 The Committee adopted the provisional agenda, set out in document FAL 37/1, as the agenda for the session, and agreed to be guided during the session by the annotated agenda FAL 37/1/1 and noted the provisional timetable for guidance during the session.

### **Credentials**

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

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

2.1 The Committee noted the information provided in documents FAL 37/2 and FAL 37/2/Add.1 (Secretariat), in relation to the outcomes of the work of TC 60; C 105, LEG 97, MSC 88, COMSAR 15, LEG 98, MSC 89 and C 106, on matters of relevance to the work of the Committee and decided to consider the various issues which warrant action by the Committee under the respective agenda items.

2.2 The Committee noted the information provided by the Secretariat on the outcome of TC 61, and decided to address this information under agenda item 10.

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

3.1 The Committee recalled that FAL 35 had adopted amendments to the Annex to the Convention on Facilitation of International Maritime Traffic, 1965 (the Convention), with regard to the arrival, stay and departure of ships, arrival of persons and facilitation of clearance requirements for passengers, including cruise passengers in accordance with the provisions of article VII(2)(a) of the Convention. These amendments came into force in accordance with article VII.2(b), on 15 May 2010 as a result of no objections to those amendments having been received from any Contracting Government in the determined time period.

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

## **4 GENERAL REVIEW OF THE CONVENTION, INCLUDING HARMONIZATION WITH OTHER INTERNATIONAL INSTRUMENTS**

### **Status of the Convention**

4.1 The Committee noted the information provided in documents FAL 37/4 and FAL 37/4/Add.1 (Secretariat) and, in particular, that the Netherlands Antilles had ceased to exist as an autonomous country within the Kingdom of the Netherlands. With effect from 10 October 2010, the Kingdom of the Netherlands consisted of four autonomous countries: The Netherlands (European part and Caribbean part), Aruba, Curaçao and Sint Maarten, to which the Convention applied.

4.2 The Committee also noted that no new accessions to the Convention had been made in the two and a half years since FAL 35 and therefore the decision made by FAL 35 for reviewing the FAL Convention appears to be fully justified. The number of Contracting Governments to the Convention remains at 114 (including 3 non-Member States of IMO), the combined merchant fleets of which amount to approximately 90.3% of the world's fleet by tonnage. The Committee further noted that information on the Convention including a list of Contracting Governments is also displayed on the Organization's website ([www.imo.org](http://www.imo.org)).

4.3 The Committee urged those 58 Member States, which had not yet acceded to the Convention, to consider doing so as soon as possible in order to assist the Organization's efforts to promote wider acceptance of the Convention and adoption of measures contained therein and work towards the universal implementation of measures to facilitate international maritime traffic.

4.4 Following discussion, the Committee agreed that the provision of information on accession to the Convention had been useful during the process of the institutionalization of the FAL Committee. However, in order to align with the procedures of the other Committees and given that the information on accession to the Convention was available on the Organization's website, the Committee agreed that there was no need to continue with this sub-item of the agenda. The Committee further agreed that the promotion of facilitation of maritime transport would be made through the agenda item on Technical Co-operation.

#### **Approval of the Explanatory Manual to the Convention**

4.5 The Committee recalled that FAL 36 had finalized an explanatory manual giving guidance on interpreting the legal text of the provisions of the Convention and giving examples of best practices on the implementation of Standards and Recommended Practices.

4.6 The Committee noted that the Explanatory Manual to the Convention on Facilitation of International Maritime Traffic, 1965, as amended, had been issued as FAL.3/Circ.202 on 11 October 2010. The Committee further noted that the Manual will need to be kept under review and updated to reflect any future amendments to FAL Convention.

#### **Review of Standards and Recommended Practices**

4.7 The Committee recalled that FAL 34, in March 2007, had approved FAL.3/Circ.187 on Review of Standards and Recommended Practices in the Annex to the FAL Convention which annexed a questionnaire to all Member States to obtain up-to-date information from Contracting Governments concerning the differences registered to the Standards and the implementation of the Recommended Practices in the Annex to the Convention; and to find out what impediments to accession were being faced by non-Contracting Governments.

4.8 The Committee noted with concern that only four Contracting Governments and one Associate Member had provided the information requested, representing less than 4% of all Member States. Furthermore, only nine Contracting Governments had reported differences between their own practices and the Standards of the Convention since 2007, which represented a response rate of less than 8%.

#### **General Review of the FAL Convention**

4.9 The Committee recalled that FAL 35 had agreed to initiate a comprehensive revision of the Convention with a view to ensuring that it adequately addresses the present and

merging needs of the shipping industry as well as for modernization of its provisions, taking into account for example and, inter alia, developments in the field of the transmission of information and data by electronic means and the Single Window concept. FAL 35 invited Contracting Governments and Member States, especially the ones which encounter difficulties in acceding to the Convention, to submit relevant proposals together with associated justification, in terms of the philosophy to be followed when conducting such a review; new issues which might need to be addressed in the Convention; and existing provisions which might warrant amendment.

4.10 The Committee noted that in FAL 36 no such specific submissions addressing the review had been received by the Secretariat, and decided that during FAL 36 the Working Group on General Review and Implementation of the Convention could initiate the review by identifying such potential outdated sections and that this should be carried on intersessionally by a correspondence group.

4.11 The Committee recalled that FAL 36, taking into account that a number of provisions did not reflect modern industry standards, had encouraged Contracting Governments to submit proposals for amending the Convention, and to provide responses to the questionnaire developed for Member States in order to identify areas of difference with the Standards and implemented Recommended Practices.

4.12 The Committee noted that no submissions for a general review of the Convention had been received by the Secretariat.

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

4.13 The Committee considered the report by France, as chair of the Correspondence Group (document FAL 37/4/1). The report offered preliminary proposals to update the annex to the Convention, however, some of the terms of reference approved by FAL 36 were still pending and needed to be progressed.

4.14 The Committee noted that the Correspondence Group had not been able to agree on all issues addressed before the deadline for submission of the report. The proposed amendments related, inter alia, to the harmonization of the Convention with the WCO Safe Framework of Standards and the ISPS Code. Other proposed changes concerned the exclusive use of electronic means of providing information and the procedures for arrival and departure of persons as well as the provisions regarding stowaways.

4.15 The Correspondence Group further recommended that, in the longer term, the Convention should be made more binding. This would entail considering amendments, not only to the Annex of the Convention, through the procedure of article VII of the Convention, but also of the Convention itself through the procedure of article IX.

4.16 The Committee noted with appreciation the report of the Correspondence Group and the considerable work done on the reviewing of the Convention, in particular by its coordinator, Mr. Fabien Joret.

4.17 Noting that the participants in the Correspondence Group had included Denmark, France, the United Kingdom, the United States and the International Group of P&I Associations, the Committee agreed that, as this represented a limited membership and, taking into account the number of proposed amendments, all of the proposals should be discussed further in the Working Group on general review and implementation of the Convention (the Working Group).

4.18 The Committee agreed that the amendments to the Convention should enable a gradual transition from paper-based to electronic means of providing information, in such a way as to allow a period of time whereby both paper and electronic systems could coexist and both systems would be accepted by Contracting Governments.

4.19 The Committee agreed that references to other international instruments, for example, the ISPS Code and the WCO SAFE Framework of Standards, would need to be considered carefully and a balance between including their provisions in the annex and citing the source instruments in the Explanatory Manual to the Convention would need to be struck.

4.20 Delegations expressed concerns with a number of other aspects of the report of the Correspondence Group including a change of emphasis with respect to stowaways, shore leave, potential conflicts with Schengen States' legislation, and the use of the term "public policy" as against "public order". Following discussion, the Committee agreed to retain the term "public order" and that the term "public policy" should not be considered by the Working Group as the latter was too broad in its interpretation. The Committee agreed that the Working Group should examine each proposal in detail in order to establish, for future reference, what was being proposed, what was expected to achieve and what was not being achieved by existing Standards and Recommended Practices.

#### **Facilitation in avoiding safety threatening conditions**

4.21 The Committee recalled that FAL 32 had approved FAL.6/Circ.13 on Facilitation in avoiding safety threatening conditions. This guidance had been issued after considering the information provided on the number of incidents, wherein public authorities for various reasons refused or delayed the movement of material, equipment, fuel or any other supplies to ships which are essential for their safe operations. FAL 32 had agreed that public authorities should not unreasonably prevent, except in the case of judicial proceedings, the delivery of essential supplies to a ship.

4.22 The Committee recalled further that FAL 32 had acknowledged that the FAL Convention may need to contain specific provisions for facilitating the movement to a ship of materials, equipment, fuels and any other supplies which are essential for safe operation, and that FAL.6/Circ.13, inter alia, invited Contracting Governments to submit proposals to the Committee to amend the Convention accordingly.

4.23 The Committee agreed that the Working Group should consider FAL.6/Circ.13 and all other extant, relevant FAL circulars in its work, and instructed the Working Group accordingly.

4.24 The Committee recalled that MSC 88, having noted that the FAL Convention was currently under review, agreed to bring to the attention of the Committee aspects identified by the Working Group on Maritime security and piracy that should be taken into account during the revision. These included:

- .1 augmenting information associated with the impact of stowaways on issues related to safety, and specifically the available capacity of life-saving appliances provided on board and the total number of persons permitted;
- .2 systematically reviewing the use of the words "return" and "remove";
- .3 considering the issue of deviation from the planned voyage of a ship; and



- .4 systematically reviewing the use of the terms "attempted stowaway" and "stowaway".

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

4.25 The Committee agreed to consider documents FAL 37/8 (Secretariat) and FAL 37/8/5 (Islamic Republic of Iran) under this agenda item, and not under agenda item 8, because they concerned the possible amendment to the FAL Convention. The Committee recalled that the matter of shore leave and access to ships was clearly an ongoing problem, and that the 2002 SOLAS Conference incorporated the protection of the fundamental human rights of seafarers into SOLAS chapter XI-2 and the ISPS Code and the Preamble to the ISPS Code clearly states that the ISPS Code shall not be interpreted in a manner that is inconsistent with existing international instruments protecting the rights and freedoms of maritime and port workers. The Preamble also called to the attention of Contracting Governments that, in approving port facility security plans, they should be aware of the need for seafarers' shore leave and access to shore-based welfare facilities and medical care.

4.26 The Committee recalled that MSC 87 had issued MSC.1/Circ.1342 in May 2010 which stated inter alia:

"From a practical perspective, it is also important that port and port facility operators and security personnel seek a balance between the needs of security and the needs of the ship and its crew. Port facility operators and the port facility security officers should ensure coordination of shore leave for ship personnel or crew change-out, as well as access through the port facility for visitors to the ship, including representatives of seafarers' welfare and labour organizations and those concerned with the maintenance of ships' equipment and safe operation, with the Company in advance of the ship's arrival. A singular focus on the security of the port facility is contrary to the letter and spirit of SOLAS chapter XI-2 and the ISPS Code and has serious consequences for the international maritime transportation system that is a vital component of the global economy. It is further noted that the ILO/IMO Code of Practice for Port Security recommends that all port stakeholders work co-operatively to make such arrangements and advance plans."

4.27 The Committee recalled further that FAL issued FAL.3/Circ.201 in September 2010 which stated, inter alia that:

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

4.28 In considering document FAL 37/8 (Secretariat), the Committee noted that LEG 98, under the agenda item on fair treatment of seafarers in the event of a maritime accident, considered a document submitted by the Islamic Republic of Iran (LEG 98/6) providing information and observations concerning unfair treatment of seafarers due to nationality or religion, citing a number of cases where shore leave and access to shore-side medical facilities had been denied. Following discussion, LEG 98 requested the Secretariat to refer document LEG 98/6 and relevant sections of the report to FAL, in order that the Committee may consider them under the relevant agenda item, and take action as deemed appropriate. As requested by LEG 97, internal consultations have been held with the Secretaries of MSC and FAL and there has been agreement that the issues raised were solely within the purview

of FAL, under the relevant provisions of the Convention on Facilitation of International Maritime Traffic, 1965.

4.29 The Committee considered document FAL 37/8/5 (Islamic Republic of Iran) that provided some observations on document FAL 37/8 concerning the necessity of amending the relevant Standard of the FAL Convention (Standard 3.44), to reduce discriminatory treatment based on their nationality or religious belief in respect of shore leave and access to shore-side medical facilities.

4.30 Most delegations that spoke noted that the issues raised were very important and deserving of further study, and expressed concern on the unjustified denial of shore leave and the refusal to provide medical facilities. The Committee agreed to refer documents LEG 98/6 and FAL 37/8/5 to the Working Group on General review and implementation of the Convention, for consideration, and possible amendment of the FAL Convention.

4.31 In deliberating whether to amend both the Convention and the Annex (in accordance with articles IX and VII, respectively) or to amend the Annex only, and whether to make the Convention more binding, the Committee noted that:

- .1 a comprehensive revision with the aim of changing the text of the Convention would require a request by not less than one third of the Contracting Governments and could be a lengthy process;
- .2 changes to the Annex only could be achieved through the tacit agreement procedure, in line with article VII of the Convention, and would thus be easier to adopt;
- .3 the Convention could be made more binding by putting more stringent provisions in the Annex; and
- .4 however, article VIII allows for Contracting Governments to notify a difference if it finds it impractical to apply a Standard of the Convention.

4.32 The Committee agreed to instruct the Working Group to continue on a general review of the Annex to the Convention with a view to adoption under the tacit acceptance procedure.

4.33 The Committee agreed that the Working Group should not consider amendments to the articles of the Convention at this stage but invited Member States to submit proposals to future sessions of the Committee on appropriate ways to amend the Convention.

#### **Establishment of the Working Group**

4.34 The Committee established the Working Group on General review and implementation of the Convention under the Chairmanship of the Committee's Vice-Chairman, Mr. Broekema (Netherlands), and instructed it, taking into account documents FAL 37/4/1, FAL 37/6, FAL 37/8/5, FAL.6/Circ.13, other relevant FAL circulars and FAL 36/WP.2, and comments made and decisions taken in plenary, to:

- .1 re-examine the proposals made by the Correspondence Group in detail and examine the Annex to the FAL Convention as a whole and make recommendations on proposed amendments, including justification for such amendments;

- .2 identify the remaining items of the terms of reference not discussed by the Correspondence Group created by FAL 36, and consider if they are still relevant (or whether any clarification is required from plenary);
- .3 consider the proposal made by the Islamic Republic of Iran, in document FAL 37/8/5 and LEG 98/6 and assess the need for amendments and submit any proposed amendments;
- .4 consider whether it is necessary to re-establish the Correspondence Group on General Review of the FAL Convention; if so advise the Committee as appropriate and prepare draft terms of reference, including those relevant remaining from the previous Correspondence Group; and
- .5 submit a report to plenary on Thursday, 8 September 2011.

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

4.35 Having received the report of the Working Group (FAL 37/WP.5), the Committee approved it in general and took action as described in the following paragraphs.

4.36 The Committee endorsed the Group's proposal on the presentation of the draft amendments during the comprehensive revision of the Annex to the Convention whereby the explanatory footnotes should be retained throughout the revision process as they indicated the rationale for the amendments made.

