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FACILITATION COMMITTEE  
29th session  
Agenda item 18

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30 January 2002  
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**REPORT OF THE TWENTY-NINTH SESSION OF THE  
FACILITATION COMMITTEE**

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## 1 GENERAL - ADOPTION OF THE AGENDA

### Introduction

1.1 The Facilitation Committee held its twenty-ninth session from 7 to 11 January 2002 under the Chairmanship of Mr. L. Barchue (Liberia).

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

ALGERIA	ITALY
ARGENTINA	LEBANON
AUSTRALIA	LIBERIA
BAHAMAS	MALAYSIA
BANGLADESH	MALTA
BELGIUM	MARSHALL ISLANDS
BRAZIL	MEXICO
CANADA	NETHERLANDS
CHILE	NORWAY
CHINA	PANAMA
CUBA	PERU
CYPRUS	PHILIPPINES
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	POLAND
DENMARK	PORTUGAL
EGYPT	REPUBLIC OF KOREA
ESTONIA	RUSSIAN FEDERATION
FINLAND	SINGAPORE
FRANCE	SPAIN
GABON	SWEDEN
GERMANY	THAILAND
GHANA	TUNISIA
GREECE	TURKEY
GUATEMALA	UKRAINE
INDONESIA	UNITED KINGDOM
IRAN (ISLAMIC REPUBLIC OF)	UNITED STATES
	VENEZUELA

and the following Associate Member of IMO:

HONG KONG, CHINA

and the following observer:

JAPAN

1.3 The session was attended by representatives from the United Nations and Specialized Agencies:

UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)  
INTERNATIONAL LABOUR ORGANIZATION (ILO)

by an observer from the following intergovernmental organizations:

EUROPEAN COMMISSION (EC)

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

INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)  
INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)  
INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU)  
PERMANENT INTERNATIONAL ASSOCIATION OF NAVIGATION  
CONGRESSES (PIANC)  
INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)  
THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO)  
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)  
INTERNATIONAL CARGO HANDLING CO-ORDINATION ASSOCIATION  
(ICHCA)  
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)  
INTERNATIONAL MARITIME PILOTS' ASSOCIATION (IMPA)  
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)  
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS  
(INTERTANKO)  
SOCIETY OF INTERNATIONAL GAS TANKER AND TERMINAL OPERATORS  
LIMITED (SIGTTO)  
INTERNATIONAL ROAD TRANSPORT UNION (IRU)  
INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS  
(INTERCARGO)  
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)  
INTERNATIONAL HARBOUR MASTERS' ASSOCIATION (IHMA)  
INTERNATIONAL BULK TERMINALS ASSOCIATION (IBTA)

1.4 The Secretary-General welcomed the participants and, referring to the regrettable loss with all hands of the bulk carrier **Christopher** in the North Atlantic late in December 2001, recommended that the report into the investigation already under way by the flag Administration concerned be submitted to the Organization as soon as possible so that any conclusions and recommendations made could be taken into account in the extensive work the MSC is carrying out on the safety of bulk carriers.

Referring to the twenty-second session of the Assembly in November 2001, the Secretary-General highlighted the unanimous adoption of resolution A.924(22) on Review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships, proposed in the aftermath of the terrorist attacks in New York and Washington, D.C. on 11 September 2001.

The Secretary-General explained that the main thrust of the resolution was a request to the Maritime Safety Committee, the Legal Committee and the FAL Committee, under the direction of the Council, to undertake, on a high priority basis, a review to ascertain whether there was a need to update the relevant IMO instruments to adopt, as may be necessary, new security measures to strengthen the security of ships and, in the light of such a review, to take any further prompt action required. In due course, he would submit, through the Council, a progress report on the outcome of the work of the three Committees during the current biennium to the twenty-third session of the Assembly for information and further action, as might be required.

The resolution also provides for technical assistance to be provided to Governments for the purpose of assisting them to assess, put in place or enhance appropriate infrastructure and measures to strengthen port safety and security to prevent and suppress terrorist acts directed against ports and port personnel as well as ships in port areas, passengers and crews.

The Secretary-General further informed the Committee of the Assembly's decision that, in order for action as envisaged in the resolution to be taken expeditiously, an intersessional working group should be convened in February 2002 to prepare recommendations for submission to MSC 75 for any necessary follow-up action as well as to the Legal Committee and the FAL Committee for action within their areas of competence.

The Assembly had recognized that, since the Committee was to meet before the intersessional working group meeting, it would be in a position to decide what contributions it might wish to make to the working group. The Secretary-General stressed that the expertise available in the SPI Working Group might be of particular relevance to that work.

He then referred to the adoption, by A 22, of resolution A.920(22) on Review of safety measures and procedures for the treatment of persons rescued at sea, which he had proposed, through the Council, in order to address issues which came to the fore in the aftermath of incidents involving persons rescued at sea and/or asylum seekers, refugees and stowaways, some of which incidents had tested the thoroughness of the relevant IMO legislation and the degree of preparedness of the maritime community to satisfactorily deal with them. He explained that his concern was that, unless the issues which came to light in the process and after the reported incidents had been considered in all their respects and action had been taken at the appropriate level, such incidents might have a negative impact on the integrity of the search and rescue system and related systems the Organization had put in place globally to the benefit of those found in distress at sea.