4.37 The Committee noted that the Group had had a lengthy discussion on including visa requirements in the FAL Crew List as well as in the FAL Passenger List as proposed by the intersessional Correspondence Group in Standards 2.6.1, 2.7.3 and Recommended Practice 3.6. The issue was further discussion in plenary, with a balance between those Contracting Governments wishing to delete the reference to visa requirements and those wishing to discuss the matter further. The Committee recalled that it had agreed that any changes to the Annex to the Convention needed to be fully justified and that the addition of visa requirements would be a change. The Committee decided not to conclude the discussion at this stage but decided that the matter should be discussed further in the new correspondence group, which should have a wider membership. Member States were also invited to submit specific proposals to FAL 38.

4.38 The Committee noted further the Group's discussion on Standard 3.44 during which the Islamic Republic of Iran informed the Group that it intended, in the absence of any concrete proposal, to provide amended text on Standard 3.44 to the next session of the Committee.

4.39 During its comprehensive review, the Group identified areas and terms in the Annex to the Convention that would be better addressed in the Explanatory Manual to the Convention. The Committee concurred with the Group's view that there would be a need for further updating of the Explanatory Manual and agreed to identify such areas in the future work on the comprehensive review.

4.40 The Committee agreed that proposals to amend the Articles of the Convention should be the subject of written submissions to the Committee. The Committee agreed further that substantial work was needed to complete the comprehensive review of the Annex to the Convention and established the Correspondence Group on the Comprehensive

Review to the Annex of the Convention under the coordination of France\* with terms of reference set out in paragraph 4.41.

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

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

- .1 make further progress on the general revision of the Annex to the FAL Convention;
- .2 identify the scope for harmonizing the provisions of the Annex to the Convention with the current security requirements of relevant IMO instruments;
- .3 take into account the areas of review as identified by the Committee at earlier sessions and which are outlined in document FAL 36/4;
- .4 identify duplicative requirements of pre-arrival notifications for cargo-security and passenger information purposes and advance arrival/departure notification, and make recommendations for harmonization of these various requirements;
- .5 identify outdated provisions in the current Standards and Recommended Practices taking into account the incorporated requirements of other international conventions, for example in Section 5 part C, Standard 7.4 and Recommended Practice 6.2;
- .6 investigate the need to develop new definitions which, inter alia, could include definitions for "declarant" or "stuffing of containers" bearing in mind the current globally used industry's terminology;
- .7 identify the changes needed to align the FAL forms with the proposed changes of Standards 2.6.1 (Crew List) and 2.7.3 (Passenger List);
- .8 consider the remaining issues identified by MSC 88 which are:
  - .1 augmenting information associated with the impact of stowaways on issues related to safety, and specifically the available capacity of life-saving appliances provided on board and the total number of persons permitted; and
  - .2 systematically reviewing the words "return" and "remove";

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- .9 consider FAL.6/Circ.13 on Facilitation in avoiding safety threatening conditions;
  - .10 take into account the identified areas for amendment of the Explanatory Manual as set out in paragraph 6 of document FAL 37/WP.5 and in the course of the review of the Annex to the Convention, identify further guidelines that need to be included in the Explanatory Manual;
  - .11 consider whether privately contracted armed security personnel (PCASP) should be classed as supernumeraries, rather than as crew or passengers as provided in the Convention, and the need for harmonization with other international instruments (FAL 37/WP.7, paragraph 4.8); and
  - .12 submit its report to the next session of the Committee listing the contributing States and organizations in consultative status that participated in the Correspondence Group as well indicating the author of any draft proposal in the revised text of the Annex to the Convention.

## **5 E-BUSINESS POSSIBILITIES FOR THE FACILITATION OF MARITIME TRAFFIC**

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

5.1 The Committee recalled that FAL 36 had approved a draft revised IMO Compendium on Facilitation and Electronic Business (FAL 36/WP.3, annex 1) with a view to final approval at FAL 37; and approved the draft EDI message implementation guidelines for transmitting security-related information to the duly authorized officer (FAL 36/WP.3, annex 2), prepared in response to MSC/Circ.1130 on Guidance to masters, Companies and duly authorized officers on the requirements relating to the submission of security-related information prior to the entry of a ship into port and instructed the Secretariat to forward both the draft EDI message and its related draft declaration form, prepared by the Correspondence Group in response to the request of MSC 86 (MSC 86/26, paragraph 4.2.3), to MSC 88 for further consideration on security-related issues.

5.2 The Committee also recalled that FAL 36 had re-established the Correspondence Group on Electronic Means for the Clearance of Ships and instructed it to, subject to the decisions of MSC 88 and without waiting for any decision from this Committee, update, if necessary, the draft revised IMO Compendium on Facilitation and Electronic Business with message implementation guidelines for transmitting security-related information.

5.3 The Committee further recalled that MSC 88 had considered the draft EDI message implementation guidelines for transmitting security-related information to the duly authorized officer and its security-related declaration form (MSC 88/4/4, annexes 1 and 2, respectively) and noted that there were several apparent inconsistencies between the numbering and the terminology used in the information elements of the draft EDI message and the corresponding requirements of MSC.1/Circ.1305, which had superseded MSC/Circ.1130, to include the IMO Company identification number. Consequently, MSC 88 requested the Committee to revise the security-related information declaration form so as to make it consistent with the numbering and terminology given in MSC.1/Circ.1305 and agreed that it should be incorporated in an updated version of MSC.1/Circ.1305 in the future. MSC 88 further endorsed, as a work in progress, a draft MSC circular on Revised guidance to masters, Companies and duly authorized officers on the requirements relating to the submission of security-related information prior to the entry of a ship into port (MSC 88/WP.6,

annex 2) and recommended that the circular be approved after this Committee finalizes the EDI message for the transmission of security-related information.

5.4 The Committee noted that the Secretariat, according with the request of MSC 88, had conveyed the outcome of MSC 88 to the coordinator of the Correspondence Group on Electronic Means for the Clearance of Ships with a view of updating the draft EDI message implementation guidelines for transmitting security-related information to the duly authorized officer accordingly and confirming the necessary changes with representatives of WCO and UN/CEFACT.

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

5.5 The Committee noted with appreciation the report of the Correspondence Group and the considerable work done on reviewing of the compendium, in particular by its coordinator, Mr. Roger K. Butturini (United States).

5.6 In considering the report of the Correspondence Group, the Committee noted that there were some minor differences between the contents of MSC.1/Circ.1305 and the Security-related Information Declaration that appears in the annex to document FAL 37/5. The Committee agreed that the Working Group should review this matter, in order to be sure the information in the Security-related Information Declaration was consistent with the information approved by MSC.

5.7 The Committee considered the possibility of including further security-related information in the Security-related Information Declaration, including guidance on the necessity of preparing an EDIFACT message on privately contracted armed security personnel (PCASP) or on voyage number, but agreed that it was not appropriate unless specifically requested to do so by MSC. The Committee decided that the Working Group should focus on finishing the Compendium on facilitation and electronic business, but might request further guidance from MSC on new information to be added in the Security-related Information Declaration.

5.8 The Committee noted the statement of WCO that it had included all data elements as required by the draft review of the Compendium in version 3.2 of the WCO Data Model. This version will be issued by the end of October 2011. Some data maintenance requests had been submitted to the EDIFACT board to amend code lists. The EDIFACT message for the use in a Single Window environment, the GOVCBR, will be updated in a later stage.

5.9 The Committee agreed on the proposal made by the Correspondence Group that the Secretariat seeks to be included on the UN/CEFACT Customs Domain Group (TBG4) distribution list and advise Contracting Governments of actions affecting the recommended FAL EDI messages via an appropriate intersessional document or report. The Committee noted that this new mission should not have major budgetary implications, and should be able to be accomplished within the present resources of the Secretariat.

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

5.10 The Committee recalled that its Role, Mission, Strategic direction and work of the Committee, and also reflected in resolution A.1012(26) High-level Action Plan of the Organization and priorities for the 2010-2011 biennium inter alia, provided that the Committee should encourage the use of information and communication technology to drive continuous improvement and innovation in the facilitation of maritime traffic. In particular, to promote the wider use of the single window concept for pre-arrival information, to allow all the information required by public authorities to be provided by a visiting ship to a port

through one point of entry but which is secure and reliable; consider the most appropriate way to facilitate the process of clearing the ship, its cargo, passengers and crew, by using information technology solutions; and to identify possible technical assistance measures to expand information technology and e-business in the area of maritime traffic, particularly in developing countries.

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

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

5.13 The Committee also recalled that after discussion FAL 35 established a correspondence group under the coordination of Brazil to continue the work on the development of Guidelines intersessionally.

5.14 The Committee recalled that FAL 36 had noted the progress made by the Correspondence Group on the development of guidelines for setting up a Single Window system in maritime transport (FAL 36/5/1) and agreed that its report should be used as the basic document for the further development of Guidelines for setting up a Single Window System for the maritime transport. Accordingly, the Committee re-established the Correspondence Group, under the coordination of Brazil, and instructed it to update and finalize, with a view of approval at this session of the Committee, the draft guidelines for setting up a Single Window system in maritime transport, taking into consideration the comments provided by the Working Group on Electronic means for the clearance of ships and, in particular, related documents submitted at FAL 36.

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

5.15 The Committee noted with appreciation the report of the Correspondence Group in document FAL 37/5/1 (Brazil) and the considerable work done on the development of guidelines for setting up a Single Window system, in particular by its coordinator, Capt. L. Resano (Brazil).

5.16 In considering document FAL 37/5/2 (Republic of Korea), the Committee noted that the Republic of Korea provided a technical methodology approach for implementing a Single Window system in maritime transport. The methodology was based on the use of Service-oriented architecture (SOA) and described the necessary steps for designing and implementing a service for a Single Window system in maritime transport (i.e. plan, analysis, design, implementation, test and delivery).

5.17 The Committee noted that document FAL 37/5/4 (Japan) described the development of Japanese Single Window system. This system enables users such as shipping agents and forwarders, etc. to submit applications for port-related procedures to all government offices at the same time through a single transmission.

5.18 In document FAL 37/INF.2, Israel provided information on a case study done by the Israel Ports Development and Asset Company describing the functioning of an integrated community system for managing IMO Crew Lists and electronically monitoring the entrance of seamen into the country.

5.19 The Committee also noted that document FAL 37/INF.3 (Norway) provided information on the establishment of a Single Window system in Norway through a vessel traffic monitoring and information system called "SafeSeaNet-Norway". The system was based on the European Union's efforts to facilitate electronic ship reporting and on the European SafeSeaNet system and had been extended to serve the mandatory ship reporting requirements for several governmental agencies in Norway.

5.20 The Committee noted that the information provided by EC in respect of directive 2010/65/EU, on Reporting formalities for ships arriving in or departing from the European Union ports. The aim of the directive is to have the information submitted only once. For this purpose, the European Union Member States are required to provide electronic single window services no later than 1 June 2015. After this date, no notifications, including FAL forms, will be accepted in paper format.

Based on this directive, when the Single Window is in place, European Union Member States have to ensure that the received information is shared between competent authorities within a Member State and between the Member States via SafeSeaNet system. National authorities should not ask for any information that has already been submitted.

An expert group has been established for the coordinated implementation of national single window systems, and the technical implementation is expected to start no later than 2014 in those Member States not having single window services in place. Furthermore, European Union Member States already possessing such systems will need to take necessary measures, in order to ensure their compatibility with SafeSeaNet and harmonized user experience.

5.21 The Committee, taking into account the national window systems detailed in documents FAL 37/5/2, FAL 37/5/4, FAL 37/INF.2 and FAL 37/INF.3, as well as oral interventions of other Member States, urged Contracting Governments to present their national experiences to FAL 38.

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

### **Establishment of the Working Group**

5.23 The Committee re-established the Working Group on Electronic means for the clearance of ships, under the chairmanship of Mr. K. Itoh (Japan), and instructed it, taking into account documents FAL 37/5, FAL 37/5/1, FAL 37/5/2, FAL 37/5/4, FAL 37/INF.2 and FAL 37/INF.3 and the relevant discussions and decisions in plenary, to:

- .1 prepare a draft FAL circular on Revised Compendium on Facilitation and Electronic Business using as a basis document FAL 37/5, for approval by the Committee;
- .2 prepare a final draft of the Security-related Information Declaration using as a basis document FAL 37/5, for approval by the Committee and with the view of forwarding it to MSC 90;



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- .3 prepare a draft FAL circular on Guidelines for setting up the Single Window system in maritime transport using as a basis document FAL 37/5/1 and taking into consideration documents FAL 37/5/2, FAL 37/5/4, FAL 37/INF.2 and FAL 37/INF.3, for approval by the Committee;
  - .4 taking into account the information provided in documents FAL 37/5/3 and FAL 37/5/3/Add.1, and taking into consideration documents FAL 36/7, FAL 37/7/1 and FAL 37/7/2, prepare a road map of actions to be taken to put in place the system of online access to certificates and documents or a ships based system to achieve the same results, and consider whether it is necessary to re-establish the Correspondence Group on Electronic Access to Certificates and Documents; if so advise the Committee as appropriate and prepare draft terms of reference; and
  - .5 report to plenary on Thursday, 8 September 2011.

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

5.24 Having received the report of the Working Group (FAL 37/WP.6 and FAL 37/WP.6/Add.1), the Committee approved it in general, discussed at length the recommendations of the Group and took action as indicated in the following paragraphs.

5.25 The Committee endorsed the updated version of the draft security-related information declaration, as set out in annex 2 of document FAL 37/WP.6/Add.1, and requested the Secretariat to forward it to MSC 90.

#### **IMO Compendium on Facilitation and Electronic Business**

5.26 The Committee approved FAL.5/Circ.35 on Revised IMO Compendium on Facilitation and Electronic Business.

#### **Guidelines for setting up the Single Window system in maritime transport**

5.27 The Committee approved FAL.5/Circ.36 on Guidelines for setting up the Single Window system in maritime transport.

5.28 The Committee invited Member States, international organizations and non-governmental organizations in consultative status to continue sharing their experiences on Single Window with the Committee and, in particular, with regard to the use of the Guidelines.

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

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

6.1 The Committee noted that no documents had been submitted for consideration under this specific sub-item.

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

6.2 The Committee noted information from the Secretariat that since FAL 36, the Secretariat had issued FAL.2/Circs.120 and 122 which are reports setting out the information reported to the Organization in relation to stowaway incidents from August to December 2010, and January to April 2011, respectively. The annual statistics for 2010 are set out in FAL.2/Circ.121.

6.3 According to these reports, 494 stowaway cases were reported to the Organization in 2008, 314 in 2009, 253 in 2010 and 47 until August 2011. In terms of numbers of stowaways, the cases reported to the Organization involved 2,052 stowaways in 2008; 1,070 in 2009, 721 in 2010 and 147 until August 2011.

6.4 Reports on stowaway incidents were received by the Organization from nine Member States; one Associate Member and one NGO in 2008; from eight Member States, one Associate Member and one NGO in 2009, from five Member States and one Associate Member in 2010, and one Member State in 2011.

**Stowaway cases and stowaways**

Year	2008	2009	2010	2011
Stowaway cases	494	314	253	47
Stowaways	2,052	1,070	721	147

**Reporting sources**

Year	2008	2009	2010	2011
Member States	9	8	5	6
Associate Members	1	1	1	0
NGOs	1	1	0	0

6.5 The Committee noted that the total number of reports received by the Organization until 15 August has been 4,173, which involved 13,346 stowaways.

6.6 The Committee noted that the need for submitting reports has been repeatedly stressed and naturally the situation is not satisfactory and the low number of reporting sources does not provide any confidence on the objectivity of the statistical information.

6.7 The Committee further noted that in a significant number of cases, the reports submitted continued to be incomplete and this prohibited the analysis of the information and the drawing of conclusions.

6.8 In considering document FAL 37/WP.4 (Secretariat), the Committee noted that operative paragraph 4 of resolution A.1029(26) on the Global Integrated Shipping Information System (GISIS) urges Member States to make as much use as possible of the GISIS reporting facilities regarding data to be provided on a non-mandatory basis and to support the development and harmonization of the collection of data provided voluntarily. The Committee noted that the proposal to establish a new module to collect and display:

- .1 reports on stowaway incidents, referred in FAL.2/Circ.50/Rev.2;
- .2 reports on unsafe practice associated with the trafficking or transport of migrants by sea, referred in MSC/Circ.896/Rev.1;
- .3 information on the Contact Addresses of the Offices of Designated National Authorities and International Organizations for Facilitation purposes (the last circular was FAL.5/Circ.33);
- .4 information on E-addresses of Governmental Authorities for Facilitating the exchange of electronic information (last circular was FAL.5/Circ.34);
- .5 the differences between States' own practices and related Standards, in accordance with article VIII(1) of the FAL Convention, which is referred in FAL.3/Circ.187;
- .6 notification of Contracting Governments when their formalities, documentary requirements and procedures bring into accord with the Recommended Practices, in accordance with article VIII(3) of the FAL Convention, which is referred in FAL.3/Circ.187; and
- .7 information on experience gained with the provisions of the Convention or the Guidelines and the measures taken and obstacles encountered with their implementation, referred in FAL.2/Circ.50/Rev.2.

6.9 The Committee approved the proposal with respect to reports on stowaways, subject to the Member States and organizations in consultative status also retaining the right to submit such information by hard copy.

6.10 The Committee considered that it would be premature to approve the development of GISIS modules to address the other issues and, in particular subparagraphs .4, .5, .6 and .7 above and suggested that the issue be given further consideration at FAL 38. Some Member States expressed the concern that it was not clear if the information provided by electronic means would replace the requirement of notification to the IMO through paper form.

6.11 The Committee recalled that at FAL 36, P&I Clubs had presented an analysis of claims data collated by the International Group of P&I Clubs on stowaways cases from 20 February 2007 to 20 February 2008 (document FAL 36/6). FAL 36 had noted that there was a significant difference between the official statistics published by the Organization on stowaway cases, which are primarily received from flag States and port States, and those of the P&I Clubs and that the statistics published by the Organization based on reports received apparently under-reported the scale of the problem. Some delegates to FAL 36 had suggested to obtain regular information from P&I Clubs to enhance the statistics reported to the Organization, but the P&I Clubs pointed out the complexity and cost of compiling such statistics which derived from manual inspection of the claims arising after the incidents, and took the view that quarterly statistics would be too complex to produce from their sources.

6.12 In considering whether to make a specific request to P&I Clubs to provide detailed information with respect to stowaway cases, the Committee noted that FAL.2/Circ.50/Rev.2 invited all Member Governments and international organizations in consultative status to provide information on stowaways. Some delegations therefore did not support a specific request to P&I Clubs, however, the Committee requested P&I Clubs to consult with its membership and see if the information could be provided on a regular basis.

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

6.13 The Committee recalled that resolution A.1027(26) on Application and revision of the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases, authorized the Maritime Safety Committee (MSC) and the FAL Committee to develop and adopt jointly any necessary amendments to the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases, required as a result of the introduction of the new section 4 (Stowaways) in the Annex to the FAL Convention, which entered into force on 1 May 2003.

6.14 The Committee further recalled that FAL 36 developed and approved Revised Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases, as set out in FAL 36/17, annex 6, with a covering resolution as set out in annex 1 to FAL 37/6, and invited MSC 88 to consider these from an MSC viewpoint with a view to adoption as an MSC resolution and subsequent adoption as a FAL resolution by FAL 37.

6.15 The Committee noted that MSC 88 had considered the draft guidelines and related covering resolution and, noting that much care had been taken by FAL 36 to align the text in the revised Guidelines with that used in the FAL Convention, agreed to follow the same principle when revising the text to augment and supplement the existing provisions with the preventative measures specified in section 4 of the FAL Convention and those contained in SOLAS chapter XI-2 and the ISPS Code. Consequently, MSC 88 drafted a new covering MSC resolution to the Guidelines, and made a number of related revisions to the draft Guidelines themselves, which are outlined in paragraph 4 of the document.

6.16 The Committee considered the revised guidelines approved by MSC 88, as set out in annex 2 of FAL 37/6, with a view to adoption at this session. One delegation suggested that there were some discrepancies between the content of the guidelines and section 4 of the Convention. However, taking into account the urgent need to approve the guidelines, and given the ongoing review of the Annex to the Convention, the Committee decided not to make further changes to the guidelines at this stage. The Committee noted that the guidelines approved would need to be reviewed following approval of any amendments to the Annex of the Convention.

6.17 The Committee considered the covering FAL resolution as set out in annex 1 of document FAL 37/6, and decided to send the covering FAL resolution to the Working Group on securing and facilitating international trade for a final review, with a view to subsequent adoption by the Committee.

**IMO Stowaway Focal Point**

6.18 The Committee recalled that FAL 34 had requested the Secretary-General to establish within the Secretariat an IMO Stowaway Focal Point on a trial experimental basis. FAL 35 and FAL 36 had noted that the Secretariat had been requested to assist in only a very limited number of cases of stowaways on board ship, with a view to the effective

disembarkation of such stowaways at the next port. FAL 36 had decided that there was value in continuing with the trials and agreed to continue the trial of the IMO Stowaway Focal Point and to report to FAL 37 the experience gained; and agreed to review the experience gained during FAL 37 before taking any further action.

6.19 The Committee noted the low level of activity of the Focal Point reported by the Secretariat. The Committee requested the Secretariat to provide more detailed information to FAL 38 on the number of times the Focal point was used and what action was taken, in order to take a more informed decision on whether to discontinue the trial of the IMO Stowaway Focal Point. In the meantime the Committee agreed to continue the trial of the IMO Stowaway Focal Point until FAL 38.

6.20 Noting that the increasing problem of stowaways was in large part due to a lack of proper implementation of physical security measures and access controls on board ships and within port facilities, the Committee recalled Member States' obligations to implement fully the provisions of SOLAS chapter XI-2 and the ISPS Code and, in particular, the requirement for flag States to assess, on a continuous basis, all threats to ships entitled to fly their flag; to set the security level accordingly; and to ensure that ships implement fully the security procedures appropriate to the security level as detailed in the ship security plan.

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

#### *Illegal migrants incidents*

6.21 The Committee noted that since FAL 36, the Secretariat had issued MSC.3/Circ.19, giving information on unsafe practices associated with the trafficking or transport of migrants by sea for the period 30 January 2009 to February 2010. 55 incidents of illegal migrants transported by sea were reported to the Organization in 2008, 381 incidents were reported in 2009, and 86 incidents were reported in 2010.

6.22 In terms of numbers of illegal migrants, the cases reported to the Organization involved 1,266 illegal migrants in 2008, 8,747 in 2009, and 2,376 in 2010. During 2011, from 1 January to 15 August, the Organization had received 25 reports of illegal migrants transported by sea, involving 4,396 migrants.

6.23 The total number of incidents related to unsafe practices associated with the trafficking or transport of migrants by sea reported to the Organization for the period between 1 January 1999 and 15 August 2011 is 1,800 and it involves 78,899 illegal migrants.

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

6.24 The Committee recalled that FAL 36 agreed with its Chairman's view that the crux of the issue with persons rescued at sea was not just an ordinary search and rescue incident which were taken care of in normal operational procedures, but was in reality the disembarkation of large numbers of persons rescued at sea who turned out to be undocumented migrants or asylum seekers after being transported/trafficked, often in small unseaworthy boats. This has considerable effects on the facilitation of international maritime traffic and as such, while the issue is very complex, the FAL Convention might be the best instrument to assist in regard to the disembarkation of such people. FAL 36 agreed with Chairman's view that in the light of experience gained, the very minor changes to the Convention in the 2005 Amendments had not focused on the actual crux of the matter and were clearly insufficient to enable effective disembarkation of such persons, bearing in mind the complexity of the problem. The Committee invited Contracting Governments to the

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

6.25 The Committee recalled that FSI 19 had agreed to await the outcome of COMSAR 15 and FAL 37 before considering further the measures to protect the safety of persons rescued at sea and agreed to extend the current target completion date to 2012.

6.26 The Committee further recalled that COMSAR 15 had concluded by inviting MSC 89 to extend the current target completion date to 2012, and that the parties concerned should meet again as early as possible to take stock and review the situation; and eventually consider the expansion of the group to other interested parties in the light of the development of a draft regional agreement as a "pilot scheme" which, if successful, could be extended to other parts of the world experiencing the same or similar situations.

6.27 The Committee recalled also that MSC 89 agreed to extend the current target completion date to 2012. The Committee further noted document MSC 89/INF.23 (Secretariat), providing information on the progress made in the development of a draft Regional agreement on concerted procedures relating to the disembarkation of persons rescued at sea.

6.28 The Committee further noted that in regard to UN Inter-agency cooperation, while there have been no formal inter-agency meetings since FAL 36, the Secretariat has continued to liaise closely with UNHCR, in particular, and with other relevant agencies in incidents involving the rescue of persons at sea who subsequently turn out to be undocumented migrants. Such an inter-agency effort focusing on State responsibilities for non-rescue issues, such as immigration and asylum that are beyond the competence of IMO, is an essential complement to IMO efforts.

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

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

6.31 The Committee noted the progress made on the development of a draft Regional agreement on concerted procedures relating to the disembarkation of persons rescued at sea, according to the terms of reference of a consultation group, prepared by the Secretariat in cooperation with interested parties, which would include Italy, Malta and Spain, and was ready to move the process forward expeditiously.

6.32 The Committee noted that three meetings of the consultation group had been held: the first in July 2010; the second in April 2011, and the third in June 2011. The third meeting further developed the Terms of Reference attached at annex to document FAL 37/6/1 and discussed a draft Regional Agreement on concerted procedures relating to the disembarkation of persons rescued at sea. This meeting agreed further, inter alia, that the consultation group should be expanded and, as a first expansion step, all Mediterranean countries should be invited to the next, regional meeting; and the regional meeting should be

held back-to-back with the World Maritime Day parallel event in Rome, Italy, on 12 October 2011. The venue will be advised by Italy in due course. The Secretariat had been advised by the consultation group that the intention was to develop the regional agreement in the form of a Memorandum of Understanding. An invitation to participate in the meeting was promulgated via Circular letter No.3203 dated 18 August 2011, and the Committee noted that the completed registration forms, should be sent by fax or e-mail, by Wednesday, 5 October 2011, at the latest.

6.33 The Committee noted the intervention made by the delegation of Italy acknowledging the good offices of the Secretary-General with the Member States concerned, that have enabled progress to be made on the development of a draft "Regional Memorandum of Understanding on concerted actions and procedures relating the disembarkation of persons rescued at Sea". The delegation of Italy highlighted the strong willingness to progress the process by hosting the Rome meeting scheduled for the 12 October 2011 at "Palazzo Colonna".

6.34 Spain expressed appreciation for the work of the Secretary-General during this process, which has been very important in the success of the project. The MoU will be a very useful tool to tackle the different aspects of disembarking persons rescued at sea, and for the port States, coastal States and the crewmembers of ships who rescued persons at sea.

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

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

7.1 The Committee recalled that FAL 36 had revised and updated FAL.2/Circ.87-MEPC/Circ.426-MS/Circ.1151 and forwarded it to MSC 88 for further consideration and revision prior to forwarding to MEPC 62 for their consideration, and questioned whether it is still appropriate for the FAL Committee to initiate these revisions of the circular.

7.2 The Committee further recalled that FAL 36 considered that future revisions of the document may well be more effectively initiated by the MSC and in particular from one of its sub-committees such as the FSI Sub-Committee. Accordingly, the Committee instructed the Secretariat to bring this to the attention of the MSC and invited that Committee to consider whether it would be prepared to keep the circular under review in this way.

7.3 The Committee noted that MSC 88 approved the proposed amendments to the draft revised list of certificates and documents required to be carried on board ships, subject to further consideration by MEPC 62, and further concurred with FAL 36 and agreed, subject to concurrent decision by MEPC 62, with the suggestion that future revisions of the list should be initiated by the MSC on a regular basis.

7.4 The Committee further noted that MEPC 62 concurred with the action by MSC 88 on the approval of the proposed amendments to the draft revised list of certificates and documents required to be carried on board, but decided to defer, for time constraints, the consideration of the proposal that future revisions of the list of certificates and documents required to be carried on board ships should be initiated by the MSC on a regular basis.

7.5 The Committee noted that the new list will be disseminated through the appropriate FAL, MSC and MEPC circulars.

7.6 The Committee, taking into account the decision made in FAL 36 as well in MSC 88 and MEPC 62, decided to remove the subitem on the List of certificates and documents required to be carried on board ships from the agenda of the Committee.

#### **Implementation of IMO FAL Forms 1 to 7**

7.7 The Committee noted that no documents had been submitted for consideration under this subitem. Taking into account that no documents had been submitted in the last few sessions of the Committee, and that IMO FAL Forms are already included in the FAL Convention, the Committee agreed to remove this subitem from the agenda.

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

7.8 The Committee recalled that FAL 35, after discussion, had reiterated its view that online access to certificates and documents required to be carried on board ships was still a long-term objective. The identification of the certificates and documents in question was especially important as, during MSC 81, a number of Member States had expressed the view that an electronic access to certificates would not be considered as an alternative to the physical inspection of the certificates and could, possibly, serve in the context of the prioritization of port State control inspections.

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

7.10 The Committee recalled that FAL 36 had approved the report in general of the Correspondence Group (FAL 36/7) and referred the report to the Working Group on Electronic clearance for ships. The Committee reiterated its view that the matter of online certificates and documents was a vital component in the more efficient clearance of ships and recognized the advantage of utilizing such methods. The legal issues must be considered and this would be reflected in the response of PSC Officers in relation to online certificates. On receiving the report of the Working Group, document FAL 36/WP.3, the Committee discussed the issue and requested the Secretariat to forward the questionnaire on Online access to Certificates and Documents to the MSC and the MEPC for further consideration and seek their opinion on making available electronic copies of documents and certificates on board ships for facilitation purposes.

7.11 The Committee recalled that MSC 88 had considered the questionnaire forwarded by FAL 36, and requested to circulate the questionnaire as developed by FAL 36, in the form of a FAL circular (FAL.3/Circ.203), subject to concurrence by the Chairmen of the MEPC and the FAL Committee, so that FAL 37 could receive sufficient feedback for its further consideration on this matter.



7.12 The Committee noted that FAL.3/Circ.203 was issued on 12 January 2011, inviting Member Governments to bring the questionnaire to the attention of all parties concerned, including port State control authorities, public authorities, ships' masters, agents and operators. The Secretariat received the responses of eleven Member States and one Associate Member.

7.13 The Committee noted the following main conclusions of the analysis of the replies to the questionnaire:

- .1 the replies were positive to the continuation of the project, and indicated that it would be useful for the clearance of the ships;
- .2 some guidelines or instructions on the use of electronic versions of ships certificates and electronic signatures would be needed by port State control officers;
- .3 the project would need 5 or 7 years to be finished;
- .4 the United States would accept electronic certificates on statutory certificates, but not on any official logbooks that require authentication of compliance by ship's crew;
- .5 most of the Member States would allow recognized organizations to enter information in the database; and
- .6 most of the Member States considered that the database should be restricted, and there was no agreement on who should run the online system: Member States or IMO, but it is clear that they do not want it done by a commercial third party.

7.14 The Republic of Korea introduced document FAL 37/7/1, on the study of the model for the Certified e-Document Authority, that had been proposed for the purpose of reducing the use of paper documents and allowing the use of relevant data without the limit of time and space by storing data in an electronic repository. In this document, a model of Certified e-Document Authority suitable for maritime transport is proposed, and elaboration is made on a few cases that are applicable to ships.

7.15 In document FAL 37/7/2, IACS provided the comments made on document FAL 37/7/1, in particular the concept and practical operation of a "Certified e-Document Authority", and believed that online access to relevant information should remain an objective of the Organization, and made some observations on the questionnaire, as IACS issues many certificates and documents when acting as RO on behalf of Member States.

7.16 The Committee noted that MSC, MEPC and LEG had not indicated whether they favoured the development of the system and whether they were prepared to adopt the necessary amendments to the various instruments under their respective purview through which, inter alia, the existence of certificates and documents in an electronic format would be accepted as an alternative to the paper printed ones, in a similar manner as the Committee had done with respect to the IMO FAL forms. The Committee recalled that FAL 35, with a view to enabling them to conduct structured discussions of MSC, MEPC and LEG, pointed out that a provisional list of certificates and documents was provided in the annex to document FAL 34/9, and the advice that in terms of technology the establishment of an online system was possible.

7.17 The Committee noted the necessity of identifying the compelling need of the project, their potential users and the benefits of the project, but it was agreed that the availability of the information would be beneficial to Port State Control officers, who would have the information of the ship before its arrival, and it could identify better the ships to be inspected as well as reducing of the time of the PSC inspection.

7.18 The Committee agreed to refer the analysis of different approaches to the system to the Working Group, to consider, as an alternative to the online system, a simpler procedure consisting on the ship sending to the port the electronic copies of certificates held on board as an attachment to the arrival message.

7.19 The Committee decided to instruct the Working Group on Electronic clearance for ships, that with the information provided in the questionnaires, and taking into consideration documents FAL 36/7, FAL 37/7/1 and FAL 37/7/2, to prepare a road map of actions to be taken to put in place the system of online access to certificates and documents or a ships based system to achieve the same results, and consider whether it is necessary to re-establish the Correspondence Group on Electronic Access to Certificates and Documents; if so advise the Committee as appropriate and prepare draft terms of reference.

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

7.20 Having received the report of the Working Group (FAL 37/WP.6 and FAL 37/WP.6/Add.1), the Committee approved it in general, discussed at length the recommendations of the Group and took action as indicated in the following paragraphs.

7.21 The Committee noted the background information that summarized the work done since FAL 32 and the discussions of the Group with regard to the issue of electronic access to, or electronic versions of, certificates and documents, and, in particular that:

- .1 the idea of having access to electronic versions of certificates and documents required to be carried on board ships was in general welcomed and should remain as a goal of the Organization;
- .2 there could be several options for accessing electronic versions of certificates and documents to supplement or replace paper forms, for example:
  - .1 a ship-based system, whether the master of ship would be responsible for maintaining, updating and transmitting the necessary electronic certificates and documents as an attachment to the pre-arrival message;
  - .2 a centralized database for storing electronic versions of certificates and documents;
  - .3 distributed databases, maintained and updated by issuer Administrations with adequate reliability, validation process and secure access to electronic versions of certificates and documents, including a website, for example at IMO, containing links to the issuer Administrations; and
  - .4 a combination of any of the above-mentioned systems;

- .3 the proposal for a ship-based system had been considered in the past by the Correspondence Group on Online access to certificates and documents required to be carried on board ships established by FAL 34 and FAL 35, including the identification of strengths, weaknesses, opportunities and threats of such a system, and, at that time, no preference was clearly indicated for a ship-based system or an online system;
- .4 the establishment of a system based on a centralized database did not receive sufficient support and, instead of that, a distributed system might be most appropriate;
- .5 the architecture of the system should be developed after defining the objectives, scope and vision of the system bearing in mind the user's needs;
- .6 further consideration should be given to the issue of whether the focus should be centred on electronic copies of certificates and documents (e.g. a scanned copy of the document) or, if instead, the term electronic information would be most adequate (e.g. pieces of information related to documents and certificates stored in online databases);
- .7 in the future, it would be necessary to decide if the proposed system should be analysed as a system that could supplement or replace paper certificates, taking into account that a system that, for instance, could work in parallel, but not replacing paper certificates, could be more feasible to achieve in the near future; and
- .8 the acceptability of electronic copies or validation process should be discussed by the appropriate IMO body bearing in mind existing guidance on available technologies or standards that could lead to the possible acceptance of electronic certificates.

### Road map of actions

#### *Terms of reference for the Correspondence Group on Electronic access to certificates and documents*

7.22 Noting the desire of delegations to progress the matter, the Committee re-established the Correspondence Group on Electronic access to certificates and documents, under the coordination of the United States\*, to continue the work on acceptance of electronic access or electronic versions of certificates and documents, including validation of certificates and documents, and with the following terms of reference:

The Correspondence Group, taking into account the discussions held during FAL 37, documents submitted and the background information since FAL 32, as well as the responses received to the questionnaire on Online access to documents and certificates, should:

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- .1 prepare objective(s) and define the scope and vision of a system for electronic access or electronic versions of certificates and documents;
- .2 identify the potential users and their needs, as well as the strengths, weaknesses, opportunities, threats and benefits of making electronic access or electronic versions of certificates and documents available to supplement or replace original paper certificates or documents, including validation of certificates and documents;
- .3 define the minimum features that could be recommended to make electronic access or electronic versions of certificates and documents equivalent to paper documents;
- .4 define the recommended features to make electronic access to ship certificates and documents reliable and appropriately secure;
- .5 annotate the list of certificates and documents required to be on board ships with the source of the requirement (e.g. Convention) and the IMO Committee responsible for the certificate or document; and
- .6 report to FAL 38 on the results of the Correspondence Group's work.

7.23 The Committee invited Member States, international organizations and non-governmental organizations in consultative status to submit documents to the next session of the Committee advising on their experiences, best practices, methodologies and policies with regard to acceptance of electronic access to, or electronic versions of, certificates and documents.

7.24 The Committee agreed that, at its next session, based on the results of the work of the Correspondence Group, it should explore the possibilities of working together with other relevant Committees to identify under what conditions an electronic version of documents and certificates could be acceptable.

7.25 The Committee also agreed that, at FAL 39, it would consider the responses from the relevant IMO Committees and, if the benefits outweigh the costs and meet the goals of the IMO Committees, it would decide on whether guidelines for acceptance of electronic access or electronic versions of certificates and documents should be prepared.

7.26 The delegation of Liberia provided information on a system developed by the Liberian Administration for validating original paper certificates. The system was used by port State control officers to validate original certificates which were on board of ships flying the flag of Liberia.

## **8 ENSURING SECURITY IN AND FACILITATING INTERNATIONAL TRADE**

### **Privately contracted armed security personnel**

8.1 The Committee noted that MSC 89, under the agenda item on Piracy and armed robbery against ships, considered the development of guidance on the use of privately contracted armed security personnel (PCASP) on board ships. During its deliberations, the MSPWG agreed that interim recommendations for Governments on the use of PCASP were an essential complement to the guidance developed for the industry. It was further agreed that, due to different legislative regimes among Member States, only high-level recommendations were appropriate to cover the aspects on the employment of PCASP.

8.2 The Committee noted that MSC 89 had approved MSC.1/Circ.1405 on Interim Guidance to shipowners, ship operators and shipmasters on the use of privately contracted armed security personnel on board ships in the High-Risk Area, and MSC.1/Circ.1406 on Interim Recommendations for flag States regarding the use of privately contracted armed security personnel on board ships in the High-Risk Area.

8.3 The Committee further noted that MSC 89 agreed that there was an urgent need to develop further guidance to Governments and, in particular, for coastal and port States on the customs-related aspects of the carriage, embarkation and disembarkation of firearms and security equipment in areas under the jurisdiction of such States; and that there was also an urgent need to develop further guidance to Governments reflecting the concerns of port and coastal States with respect to the presence of teams of armed personnel entering their territorial waters or embarking or disembarking at their ports.

8.4 The Committee noted that MSC 89 had requested the Secretariat to report the outcomes of MSC 89 to FAL 37, in respect of the use of PCASP on board ships in the High-Risk Area and to invite FAL 37 to advise the MSC on the following issues:

- .1 embarkation and disembarkation of PCASP;
- .2 embarkation and disembarkation of firearms (including the associated ammunitions, consumables, spare parts and maintenance equipment and materials) for use by PCASP;
- .3 embarkation and disembarkation of security-related equipment (including protective and communication ones) for use by PCASP; and
- .4 to recommend to the Maritime Safety Committee the provisions which should be included in the aforesaid interim recommendations and guidelines in connection with the matters, which need to be taken into account as a result of the activities taking place in areas either within the territory or under the jurisdiction of a State as a port or a coastal State.

8.5 The Committee recalled that the Organization's position on the use of PCASP remained fundamentally unchanged from that given in MSC.1/Circ.1333 and MSC.1/Circ.1334. MSC.1/Circ.1333 stipulates that it is for each flag State, individually, to decide whether or not armed security personnel should be authorized for use on board ships flying their flag and, in case of permitting it, the State determines the conditions under which the authorization is granted. As stated in both MSC.1/Circ.1405 and MSC.1/Circ.1406, the interim guidance and recommendations "are not intended to endorse or institutionalize" the use of armed guards.

8.6 In considering document FAL 37/8/4 (Brazil), the Committee noted an overview of the Brazilian legislation, which does not allow foreign merchant ships, with armed guards on board, to moor at Brazilian ports, and requiring that flag States whose ships carry private armed guards on board give notification when they are in Brazilian territorial waters, moored or otherwise. In order to facilitate maritime trade Brazil will, in exceptional cases and on a discretionary basis, follow special procedures which allow ship masters to inform the federal police prior to mooring about existing weapons on board. These weapons should be duly registered and regulated in the flag States, and will be itemized and sealed in a specialized safe or compartment by the federal police as soon as the ship is moored or anchored, with the itemized list kept by both the ship master and the federal police. At the last port of call, the ship master must advise the federal police about the departure, and the police then confirm that the safe has not been violated and all the weapons are intact.

8.7 In document FAL 37/8/6, the United States provided information on United States' national regulations related to the carriage of firearms on the United States-flagged vessels, in connection with privately contracted armed security. Given that multiple United States government agencies possess the authority and responsibility for the regulation of the carriage of firearms, United States operators or persons carrying, possessing or transporting firearms on board United States-flagged vessels in any location must comply with all applicable state and national laws, as well as the International Traffic in Arms Regulations (ITAR). Guidance on the carriage of weapons aboard a United States-flagged commercial vessel operating in high-risk waters is promulgated by means of a United States Coast Guard Port Security Advisory (PSA).

8.8 The Committee noted that the Secretariat had attended the WCO Council meeting in June 2011, where IMO, WCO and ICAO had sent a strong message on the need for collaboration in respect of security of the supply chain. The IMO Secretariat had also requested information from customs authorities on national regulations and procedures for the embarkation and disembarkation of weapons by PCASP. The Committee noted that customs generally have a strong role in the interdiction of illegal arms and control function in legitimate ones. Also through the Harmonized System, customs authorities can identify arms and ammunition in international trade. The Committee agreed to request WCO Members to provide details of their role and control procedures, with respect the embarkation and disembarkation of weapons carried by PCASP, to the next meeting of WCO's Permanent Technical Committee, to be held from 10 to 14 October 2011.

8.9 The Committee noted that an intersessional meeting of the MSC's Working Group on Maritime Security, including piracy and armed robbery against ships (MSPWG), would meet from 13 to 15 September 2011, in accordance with the decision of MSC 89 and C 106. The Committee urged all delegations to inform the MSPWG about their national legislation on accepting PCASP on board their flagged ships and, if so, about their condition. Such information was very important to the work of IMO, and it would be very relevant for the success of the work of the intersessional meeting MSPWG.

8.10 The Committee referred the issue of development of the guidelines, with respect to PCASP, to the Working Group on Ensuring Security in and Facilitating the International Trade.

### **SAFE Framework of Standards**

8.11 In considering document FAL 37/INF.4 (WCO), the Committee noted that the review of the World Customs Organization's SAFE Framework of Standards (the SAFE Framework) had been presented to the WCO Council sessions in June 2011, which were attended by the IMO Secretariat. The Committee noted that WCO had produced a revised version of the SAFE Framework.

8.12 The Committee noted that the amendments referred to the creation of a separate annex for data elements required for security risk assessment purposes, which includes all remaining so-called "10 + 2" data elements and which, for the first time, makes use of two messages supplied by ocean carriers: the container status message and the vessel stow plan. WCO is of the view that inclusion of the remaining "10 + 2" data elements will strengthen WCO Members' risk assessment capabilities which in turn could provide an alternative to the United States Congress approach of 100% scanning. WCO opposes 100% container scanning.

8.13 The Committee further noted that WCO Council had adopted the amendments and also had endorsed the proposed Mutual Recognition Arrangements/Agreements guidelines, the objective of which is to facilitate one Customs administration recognizing the authorized economic operator (AEO) of another Customs administration and agreeing to provide substantial, comparable and, where possible, reciprocal benefits/facilitation to the mutually recognized AEOs.

### **Global supply chain system**

8.14 The Committee recalled that FAL 36 had noted the information provided by WCO, in documents FAL 36/8/3 and FAL 36/INF.4, on the efforts to strengthen supply chain security have thus far focused on preventing disruptions to the supply chain. Trade recovery is a process for coordination among Customs administrations together with relevant public and private sector stakeholders. Trade recovery is intended to facilitate and resume the international flow of goods in an efficient and timely manner as possible, following the occurrence of an incident that resulted in major disruption of the movement of goods internationally and that affected one or more countries for a period long enough to have an economic effect.

8.15 Noting that WCO had developed the Trade Recovery Guidelines, which are predicated on SAFE Framework concepts and consist of a set of best practices that Customs administrations could adopt when developing plans and protocols to facilitate and resume trade flows, the Committee noted that WCO had distributed a questionnaire to its Members in order to establish communication mechanisms for effective trade recovery measures. The Committee noted the invitation by WCO for the IMO Secretariat to attend the SAFE working group.

8.16 The Committee considered document FAL 37/8/2 (United States), which provided information related to ensuring the security, efficiency and resilience of the maritime elements of the global supply chain system and invited FAL to develop the maritime trade system's recovery guidelines, in coordination with the WCO, for use by countries to enhance the preparedness and resilience of shipping within the global supply chain system in the event of large-scale system disruptions, possibly by means of a new intersessional Correspondence Group.

8.17 After the debate, the Committee agreed on the importance of developing voluntary guidelines or recommendations for use by countries towards enhancing the resilience of maritime shipping within the global supply chain system in the event of large-scale system disruptions; and the FAL Committee was the appropriate forum to do so. The Committee decided to prepare these guidelines or recommendations in coordination with the WCO, and agreed to create a correspondence group, which will report to FAL 38. The Committee requested the Working Group on Ensuring security in and facilitating the international trade to prepare the terms of reference for this Correspondence Group.

### **ISO Standards on supply chain security**

8.18 The Committee noted the information provided by ISO, in document FAL 37/8/3, on the current status of ISO 28000 (supply chain security) standards.

### **Ongoing work required in relation to the facilitation aspects of maritime security**

8.19 The Committee recalled that FAL 36, in the context of its consideration of ongoing work required in relation to the facilitation aspects of maritime security, had discussed the usefulness of MSC.1/Circ.1371, which provides a consolidated list of safety- and

security-related codes, recommendations, guidelines and other safety- and security-related non-mandatory instruments. Noting that no similar facilitation-related circular existed, the Committee had supported development of a FAL circular, at FAL 37, that would provide a consolidated list of facilitation-related codes, recommendations, guidelines and other facilitation-related non-mandatory instruments.

8.20 The Committee decided to request the Working Group on Ensuring Security in and Facilitating International Trade to prepare a consolidated list of facilitation-related codes, recommendations, guidelines and other facilitation-related, non-mandatory instruments, taking into account the provisional list prepared by the Secretariat.

### **Information on status of anti-piracy activities**

8.21 The Committee noted that the reports indicated that, in the first eight months of 2011, there had been 395 acts or attempted acts of piracy and armed robbery against ships reported to IMO, worldwide. This compared to 288 for 2010, or an increase of 37%. In the same period, 188 attacks were reported against ships in the waters off the coast of Somalia and the Arabian Sea, resulting in 26 ships being hijacked. From the information received on incidents allegedly committed against ships during the period under review (i.e. 1 January 2011 to 31 August 2011), it emerged that the areas most affected (i.e. five incidents reported or more) in 2011 were East Africa, the South China Sea, the Indian Ocean as well as West Africa, followed by South America, the Arabian Sea and the Malacca Strait.

8.22 The Committee further noted that the most significant increase in absolute numbers for the period from 1 January 2011 to 31 August 2011, in comparison with the same period in 2010, occurred in West Africa (96% increase), followed by the Indian Ocean (76% increase), East Africa (63% increase) and the Arabian Sea (50% increase). Most of the attacks worldwide were reported (65%) to have occurred or to have been attempted outside coastal States' territorial waters.

8.23 The Committee also noted that, at the time of the report, 18 ships and 378 crew members were being held hostage by Somali pirates, compared to 16 ships and 358 crew members being held at the same time in 2010. The indications were that the level of violence employed by the pirates had increased, as had the effectiveness of naval disruption operations. The reports demonstrated that ships fully implementing the IMO guidance and Best Management Practices were at significantly lower risk of being taken than those not doing so. The Committee further noted that the number of attacks to ships had increased in 2011 compared to 2010, but the rate of success of the attacks has been reduced from 40% to less than 20% over the same period, thus indicating the efficiency of the deployment of the naval forces in the region as well as the effective implementation of the IMO's guidance and BMP by the ships sailing in the region.

8.24 The Committee further noted that IMO's main effort, with respect to countering piracy and armed robbery against ships in waters off the coast of Somalia, is the Djibouti Code of Conduct, which has now been signed by 18 States. A Project Implementation Unit was established within the IMO Secretariat (April 2010) to coordinate and manage the execution of relevant capacity-building activities aimed at promoting effective implementation of the Djibouti Code of Conduct. Such activities were being funded by a dedicated IMO Djibouti Code Trust Fund, which has allocated \$9m until the end of 2012. This Project Implementation Unit is now active in the region, focusing on the development of three regional counter-piracy information sharing centres (ISCs) in Dar es Salaam, Mombasa, and Sana'a, and a regional training facility in Djibouti. Training and assessment missions to the region have also been conducted, with more planned for later in 2011.



8.25 The Committee noted that the issue of piracy and armed robbery against ships in waters off the coast of West Africa had also come to the attention of the United Nations Security Council. IMO, working with the Maritime Organization of West and Central Africa has, since 2006, been promoting an initiative on maritime law enforcement, including piracy, for 20 coastal States from Mauritania to Angola, aimed at establishing an "Integrated Coast Guard Function Network". This important initiative which, inter alia, developed into a Memorandum of Understanding signed by most of the coastal States in the region, and which has influenced the development of the African Union's maritime strategy, is being conducted in cooperation with other UN agencies, naval forces and industry-led projects to enhance maritime security and to counter piracy.

### **Establishment of Working Group**

8.26 The Committee established the Working Group on Ensuring Security in and Facilitating International Trade, under the chairmanship of Mr. Philip White (United Kingdom), with the following terms of reference:

- .1 review the covering FAL resolution as set out in annex 1 to FAL 37/6, and prepare a final draft for approval by the Committee;
- .2 consider the issue of the use of PCASP on board ships in the High-Risk Area from the point of view of:
  - .1 embarkation and disembarkation of PCASP;
  - .2 embarkation and disembarkation of firearms (including the associated ammunitions, consumables, spare parts and maintenance equipment and materials) for use by PCASP; and
  - .3 embarkation and disembarkation of security-related equipment (including protective and communication ones) for use by PCASP; and  
  
recommend to the Committee the provisions that should be included in the recommendations and guidelines in connection with the matter, which need to be taken into account as a result of the activities taking place in areas either within the territory or under the jurisdiction of a State as a port or a coastal State;
- .3 develop a FAL circular on a consolidated list of facilitation-related codes, recommendations, guidelines and other facilitation-related, non-mandatory instruments;
- .4 prepare a Terms of Reference for an intersessional correspondence group on the development of guidance on enhancing the preparedness and resilience of maritime shipping within the global supply chain system in the event of large-scale system disruptions; and
- .5 report to plenary on Thursday, 8 September 2011.

8.27 On receipt of the Report of the Working Group (FAL 37/WP.7), the Committee took action, as follows:

8.28 The Committee adopted resolution FAL.11(37) on Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases, attached at annex 1.

8.29 The Committee noted the discussions related to the issue of PCASP and the poor response to the request for data from port and coastal States.

8.30 The Committee approved a draft circular on Questionnaire on information on port and coastal State requirements related to PCASP on board ships, and forwarded it as a work in progress to the Intersessional Working Group on Maritime security and piracy and armed robbery against ships for its consideration and adoption as a joint MSC/FAL circular. The Committee noted with appreciation the offer by the Secretariat to send letters to individual Member States in the Gulf of Aden and western Indian Ocean area, to bring the matter to their particular attention.

8.31 The Committee authorized the Secretariat to post the responses received on the IMO public website for information, subject to there being no translation of the information provided.

8.32 The Committee authorized the Secretariat to circulate the WCO Customs questionnaire for information. However, the Committee noted that WCO had already circulated the questionnaire with a deadline for response of October 2011 and that the intention was to submit a summary report on the information received to MSC 90. The Committee expressed the appreciation for the cooperation offered by WCO.

8.33 The Committee noted the information regarding the practice of categorizing PCASP as supernumeraries, and agreed to forward it to the Correspondence Group on General review of the Convention, including harmonization with other international instruments.

8.34 The Committee authorized the Secretariat to develop the list of facilitation-related codes, recommendations, guidelines and other facilitation-related, non-mandatory instruments for posting on the IMO website, with updates to be undertaken by the Secretariat.

8.35 The Committee requested the Secretariat to ensure that all documents referenced on the list are made available on the IMO website for future reference.

8.36 The Committee approved the draft terms of reference for a correspondence group on ensuring security in and facilitating international trade by means of guidance on measures toward enhancing maritime trade recovery related to the global supply chain system and maritime conveyances.

8.37 Taking into account that the item on ensuring security in and facilitating international trade by means of guidance on measures toward enhancing maritime trade recovery related to the global supply chain system and maritime conveyances, had not been considered in the planned output of the High-level Action Plan of the Organization, the Committee agreed to consider it under agenda item 14, Work Programme.

*Terms of reference for the Correspondence Group on Ensuring security in and facilitating international trade by means of guidance on measures toward enhancing maritime trade recovery related to the global supply chain system and maritime conveyances.*

8.38 The Committee established the Correspondence Group on Ensuring security in and facilitating international trade by means of guidance on measures toward enhancing maritime trade recovery related to the global supply chain system and maritime conveyances, under the coordination of Canada and the United States\*.

The Correspondence Group, taking into account the discussions during C 106 and FAL 37, in particular related to documents FAL 37/8/2, FAL 37/8/3 and FAL 37/INF.4, should:

- .1 collect information on practices, processes and activities to enhance the mitigation of and recovery from serious disruptions to the international maritime supply chain;
- .2 identify relevant WCO and ISO standards and guidelines for their utility for maritime shipping;
- .3 investigate and provide analysis on information gathered under (.1) and (.2), which may include:
  - .1 information elements critical to resilience and recovery efforts,
  - .2 communication mechanisms among governments and non-governmental parties for resilience and recovery planning and response, and
  - .3 recommendations for the development of industry support groups to assist in planning and prioritizing resilience and recovery efforts in advance of and after a disruption; and
- .4 prepare and submit a report of the Correspondence Group together with the draft guidance to FAL 38 for consideration.

## 9 SHIP/PORT INTERFACE

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

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*Facilitation of shipments of dangerous cargoes*

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

9.3 The Committee recalled further that FAL 36 agreed that, in view of the results of the trials, the issue of denial of shipments had not yet been resolved. As a result, the Committee agreed to request the Secretary-General to continue the trials of the mechanism within the IMO Secretariat for the resolution of difficulties in the carriage of IMDG Code dangerous goods including class 7 radioactive materials and instructed the Secretariat to report the results of the experience gained to FAL 37, where the Committee can determine the actions to be taken.

9.4 The Committee noted oral information from the Secretariat on the latest developments in relation to the shipment of class 7 materials to the effect that since the establishment of the focal point, the Secretariat had taken an active role in assisting to resolve such difficulties. The Secretariat had attended almost all the meetings of the International Steering Committee (integrated by IMO, ICAO and IAEA) on the denial of shipments of radioactive material.

9.5 The Committee also noted that the IAEA had made considerable efforts in addressing the issues surrounding delays and denials of class 7 shipments and had conducted a number of training sessions and regional seminars with the objective of facilitating such shipments. The mechanism had been instrumental in identifying some ambiguities within the IMDG Code with respect to class 7 radioactive materials which had subsequently been addressed in the UN "Orange Book" and the IMDG Code. The Secretariat had set up a Dangerous Goods Denial Database and so far there were 236 reports in the database. The IMO database continued to be accessible to IAEA and ICAO and a synopsis of the database showed that out of the 236 reports, there were 182 relating to sea-mode, 51 to air-mode and 3 to land-mode.

9.6 The Committee noted that due to the sensitive nature of the information in the database, and following a decision by the Member States attending the IAEA Steering Committee, details of the information were not made public. However, the Committee expressed appreciation to the IAEA for their ongoing efforts in addressing the issues surrounding delays and denials of class 7 shipments.

9.7 The Committee noted the information that almost 300 stakeholders have used the computer-based training package on class 7 e-learning which had been developed and is functional on [www.class7elearning.com](http://www.class7elearning.com). The Committee noted that this programme is available free of cost to all non-commercial users.

9.8 In considering whether to finalize the trial of the mechanism established by FAL 34 and to maintain the mechanism on a permanent basis, the Committee decided that it would be prudent to conduct a full examination of and justification for the mechanism, including cost and staffing implications. The Committee instructed the Secretariat to continue the trial of the mechanism and to submit a written report on its experience to FAL 38 for a more detailed evaluation of results of the trial.

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## 10 TECHNICAL CO-OPERATION AND ASSISTANCE

10.1 The Committee recalled that FAL 36 expressed the view that it was important to continue technical co-operation and assistance activities in relation to facilitation in order to fulfil the provisions of the Strategic Plan and High-level Action Plan (resolutions A.1011(26) and A.1012(26)), which, inter alia, seek to promote wider acceptance of the Convention and adoption of measures contained therein, and to assist the Committee's effort and work towards the universal implementation of measures to facilitate international maritime traffic.

10.2 The Committee recalled further that FAL 36 also considered proposals by Angola, Canada, Nigeria and Sweden (FAL 36/10/2) proposing that trade facilitation be included as a thematic priority in the ITCP for the biennium 2012-2013, with the intention that it be a priority the following biennium. The document also proposed to identify trade facilitation in the ITCP as a global programme with regional implementation and requested the Committee to instruct the Secretariat to draft an implementation programme on trade facilitation to be included in the ITCP for 2012-2013 to be presented to TC 61, and other relevant IMO bodies. Subsequently FAL 36 had a wide-ranging discussion on the proposal in regard to the Committee and the implications of the term "trade facilitation" within the IMO mandate. After a lengthy discussion, the majority of those delegations that spoke clearly supported the proposal to include trade facilitation in the ITCP in line with the Organization's Strategic Plan.

10.3 The Committee noted that FAL 36 recalled that the Assembly, in resolution A.1011(26), had reiterated that the Integrated Technical Co-operation Programme (ITCP) is crucial for assisting developing countries to implement IMO instruments for safer and more secure shipping, enhanced environmental protection and facilitation of international maritime traffic. In addition, the ITCP makes a contribution to assisting developing countries to achieve relevant MDGs. The importance of the ITCP increases further with amendments to existing and the development of new instruments by IMO, in which the particular needs of, and impact on, SIDS and LDCs should be taken into account.

10.4 The Committee recalled that FAL 36 after discussion amended and agreed the Thematic Priorities in regard to facilitation for the 2012-2013 biennium as set out in annex 7 to document FAL 36/17 and instructed the Secretariat to forward these to TC 61 for consideration for inclusion in the ITCP.

10.5 The Committee noted that TC 61 had approved the ITCP for 2012-2013 which includes several activities relevant to FAL Convention to be implemented during next biennium.

10.6 In considering document FAL 37/10 (Secretariat) on the status of activities relevant to the implementation of the Convention conducted under the ITCP, the Committee noted that in the period from June 2010 to May 2011, a technical assistance mission had been carried out in El Salvador. The objectives of that activity had been to:

- .1 fully acquaint the participants with the FAL Convention, as amended;
- .2 make the participants fully aware of the institutional and economic advantages and benefits to be derived from the acceptance and implementation of the FAL Convention including the use of the electronic data interchange and enhancement of efficient exchange of information between trade and Government;

- .3 provide guidelines on follow-up measures concerning the practical implementation of the FAL Convention including the use of the IMO FAL Forms and the development of the Single Window concept;
- .4 advise on the functions of a national facilitation committee; and
- .5 provide the participants with other information relevant to the seminar.

10.7 The Committee also noted with appreciation the report of Chile (document FAL 37/10/1) on the technical assistance mission carried out by Chile's Directorate-General for Maritime Territory and the Merchant Marine (DIRECTEMAR) for the Maritime Port Authority (AMP) of El Salvador, with the aim of assessing its state of compliance with the FAL Convention, as amended, and proposing a global strategy to implement the Convention, including the design of a technical platform to facilitate its application.

10.8 The Committee noted the inclusion of the IMO in the Organisation for Economic Co-operation and Development (OECD) list of organizations eligible to receive official development assistance (ODA), decision taken in June 2011 by the OECD/Development Assistance Committee (DAC). As a result, the Organization, with its recognized capacity to contribute to the development agenda, would now be part of the Statistical Reporting Directives lists. This was a significant achievement that should be fully utilized to ensure the sustainable financing of the ITCP. This might serve to encourage Member States of the OECD, international and regional organizations to make financial contributions to the ITCP.

10.9 The Committee noted that TC 61 had discussed a document prepared by Sweden, on maritime trade facilitation and poverty reduction (Millennium Development Goal (MDG) 1), which addressed the importance of maritime trade facilitation as a catalyst for economic growth and national development with the potential to alleviate poverty (MDG 1). TC 61 had agreed to establish a Correspondence Group, chaired by Angola, for the development of a demonstration project linking the ITCP with MDG 1 on the reduction of poverty, to progress the matter further.

10.10 The Committee noted the request of Angola to indicate any relevant work already undertaken by the Committee that could be taken into account when developing terms of reference for the demonstration project and, in particular, for FAL to:

- .1 identify mechanisms already existing aimed at improving trade facilitation in Least Developed Countries (LDCs), Small Island Developing States (SIDS), and, in particular, in Land-Locked Countries (LLCs); and
- .2 identify trade facilitation processes and procedures that often create additional costs on trade in LDCs, SIDS and LLCs.

10.11 The Committee noted the following information in reply to the query made by Angola in two key areas:

- .1 in relation to the mechanisms already existing aimed at improving trade facilitation, it can include:
  - the FAL Convention;
  - Explanatory Manual to the FAL Convention (FAL.3/Circ.202);
  - IMO Compendium on facilitation and electronic business;

- 
- Guidelines for setting up the Single Window System; and
  - the ISPS Code and its correct application to avoid cases like the stowaways; and
- .2 in relation to the trade facilitation processes and procedures that often create additional costs in trade:
- lack of coordination among different authorities that have competence in the port;
  - lack of a single window system;
  - lack of coordination among the ports in the same country;
  - lack of coordination in a region;
  - lack of coordination with international standards; and
  - insufficient information of the requirement of entrance/exit/import/export, therefore insufficient use of web tools.

10.12 Having noted that the submission to TC 61 had been made with a view to avoiding duplication with the work already done by the FAL Committee, the Committee agreed to instruct the Secretariat to provide the assistance requested by Angola.

## 11 RELATIONS WITH OTHER ORGANIZATIONS

### Relations with non-governmental organizations

#### *General*

11.1 In considering documents FAL 37/11 and FAL 37/11/Add.1 (Secretariat), the Committee noted the relevant decisions of C 105 and C 106 in respect of relations with non-governmental organizations which had been recently granted consultative status or referred to the Committee with a view to advising the Council as to whether they should be granted consultative status.

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

11.2 The Committee noted in particular that, since FAL 36, the Council at its 105th and 106th sessions had decided:

- (i) to grant consultative status to the Bureau International des Containers et du Transport Intermodal (BIC) and to the International Iron Metallics Association Ltd. (IIMA), on a provisional basis, for a period of two years;
- (ii) to convert the consultative status granted to the International Spill Control Organization (ISCO) on a provisional basis to full consultative status; and
- (iii) to emphasize the requirement for all non-governmental organizations in consultative status to contribute substantially to the work of IMO.

11.3 The Committee noted in particular that, since FAL 36, the Council at its 105th and 106th sessions, and regarding new applications for consultative status, it has also been decided:

- (i) Not to grant consultative status to the Grain and Feed Trade Association (GAFTA); the Antarctic and Southern Ocean Coalition (ASOC); the International Maritime Fumigation Organization (IMFO); the International Association for the Catalytic Control of Ship Emissions to Air (IACCSEA); the Exhaust Gas Cleaning Systems Association (EGCSA); and PRBA – The Rechargeable Battery Association.
- (ii) The Council noted the change of name of the Vessel Operators Hazardous Materials Association, Inc. (VOHMA) to the International Vessel Operators Dangerous Goods Association, Inc. (IVODGA).
- (iii) The Council noted that HBIA would cease to exist in 2012 and was not seeking the renewal of its provisional consultative status.
- (iv) The Council made the following recommendations to the Assembly regarding the continuance, or otherwise, of the consultative status namely to:
  - .1 withdraw the International Bar Association's (IBA) consultative status;
  - .2 remind the International Road Transport Union (IRU) and the International Association of Oil and Gas Producers (OGP) of the necessity to fulfil their obligations, including the requirement to make substantial contribution to the work of IMO, in accordance with the Rules Governing Relationship with Non-Governmental Organizations, and the Guidelines on the Grant of Consultative Status and that, should there be no improvement in their performance during the next biennium, their status may be withdrawn; and
  - .3 maintain consultative status with the remaining organizations listed in document C 106/16(c)/1 and its corrigendum.

11.4 The Committee noted that, with respect to its review of the Guidelines on the Grant of Consultative Status and document C 106/16(c)/4, submitted by the Republic of Korea in this regard, C 106 decided:

- (i) to further scrutinize and discuss the guidelines;
- (ii) to convene the group of Council Members during working hours at its 108th session, with the task of, in addition to screening new applications, discussing the Guidelines on the Grant of Consultative Status, and if necessary, the Rules Governing Relations with non-governmental organizations, and submitting any amendments to them for the Council's consideration; and
- (iii) to instruct the Secretariat to prepare a document grouping non-governmental organizations in consultative status according to interests/activities, to assist in the review of these organizations for the next biennium.



## **World Maritime Day 2012**

11.5 The Committee noted that C 106 had endorsed the Secretary-General's proposal that the theme for World Maritime Day 2012 should be:

"IMO: One hundred years after the Titanic".

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

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

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

12.2 The Committee recalled also that FAL 36 approved the revised Guidelines for circulation after MSC 88 by means of a new FAL.3 circular that would incorporate the approved amendments and supersede the existing Guidelines as set out in FAL.3/Circ.195, and instructed the Secretariat accordingly.

12.3 The Committee noted that the revised Guidelines on the organization and method of work of the Facilitation Committee were circulated under FAL.3/Circ.206 on 6 July 2011.

12.4 The Committee agreed that the next stage in the process should be to identify differences between the guidelines of MSC and MEPC and those of FAL with a view to harmonizing procedures further and developing consolidated guidelines.

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

13.1 The Committee recalled the decision of FAL 36 to discontinue with its own Role, mission, strategic direction and work of the Committee, having been superseded by the enhanced overall Strategic Plan of the Organization and the importance placed by the Assembly on the coordination of work by the Committees.

13.2 The Committee decided to delete this agenda item.

## **14 WORK PROGRAMME**

14.1 The Committee recalled that FAL 36 had agreed to propose to the twenty-seventh regular session of the Assembly in November 2011, to meet in regular session at least once a year, with one meeting week during 2012 and one meeting week during 2013. The Committee asked the Secretary-General to prepare relevant budgetary proposals to the biennium 2012-2013.

14.2 The Committee recalled that C 105 had approved the report of FAL 36 and decided to transmit it, together with its comments and recommendations, to the twenty-seventh regular session of the Assembly, in accordance with Article 21(b) of the IMO Convention.

*Substantive items for inclusion in the provisional agenda for FAL 38*

14.3 In considering document FAL 37/WP.2 (Chairman) and on the basis of the progress made during the session, the Committee amended and approved the list of substantive items to be included in the provisional agenda for FAL 38, as set out in annex 2.

**Establishment of working and drafting groups during FAL 38**

14.4 The Committee, taking into account the decisions made under various agenda items, agreed that working on the following items should be established at FAL 38:

- .1 General review and implementation of the Convention;
- .2 Electronic access to, or electronic versions of, certificates and documents required to be carried on ships; and
- .3 Ensuring security in and facilitating international trade.

14.5 The Committee also agreed that, at this stage, it was not possible to predict the exact needs for the establishment of drafting groups at FAL 38.

14.6 The Committee further agreed that, should the need arise, FAL 38 should determine any other working or drafting groups which might need to be established when considering the various agenda items. The Committee instructed the Secretariat, in consultation with the Chairman, to prepare and circulate the provisional timetable for FAL 38 and a list of the likely working or drafting groups which might need to be established for consideration by FAL 38.

**Date and venue of the next session**

14.7 In considering the proposed date for the next session, a number of delegations proposed to reverse the decision of FAL 36 on the periodicity of the regular sessions of the Committee. The proposal that the Committee should meet every 18 months, instead of every 12 months, based on the agenda for the next session and current budgetary and economic constraints, received broad support. Some delegations expressed the view that in order for working groups to be effective, the meeting should retain its duration of five working days, thus one five-day meeting would be preferable to two shorter meetings. The Committee agreed that greater participation in the correspondence groups was necessary to compensate for fewer meetings. The Committee decided to propose to the twenty-sixth extraordinary session of the Council that the Committee should, in future meet every 18 months, starting from next session, FAL 38, which could be scheduled for January 2013. This decision would need to be reviewed periodically, taking into account the agenda of the Committee as well the need to progress facilitation-related matters.

**Status of planned outputs of the Committee for the 2010-2011 biennium**

14.8 The Committee recalled that in accordance with paragraph 9.1 of the "Guidelines on the application of the Strategic Plan and the High-level Action Plan of the Organization", adopted by resolution A.1013(26), the reports on the status of planned outputs included in the High-level Action Plan and priorities for the 2010-2011 biennium should be prepared and annexed to the report of each session of the Sub-Committees and Committees, and to the biennial report of the Council to the Assembly. Such reports should separately identify unplanned outputs accepted for inclusion in the biennial agendas.

14.9 The Committee recalled further that resolution A.1013(26) also requests that, in preparing such reports, each organ of the Organization should consolidate therein all the reports on the status of planned outputs which it has received since its previous report.

14.10 The Committee endorsed the status of the planned outputs for the 2010-2011 biennium, reproducing the items listed in resolution A.1012(26), relating to the work of the Committee and relevant sub-committees, as set out in annex 3, that had been prepared by the Secretariat, in consultation with the Chairman.

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

14.11 The Committee recalled that in the context of the Guidelines on the application of the Strategic Plan and High-level Action Plan (resolution A.1013(26)), the Committee should establish and maintain a post-biennial agenda, using the format set out in the aforementioned Guidelines, and it should be annexed to the reports of each session.

14.12 The Committee endorsed the status of planned outputs for the 2010-2011 biennium, which are accepted post-biennial outputs and are provided in annex 4.

14.13 The Committee noted that some of the planned outputs for the 2010-2011 biennium had not been discussed during the last sessions of the Committee (for example, outputs 6.1.1.2, 8.0.2.1, 8.0.2.2 and 8.0.2.4). The Committee discussed whether outputs approved by the Assembly, but for which no proposals had been received, should remain on the agenda of the Committee. Some delegations suggested the deletion of those outputs which had not been addressed by two consecutive sessions of the Committee. The Committee decided to ask the Ad Hoc Council Working Group on the Organization's Strategic Plan for guidance on how best to proceed in such cases.

14.14 The Committee considered document FAL 37/WP.3, with the Proposals for the High-level Action Plan of the Organization and priorities for the 2012-2013 biennium, prepared by the Secretariat in consultation with the Chairman and taking into account the progress made by the Committee during the current biennium.

14.15 The Committee approved the proposals for the High-level Action Plan of the Organization and priorities for the 2012-2013 biennium for the Committee for submission to the twenty-sixth extraordinary session of Council (C/ES.26) on 17 to 18 November 2011, as set out in annex 5.

## **15 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2012**

15.1 The Committee, in accordance with its Rules of Procedure, unanimously re-elected Mr. Charles Abela (Malta) to the post of Chairman and Mr. Yury Melenas (Russian Federation) to the post of Vice-Chairman for 2012.

15.2 The Committee expressed its thanks to Mr. Eildert Broekema (Netherlands) for his service as Vice-Chairman and for his significant contribution to the work of the Committee through his leadership and his chairmanship of numerous working and correspondence groups. The Committee wished him well in his retirement.

## **16 ANY OTHER BUSINESS**

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

### **Expressions of appreciation**

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

- Mr. Eildert Broekema (The Netherlands);
- Capt. Manuel Nogueira Romero (Spain);
- Capt. Valentin Sanz Rodriguez (Argentina);
- Commander Roberto Annichini (Argentina);
- Admiral Giancarlo Olimbo (Italy);
- Ms. Petra Bethge (Germany);
- Captain Hadi Supriyono (Indonesia);
- Mr. George M. Arku (Liberia);
- Mr. John Bainbridge (ITF);
- Dr. Peter Swift (INTERTANKO);
- Mr. Irfan Rahim (Secretariat);
- Mrs. Anila Shah (Secretariat);
- Mr. Eduardo Hernández Martín (Secretariat);
- Mr. Graham Mapplebeck (Secretariat);
- Mr. Miguel Palomares (Secretariat); and
- Mr. Alexander Petrov (Secretariat).

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**ANNEX 1**

**RESOLUTION FAL.11(37)**

**(Adopted on 9 September 2011)**

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

THE FACILITATION COMMITTEE,

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

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

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

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

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

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

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

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

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

RECALLING that resolution A.1027(26) expressed conviction of the need to align, to the extent possible and desirable, the Guidelines with the FAL provisions on stowaways and to revise them in a manner that reflects developments in efforts undertaken to prevent stowaways, as well as to provide guidance and recommendations, taking into account the FAL provisions on stowaways, on measures which can be implemented by vessels to prevent cases involving stowaways,

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

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

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

AGREEING FURTHER that the provisions of this resolution should, in accordance with resolution A.1027(26), be considered as being of relevance only with respect to:

- (a) Member States which are not Contracting Governments to the FAL Convention; and
- (b) Member States which are Contracting Governments to the FAL Convention and which:
  - (i) have notified the Secretary-General, in accordance with article VIII(1) of the FAL Convention (in relation to the Standards specified in section 4 of the Annex to the FAL Convention) either that they find it impracticable to comply with the aforementioned Standards or of differences between their own practices and those Standards; or
  - (ii) have not yet notified the Secretary-General, in accordance with article VIII(3) of the FAL Convention, that they have brought their formalities, documentary requirements and procedures into accord in so far as practicable with the Recommended Practices specified in section 4 of the Annex to the FAL Convention,

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

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

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

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

NOTING that the Maritime Safety Committee, at its eighty-eighth session, adopted resolution MSC.312(88) on Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases,

1. ADOPTS the Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases, set out in the Annex to the present resolution;
2. URGES Governments to implement in their national policies and practices the amended procedures recommended in the annexed Guidelines;
3. URGES ALSO Governments to deal with stowaway cases in a spirit of cooperation with other parties concerned, on the basis of the allocation of responsibilities set out in the annexed Guidelines as from 1 October 2011;
4. INVITES shipping companies, shipowners and ship operators to take on the relevant responsibilities set out in the annexed Guidelines and to guide their masters and crews as to their respective responsibilities in stowaway cases;
5. INVITES Governments to develop, in cooperation with the industry, comprehensive strategies to improve access control and prevent intending stowaways from gaining access to ships;
6. REQUESTS the Facilitation Committee to continue to monitor the effectiveness of the annexed Revised guidelines on the basis of information provided by Governments and the industry, to keep them under review and to take such further action, including the development of a relevant binding instrument, as may be considered necessary in the light of developments.

## ANNEX

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

#### 1 Introduction

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

- .1 to prevent stowaway incidents; and
- .2 to resolve stowaway cases expeditiously and secure that an early return or repatriation of the stowaway will take place. All appropriate measures should be taken in order to avoid situations where stowaways must stay on board ships indefinitely.

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

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

#### 2 Definitions

For the purpose of these Guidelines:

- .1 *Attempted stowaway.* A person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the master or any other responsible person, and who is detected on board the ship before it has departed from the port.
- .2 *Port.* Any port, terminal, offshore terminal, ship and repair yard or roadstead which is normally used for the loading, unloading, repair and anchoring of ships, or any other place at which a ship can call.
- .3 *Public authorities.* The agencies or officials in a State responsible for the application and enforcement of the laws and regulations of that State which relate to any aspect of the present Guidelines.
- .4 *Security measures.* Measures developed and implemented in accordance with international agreements to improve security on board ships, in port areas, facilities and of goods moving in the international supply chain to detect and prevent unlawful acts<sup>1</sup>.

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



- .5 *Shipowner.* One who owns or operates a ship, whether a person, a corporation or other legal entity, and any person acting on behalf of the owner or operator.
- .6 *Stowaway.* A person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the master or any other responsible person and who is detected on board the ship after it has departed from a port, or in the cargo while unloading it in the port of arrival, and is reported as a stowaway by the master to the appropriate authorities.

### **3 Basic principles**

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

- .1 Stowaway incidents should be dealt with in a manner consistent with humanitarian principles. Due consideration must always be given to the operational safety and security of the ship and to the safety and well-being of the stowaway.
- .2 Public authorities, port authorities, shipowners and masters, should cooperate to the fullest extent possible in order to prevent stowaway incidents.
- .3 Shipowners, masters, port authorities and public authorities should have adequate security arrangements in place which, as far as practicable, will prevent intending stowaways from getting aboard a ship or, if this fails, will detect them before the ship leaves port or, at the latest, before it arrives at the next port of call.
- .4 Adequate, frequent and well timed searches minimize the risk of having to deal with a stowaway case and may also save the life of a stowaway who may, for example, be hiding in a place which is subsequently sealed and/or chemically treated.
- .5 Public authorities, port authorities, shipowners and masters, should cooperate to the fullest extent possible in order to resolve stowaway cases expeditiously and secure that an early return or repatriation of the stowaway will take place. All appropriate measures should be taken in order to avoid situations where stowaways must stay on board ships indefinitely.
- .6 Stowaways arriving at or entering a State without the required documents are, in general, illegal entrants. Decisions on dealing with such situations are the prerogative of the States where such arrival or entry occurs.
- .7 Stowaway asylum-seekers should be treated in accordance with international protection principles as set out in international instruments, such as the provisions of the United Nations Convention relating to the Status of Refugees of 28 July 1951 and of the United Nations Protocol

relating to the Status of Refugees of 31 January 1967 and relevant national legislation.<sup>2</sup>

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

#### **4 Preventive measures**

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

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

4.1.2 Operational arrangements and/or security plans should, inter alia, address the following issues where appropriate:

- .1 regular patrolling of port areas;
- .2 establishment of special storage facilities for cargo subject to high risk of access of stowaways, and continuous monitoring of both persons and cargo entering these areas;
- .3 inspections of warehouses and cargo storage areas;
- .4 search of cargo itself, when presence of stowaways is clearly indicated;
- .5 cooperation between public authorities, shipowners, masters and relevant shore-side entities in developing operational arrangements;
- .6 cooperation between port authorities and other relevant authorities (for example, police, customs, immigration) in order to prevent smuggling of humans;

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

- .7 developing and implementing agreements with stevedores and other shore-side entities operating in ports to ensure that only personnel authorized by these entities participate in the stowing/unstowing or loading/unloading of ships or other functions related to the ships stay in port;
- .8 developing and implementing agreements with stevedores and other shore-side entities to ensure that their personnel having access to the ship are easily identifiable, and a list of names of persons likely to need to board the ship in the course of their duties is provided; and
- .9 encouraging stevedores and other persons working in the port area to report to the public and port authorities, the presence of any persons apparently not authorized to be in the port area.

## **4.2 Shipowner/Master**

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

4.2.2 When calling at ports and during stay in ports, where there is risk of stowaway embarkation, security arrangements should at least contain the following preventive measures:

- .1 all doors, hatches and means of access to holds or stores, which are not used during the ship's stay in port should be locked;
- .2 access points to the ship should be kept to a minimum and be adequately secured;
- .3 areas seaward of the ship should be adequately secured;
- .4 adequate deck watch should be kept;
- .5 boardings and disembarkations should, where possible, be tallied by the ship's crew or, after agreement with the master, by others;
- .6 adequate means of communication should be maintained; and
- .7 at night, adequate lighting should be maintained both inside and along the hull.

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

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

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

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

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

- .1 to make every effort to determine immediately the port of embarkation of the stowaway;
- .2 to make every effort to establish the identity, including the nationality/citizenship and the right of residence of the stowaway;
- .3 to prepare a statement containing all available information relevant to the stowaway for presentation to the appropriate authorities (for example, the public authorities at the port of embarkation, the flag State and any subsequent ports of call if relevant) and the shipowner. In this respect the reporting form provided in the Appendix should be used and completed as far as practicable;
- .4 to notify the existence of a stowaway and any relevant details to the shipowner and appropriate authorities at the port of embarkation, the next port of call and the flag State; with the understanding that when a stowaway declares himself/herself to be a refugee, this information should be treated as confidential to the extent necessary for the security of the stowaway;
- .5 not to depart from the planned voyage to seek the disembarkation of a stowaway discovered on board the ship after it has left the territorial waters of the State where the stowaways embarked unless permission to disembark the stowaway has been granted by the public authorities of the State to whose port the ship deviates, or repatriation has been arranged elsewhere with sufficient documentation and permission given for disembarkation, or unless there are extenuating safety, security, health or compassionate reasons;
- .6 to ensure that the stowaway is presented to the appropriate authorities at the next port of call in accordance with their requirements;
- .7 to take appropriate measures to ensure the security, general health, welfare and safety of the stowaway until disembarkation, including providing him/her with adequate provisioning, accommodation, proper medical attention and sanitary facilities;
- .8 to ensure that stowaways are not made to work on board the ship, except in emergency situations or in relation to the stowaway's accommodation on board; and
- .9 to ensure that stowaways are treated humanely, consistent with the basic principles.

## **5.2 The shipowner**

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

- .1 to ensure that the existence of, and any relevant information on, the stowaway has been notified to the appropriate authorities at the port of embarkation, the next port of call and the flag State;
- .2 to comply with any removal directions made by the competent national authorities at the port of disembarkation; and
- .3 to cover any applicable costs relating to the removal, detention, care and disembarkation of the stowaway in accordance with the legislation of the States which may be involved.

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

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

- .1 to accept the stowaway for examination in accordance with the national laws of that State and, where the competent national authority considers that it would facilitate matters, to allow the shipowner and the competent or appointed P&I Club correspondent to have access to the stowaway;
- .2 to favourably consider allowing disembarkation and provide, as necessary and in accordance with national law, secure accommodation which may be at the expense of the shipowner, where:
  - .1 a case is unresolved at the time of sailing of the ship, or
  - .2 the stowaway is in possession of valid documents for return and the public authorities are satisfied that timely arrangements have been or will be made for repatriation and all the requisites for transit fulfilled, or
  - .3 other factors make it impractical to remove the stowaway on the ship of arrival; such factors may include but are not limited to cases where a stowaway's presence on board would endanger the safe and secure operation of the ship, the health of the crew or the stowaway;
- .3 to make every effort to cooperate in the identification of the stowaway and the establishment of his/her nationality/citizenship or right of residence;
- .4 to make every effort to cooperate in establishing the validity and authenticity of a stowaway's documents and, when a stowaway has inadequate documents, to whenever practicable and to an extent compatible with national legislation and security requirements, issue a covering letter with a photograph of the stowaway and any other important information. The letter, authorizing the return of the stowaway either to his/her State of origin or to the point where the stowaway commenced his/her journey, as appropriate, by any means of transportation and specifying any other conditions imposed by the authorities, should be

- handed over to the operator effecting the removal of the stowaway. This letter will include information required by the authorities at transit points and/or the point of disembarkation;
- .5 to give directions for the removal of the stowaway to the port of embarkation, State of nationality/citizenship or right of residence or to some other State to which lawful directions may be made, in cooperation with the shipowner;
  - .6 to inform the shipowner on whose ship the stowaway was found, as far as practicable, of the level of cost of detention and return of the stowaway, if the shipowner is to cover these costs. In addition, public authorities should keep such costs to a minimum, as far as practicable, and according to national legislation, if they are to be covered by the shipowner, as well as keeping to a minimum the period during which shipowners are held liable to defray costs of maintenance of a stowaway by public authorities;
  - .7 to consider mitigation of charges that might otherwise be applicable when shipowners have cooperated with the control authorities to the satisfaction of those authorities in measures designed to prevent the transportation of stowaways; or where the master has properly declared the existence of a stowaway to the appropriate authorities in the port of arrival, and has shown that all reasonable preventive measures had been taken to prevent stowaways gaining access to the ship;
  - .8 to issue, if necessary, in the event that the stowaway has no identification and/or travel documents, a document attesting to the circumstances of embarkation and arrival to facilitate the return of the stowaway either to his/her State of origin, to the State of the port of embarkation, or to any other State to which lawful directions can be made, by any means of transport;
  - .9 to provide the document to the transport operator effecting the removal of the stowaway;
  - .10 to take proper account of the interests of, and implications for, the shipowner when directing detention and setting removal directions, so far as is consistent with the maintenance of control, their duties or obligations to the stowaway under the law, and the cost to public funds;
  - .11 to report incidents of stowaways to the Organization<sup>3</sup>;
  - .12 to cooperate with flag State of the ship in identifying the stowaway and their nationality/citizenship and right of residence, to assist in removal of the stowaway from the ship, and to make arrangements for removal or repatriation; and
  - .13 if disembarkation is refused, to notify the flag State of the ship the reasons for refusing disembarkation.

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<sup>3</sup> Refer to FAL.2/Circ.50/Rev.2 on Reports on Stowaway Incidents, as may be amended.

#### **5.4 Subsequent ports of call**

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

#### **5.5 State of embarkation**

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

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

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

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

- .1 to make every effort to assist in determining the identity and nationality/citizenship or the rights of residence of the stowaway and to document the stowaway, accordingly once satisfied that he or she holds the nationality/citizenship or the right of residence claimed;

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<sup>4</sup> Refer to FAL.2/Circ.50/Rev.2 on Reports on Stowaway Incidents, as may be amended.

- .2 to accept the stowaway where nationality/citizenship or right of residence is established; and
- .3 to report incidents of stowaways to the Organization<sup>5</sup>.

### **5.7 The flag State**

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

- .1 to be willing, if practicable, to assist the master/shipowner or the appropriate authority at the port of disembarkation in identifying the stowaway and determining his/her nationality/citizenship or right of residence;
- .2 to be prepared to make representations to the relevant authority to assist in the removal of the stowaway from the ship at the first available opportunity;
- .3 to be prepared to assist the master/shipowner or the authority at the port of disembarkation in making arrangements for the removal or repatriation of the stowaway; and
- .4 to report incidents of stowaways to the Organization<sup>5</sup>.

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

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

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<sup>5</sup> Refer to FAL.2/Circ.50/Rev.2 on Reports on Stowaway Incidents, as may be amended.



APPENDIX

**FORM OF STOWAWAY DETAILS REFERRED TO IN RECOMMENDED PRACTICE 4.6.2  
OF THE CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME  
TRAFFIC 1965, AS AMENDED**

<p><b>SHIP DETAILS</b></p> <p><i>Name of ship:</i></p> <p><i>IMO number:</i></p> <p><i>Flag:</i></p> <p><i>Company:</i></p> <p><i>Company address:</i></p> <p><i>Agent in next port:</i></p> <p><i>Agent address:</i></p> <p><i>IRCS:</i></p> <p><i>Inmarsat number:</i></p> <p><i>Port of registry:</i></p> <p><i>Name of Master:</i></p> <p><b>STOWAWAY DETAILS</b></p> <p><i>Date/time found on board:</i></p> <p><i>Place of boarding:</i></p> <p><i>Country of boarding:</i></p> <p><i>Date/time of boarding:</i></p> <p><i>Intended final destination:</i></p> <p><i>Stated reasons for boarding the ship:*</i></p> <p><i>Surname:</i></p> <p><i>Given name:</i></p> <p><i>Name by which known:</i></p> <p><i>Gender:</i></p> <p><i>First language:</i></p> <p><i>Spoken:</i></p> <p><i>Read:</i></p> <p><i>Written:</i></p>	<p><i>Date of birth:</i></p> <p><i>Place of birth:</i></p> <p><i>Claimed nationality:</i></p> <p><i>Home address:</i></p> <p><i>Country of domicile:</i></p> <p><i>ID-document type, e.g. Passport No.:</i></p> <p><i>ID Card No. or Seaman's Book No.:</i></p> <p><i>If yes,</i></p> <p><i>When issued:</i></p> <p><i>Where issued:</i></p> <p><i>Date of expiry:</i></p> <p><i>Issued by:</i></p> <p><i>Photograph of the stowaway:</i></p> <div style="border: 1px solid black; width: 150px; height: 100px; margin: 10px auto; text-align: center; padding: 5px;"> <p>Photograph if available</p> </div> <p><i>General physical description of the stowaway:</i></p> <p><i>Other languages:</i></p> <p><i>Spoken:</i></p> <p><i>Read:</i></p> <p><i>Written:</i></p>
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\* If the stowaway declares himself to be a refugee or an asylum seeker, this information shall be treated as confidential to the extent necessary to the security of the stowaway.

*Other details:*

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

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

*Stowaway's signature:*

*Master's signature:*

*Date:*

*Date:*

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## ANNEX 2

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

Decisions of other IMO bodies

Consideration and adoption of proposed amendments to the Convention

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

- .1 comprehensive review of the Convention

E-business possibilities for the facilitation of maritime traffic:

- .1 electronic means for the clearance of ships, cargo and passengers
- .2 electronic access to, or electronic versions of, certificates and documents required to be carried on ships

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

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

Ensuring security in and facilitating international trade:

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

Ship/port interface:

- .1 facilitation of shipments of dangerous cargoes

Technical co-operation and assistance

Relations with other organizations

Application of the Committee's Guidelines

Work programme

Election of Chairman and Vice-Chairman for 2012

Any other business

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**ANNEX 3**

**REPORT ON THE STATUS OF PLANNED OUTPUTS FOR THE FAL COMMITTEE**

Planned output number in the H LAP for 2010-2011 <sup>a</sup>	Description	Target completion year <sup>b</sup>	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1 <sup>c</sup>	Status of output for Year 2 <sup>c</sup>	References
1.1.1.1	Permanent analysis, demonstration and promotion of the linkage between a safe, secure, efficient and environmentally friendly maritime transport infrastructure, the development of global trade and the world economy and the achievement of the MDGs	Continuous	ASSEMBLY COUNCIL COMMITTEES			Ongoing	Ongoing	
1.1.2.7	Cooperation with data providers: protocols on data exchange with international, regional and national entities	Continuous	COMMITTEES			Ongoing	Ongoing	
1.1.2.34	Policy input/guidance to IAEA: facilitation of the shipment of class 7 radioactive materials	Continuous	FAL			Ongoing	Ongoing	

Planned output number in the H LAP for 2010-2011 <sup>a</sup>	Description	Target completion year <sup>b</sup>	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1 <sup>c</sup>	Status of output for Year 2 <sup>c</sup>	References
1.1.2.35	Policy input/guidance to UNECE/UNCEFACT: trade facilitation and electronic transmission of information-related matters	Continuous	FAL			Ongoing	Ongoing	
1.1.2.36	Policy input/guidance to UNODC/WCO: prevention and control of illicit drug trafficking	Continuous	FAL			Ongoing	Ongoing	
1.1.2.37	Policy/input guidance to WCO: clearance of ships, persons and cargoes; and security of the supply chain	Continuous	FAL			Ongoing	Ongoing	
1.1.2.38	Policy and strategy for the implementation of the IMO-related aspects of the UN Global Counter-Terrorism Strategy	Continuous	MSC/LEG/TCC/FAL			Ongoing	Ongoing	
1.3.4.3	Finalized Explanatory Manual to the FAL Convention	2010	FAL			Completed		FAL.3/Circ.202, issued on 11 October 2010

Planned output number in the HLAP for 2010-2011 <sup>a</sup>	Description	Target completion year <sup>b</sup>	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1 <sup>c</sup>	Status of output for Year 2 <sup>c</sup>	References
3.5.1.5	Input to the ITCP on facilitation of international maritime traffic	Continuous	FAL			Ongoing	Ongoing	
3.5.3.2	A capacity-building mechanism for new measures or instruments, as called for under resolution A.998(25)	2011	COMMITTEES			In progress	Completed	FAL.3/Circ.206, issued on 6 July 2011
4.0.2.1	Guidance on the establishment or further development of information systems (databases, websites, etc.) as part of the Global Integrated Shipping Information System (GISIS) platform, as appropriate	Continuous	COMMITTEES			Ongoing	Ongoing	
4.0.2.3	Protocols on data exchange with other international, regional and national data providers	Continuous	COMMITTEES			Ongoing	Ongoing	
4.0.5.1	Revised guidelines on organization and method of work, as appropriate	Continuous	COUNCIL COMMITTEES			Ongoing	Ongoing	FAL.3/Circ.206, issued on 6 July 2011

Planned output number in the HLAP for 2010-2011 <sup>a</sup>	Description	Target completion year <sup>b</sup>	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1 <sup>c</sup>	Status of output for Year 2 <sup>c</sup>	References
6.1.1.2	Non-mandatory instruments: measures to enhance the security of closed cargo transport units and of freight containers	2011	MSC/FAL			In progress	In progress	
8.0.1.1	Reports on the status of the FAL Convention	Continuous	FAL	Secretariat		Ongoing	Ongoing	
8.0.1.2	Comprehensive review of the FAL Convention	2013	FAL				In progress	FAL 35/17, paragraph 4.16 and FAL 36/17, paragraph 4.22. Correspondence Group worked in 2011, after FAL 36
8.0.1.3	Review of the role, mission, strategic direction and work of the Facilitation Committee	2010	FAL			Completed		FAL 37/17, paragraph 13.11
8.0.1.4	Finalized Explanatory Manual to the FAL Convention (FAL)	2010	FAL			Completed		FAL.3/Circ.202, issued on 11 October 2010
8.0.2.1	Access procedures at the ship/port interface for public officers and service providers visiting a vessel	2012	FAL			In progress	In progress	



Planned output number in the HLAP for 2010-2011 <sup>a</sup>	Description	Target completion year <sup>b</sup>	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1 <sup>c</sup>	Status of output for Year 2 <sup>c</sup>	References
8.0.2.2	Procedures to facilitate seafarers' access in and out of a port facility during shore leave, if necessary	2012	FAL			In progress	In progress	FAL.3/Circ.201, issued on 27 September 2010
8.0.2.3	Guidance on documentation required by passengers, particularly transit cruise passengers, to ensure their smooth flow through ports	Continuous	FAL			Ongoing	Ongoing	
8.0.2.4	Procedures for cargo and baggage clearance through a port facility	2012	FAL			In progress	In progress	
8.0.2.5	Revised FAL.2/Circ.50/Rev.1 on Reports of stowaway incidents	2010	FAL			Completed		FAL.2/Circ.50/Rev.2, adopted on 29 November 2010
8.0.2.6	Reports and information on illegal migrants	Continuous	FAL/MSC	Secretariat		Ongoing	Ongoing	MSC.3/Circ. series

Planned output number in the H LAP for 2010-2011 <sup>a</sup>	Description	Target completion year <sup>b</sup>	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1 <sup>c</sup>	Status of output for Year 2 <sup>c</sup>	References
8.0.2.7	Revised Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution A.871(20))	2011	FAL/MSC			In progress	Completed	Resolution FAL.11(37) on "Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases"
8.0.3.1	Finalized Guidelines for the use of Single Window	2012	FAL			In progress	Completed	FAL.5/Circ.36 on Guidelines for setting up the Single Window system in maritime transport.
8.0.3.2	Finalized IMO Compendium of Facilitation and Electronic Business (FAL)	2011	FAL			In progress	Completed	FAL.5/Circ.35 on Revised IMO Compendium on Facilitation and Electronic Business
8.0.3.3	Information technology solutions (e.g. electronic signature) developed to facilitate the process of clearing the ship, its cargo, passengers and crew	2012	FAL			In progress	In progress	

Planned output number in the HLAP for 2010-2011 <sup>a</sup>	Description	Target completion year <sup>b</sup>	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1 <sup>c</sup>	Status of output for Year 2 <sup>c</sup>	References
11.1.1.1	Permanent analysis, demonstration and promotion of the linkage between a safe, secure, efficient and environmentally friendly maritime transport infrastructure, the development of global trade and the world economy and the achievement of the MDGs	Continuous	ASSEMBLY COUNCIL COMMITTEES			Ongoing	Ongoing	

**NOTES:**

- a When individual output contains multiple deliverables, the format should be to report on each individual deliverable.
- b The target completion date should not be not indicated by the number of sessions. It should be specified by year, or indicate that the item is continuous.
- c The entries under the "Status of output" columns are categorized as follows:
  - "completed" if it signifies that the output in question has been duly finalized;
  - "in progress" if it signifies that the expected output has been progressed, often with interim outputs (for example, draft amendments or guidelines) which is expected to be finalized and approved within the same biennium;
  - "ongoing" if it signifies that the output relate to work of the respective IO organs that is a permanent or continuous task; and
  - "postponed" if it signifies that the respective IMO organ has decided to defer the production of relevant outputs to another time (for example, until the receipt of corresponding submissions).
- d If the output consists of the adoption/approval of an instrument (e.g. resolution, circular, etc.), that instrument should be clearly referenced in this column.

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**ANNEX 4**  
**POST-BIENNIAL AGENDA OF THE COMMITTEE**

<b>FACILITATION COMMITTEE</b>								
<b>ACCEPTED POST-BIENNIAL OUTPUTS</b>				<b>Parent organ(s)</b>	<b>Coordinating organ(s)</b>	<b>Associated organ(s)</b>	<b>Timescale</b>	<b>Remarks</b>
<b>Number</b>	<b>Reference to Strategic Directions</b>	<b>Reference to High-level Actions</b>	<b>Description</b>					
1	6	6.1.1.2	Non-mandatory instruments: measures to enhance the security of closed cargo transport units and of freight containers	MSC/FAL			2 sessions [2014]	
2	8	8.0.1.2	Comprehensive review of the FAL Convention	FAL			2 sessions [2014]	FAL 35/17, paragraph 4.16
3	8	8.0.2.1	Access procedures at the ship/port interface for public officers and service providers visiting a vessel	FAL			1 session [2013]	
4	8	8.0.2.2	Procedures to facilitate seafarers' access in and out of a port facility during shore leave, if necessary	FAL			1 session [2013]	
5	8	8.0.2.4	Procedures for cargo and baggage clearance through a port facility	FAL			1 session [2013]	
6	8	8.0.3.3	Information technology solutions (e.g. electronic signature) developed to facilitate the process of clearing the ship, its cargo, passengers and crew	FAL			1 session [2013]	

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**ANNEX 5**

**PROPOSALS FOR THE HIGH-LEVEL ACTION PLAN OF THE ORGANIZATION  
AND PRIORITIES FOR THE 2012–2013 BIENNIUM FOR THE FACILITATION COMMITTEE\***

No.**	High-level Actions (HLAs)	No.**	Planned outputs (POs) for 2012–2013
<b>Broad category: Enhancing the status and effectiveness of IMO</b>			
1.1.1	Take the lead and actively promote its role as the primary international forum on matters within its purview	1.1.1.1	Note: POs of the Organization meeting this high-level action are tabulated in this annex against the most relevant HLAs Permanent analysis, demonstration and promotion of the linkage between a safe, secure, efficient and environmentally friendly maritime transport infrastructure, the development of global trade and the world economy and the achievement of the MDGs (Assembly, Council, all committees and Secretariat)
1.1.2	Cooperate with the United Nations and other international bodies on matters of mutual interest	1.1.2.7	Cooperation with data providers: protocols on data exchange with international, regional and national entities (all committees, as appropriate/Secretariat)
		1.1.2.18	Liaison statements to/from UNHCR: persons rescued at sea (MSC/FAL)
		1.1.2.34	Policy input/guidance to IAEA: facilitation of the shipment of class 7 radioactive materials (FAL)
		1.1.2.35	Policy input/guidance to UNECE/UNCEFACT: single window, trade facilitation and electronic transmission of information-related matters (FAL)
		1.1.2.36	Policy input/guidance to UNODC/WCO: prevention and control of illicit drug trafficking (FAL)
1.1.2.37	Policy/input guidance to WCO: single window, clearance of ships, persons and cargoes; and security of the supply chain (FAL)		
1.1.2	Cooperate with the United Nations and other international bodies on matters of mutual interest	1.1.2.38	Policy and strategy for the implementation of the IMO-related aspects of the UN Global Counter-Terrorism Strategy (MSC/LEG/TCC/FAL)

\* Strike-outs indicate proposed deletions and underlined text indicates proposed additions/revisions (R = revised) to the annex of resolution A.1012(26).

\*\* New numbers will be assigned by the Council, in due course, for the High-level Action Plan and planned outputs for the 2012-2013 biennium. New planned outputs which currently have no numbers are marked as NEW.

No.**	High-level Actions (HLAs)	No.**	Planned outputs (POs) for 2012–2013
1.3.4	Promote facilitation measures	1.3.4.1	Participation in relevant international forums (Secretariat)
		1.3.4.2	<del>FAL module incorporated in the programme of maritime security training activities (Secretariat)</del>
		1.3.4.3	<del>Maintain</del> Review and update the Explanatory Manual to the FAL Convention <del>with to reflect any the amendments to the Annex to the FAL Convention (FAL))</del> <del>Finalized Explanatory Manual to the FAL Convention (FAL)</del>
3.5.1	Consider, prioritize and implement technical cooperation programmes	3.5.1.5	Input to the ITCP on facilitation of international maritime traffic (FAL)
3.5.3	Develop new measures to improve the delivery of technical assistance	3.5.3.2	A capacity-building mechanism for new measures or instruments, as called for under resolution A.998(25) (all committees)
4.0.2	Create a knowledge and information-based Organization through improved management and dissemination of information making use of appropriate technology	4.0.2.1	Guidance on the establishment or further development of information systems (databases, websites, etc.) as part of the Global Integrated Shipping Information System (GISIS) platform, as appropriate (all committees, as appropriate)
		4.0.2.3	Protocols on data exchange with other international, regional and national data providers (all committees, as appropriate/Secretariat)
4.0.5	Keep under review working methods and processes	4.0.5.1	Revised guidelines on organization and method of work, as appropriate (Council and all committees)



No.**	High-level Actions (HLAs)	No.**	Planned outputs (POs) for 2012–2013
6.1.1	Keep under review measures (e.g. ISPS Code) to enhance security for ship and port facilities including the ship/port interface and shipping lanes of strategic importance	6.1.1.2	Non-mandatory instruments: measures to enhance the security of closed cargo transport units and of freight containers (MSC/FAL)
8.0.1	Promote wider acceptance of the FAL Convention and adoption of measures contained therein, to assist the FAL Committee's effort and work towards the universal implementation of measures to facilitate international maritime traffic	8.0.1.1	<del>Reports on the status of the FAL Convention (FAL)</del>
		8.0.1.2	Comprehensive review of the FAL Convention (FAL)
		8.0.1.3	<del>Review of the role, mission, strategic direction and work of the Facilitation Committee (FAL)</del>
		8.0.1.4	<del>Review and update the Explanatory Manual to the FAL Convention to reflect any amendments to the Annex to the FAL Convention (FAL)</del> <del>Maintain updated the Explanatory Manual to the FAL Convention with the amendments to the Convention (FAL)</del> Finalized Explanatory Manual to the FAL Convention (FAL)
8.0.2	Ensure that an appropriate balance is maintained between measures to enhance maritime security and measures to facilitate maritime international traffic	8.0.2.1	Access procedures at the ship/port interface for public officers and service providers visiting a vessel (FAL)
		8.0.2.2	Procedures to facilitate seafarers' access in and out of a port facility during shore leave, if necessary (FAL)
		8.0.2.3	Guidance on documentation required by passengers, particularly transit cruise passengers, to ensure their smooth flow through ports (FAL)

No.**	High-level Actions (HLAs)	No.**	Planned outputs (POs) for 2012–2013
8.0.2	Ensure that an appropriate balance is maintained between measures to enhance maritime security and measures to facilitate maritime international traffic	8.0.2.4	Procedures for cargo and baggage clearance through a port facility (FAL)
		8.0.2.5	<del>Revised FAL.2/Circ.50/Rev.1 on Reports of stowaway incidents (FAL)</del>
		8.0.2.6	Reports and information on illegal migrants (FAL)
		8.0.2.7	<del>Revised Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution A.871(20)) (FAL/MSC)</del>
			NEW: ensuring security in and facilitating international trade by means of guidance on measures toward enhancing maritime trade recovery related to the global supply chain system and maritime conveyances (FAL with WCO)
8.0.3	Encourage the use of information and communication technology to drive continuous improvement and innovation in the facilitation of maritime traffic	{8.0.3.1}	<del>(Finalized Guidelines for the use of Single Window (FAL))</del>
		{8.0.3.2}	<del>(Finalized IMO Compendium of Facilitation and Electronic Business (FAL))</del>

No.**	High-level Actions (HLAs)	No.**	Planned outputs (POs) for 2012–2013
8.0.3	Encourage the use of information and communication technology to drive continuous improvement and innovation in the facilitation of maritime traffic	8.0.3.3	Information technology solutions (e.g. electronic signature) developed to facilitate the process of clearing the ship, its cargo, passengers and crew (FAL)
			NEW: Electronic access to, or electronic versions of, certificates and documents required to be carried on ships (FAL, MSC, MEPC, LEG)
11.1.1	Raise awareness of the role of international shipping in world trade and the global economy and the importance of the Organization's role	11.1.1.1	Permanent analysis, demonstration and promotion of the linkage between a safe, secure, efficient and environmentally friendly maritime transport infrastructure, the development of global trade and the world economy and the achievement of the MDGs (Assembly, Council, all committees and Secretariat)