Since there were indications that such incidents might continue in the future or might even escalate, the Secretary-General considered that early and prompt action should be taken to enhance the preparedness of the maritime community to respond to emergencies caused by such incidents in a co-ordinated manner.

The Secretary-General explained that the main thrust of resolution A.920(22) was to request the Maritime Safety Committee, the Legal Committee and the FAL Committee, under the direction of the Council, to review on a priority basis, all relevant IMO instruments under the scope of the three Committees for the purpose of identifying any existing gaps, inconsistencies, ambiguities, vagueness or other inadequacies and, in the light of such a review, to take appropriate action as specified in operative paragraph 1 of that resolution. Following this, he would submit, through the Council, a progress report on the outcome of the work in hand to the twenty-third session of the Assembly for information and further action, as might be required.

Another initiative he had taken in the context of persons rescued at sea was to bring the issue to the attention of a number of United Nations specialized agencies and programmes pointing out the need for a co-ordinated approach to all attendant aspects at the United Nations inter-agency level. Further to proposing a review of the relevant legislation adopted by the United Nations agencies and programmes concerned, he had also proposed the establishment of a co-ordinating mechanism (possibly in the form of an inter-agency co-ordinating panel to be activated when the circumstances so dictate) to ensure that the response of the United Nations in any future emergency could be co-ordinated in an efficient and consistent manner. Having received positive responses to his initiative, action was being taken to implement the scheme and the Secretary-General intended to report further developments on it to the competent IMO bodies in due course.

The Secretary-General highlighted, in the context of resolution A.920(22), that the stowaway issue continued to occupy an important part of the Committee's agenda, having become a heavy burden to ships and crews and on the shipping industry as a whole. At this session, the Committee was expected to consider, with a view to adoption, draft amendments to the Annex to the FAL Convention to include key elements aimed at resolving stowaway problems; and he believed that the adoption of those amendments, which would be expected to enter into force early in 2003, would be a significant step forward.

The Secretary-General identified the use of electronic data interchange messages for the clearance of ships and cargo as another important item on the Committee's agenda on which a correspondence group had been established to update the Committee on developments relating to electronic business in the area of maritime traffic and to act as a focal point for any progress needed to be made towards achieving the goal of total electronic clearance of ships and cargoes.

With respect to the harmonization of ships' certificates, the Secretary-General said he expected that, based on the recommendations of the Committee's *ad hoc* correspondence group, the Committee would decide how to further proceed with the matter, taking into account the comments of the MSC, the MEPC and relevant international organizations.

The Secretary-General recalled that at FAL 28, the Committee had considered matters relating to the FAL Convention from a general point of view and also how to modernize and bring it up-to-date with developments in the shipping industry; also how to rationalize the work of the Committee as a whole. With a view to progressing that work, the Committee's Chairman had been requested, in consultation with interested Governments and the Secretariat, to prepare a strategic review of the Committee's work, taking into account technological and other developments in the area of international maritime traffic; and to make recommendations on any work which should be done to bring the FAL Convention and the work of the Committee in line with industry requirements. The Secretary-General was confident that the Chairman's report, once completed, endorsed and effectively implemented, would enable the Committee to reach appropriate conclusions in all areas concerned with the facilitation, arrival, stay and departure of ships, cargoes and passengers at and from ports.

With respect to other facilitation activities, he referred to the outcome of the sub-regional FAL seminar, which had been held intersessionally in the Russian Federation for 10 selected CIS/Eastern European countries, with funds provided by the Technical Co-operation Fund. Since the main purpose of such seminars was to resolve any differences from Convention Standards, which still exist in the countries and regions concerned, it was expected that activities such as these would eventually lead to an effective and uniform implementation of the FAL Convention as a whole.

Turning to the Working Group on Ship/Port Interface, the Secretary-General highlighted that, apart from any other work that the Committee might assign to it within the context of resolution A.924(22), the group would continue the development of a manual on loading and unloading of solid bulk cargoes for terminal representatives; and the consideration of the availability of adequate tug assistance. Included in the SPI Working Group's agenda were the development of Guidelines for the training of port marine personnel, as well as the updating of the list of existing publications relevant to subject areas and topics relating to ship/port interface.

Informing the Committee that only 58 of the required 107 acceptances of the amendments to the IMO Convention, aiming at institutionalizing the FAL Committee, had been received, the Secretary-General observed that this was not an encouraging and satisfactory record eleven years after the adoption and therefore invited those Member Governments which had not yet accepted them to do so, so that they could enter into force as early as possible.

The Secretary-General concluded by expressing his confidence that the Committee would continue making an important contribution to the facilitation of international maritime traffic, to which Governments, the industry, seafarers and the travelling public attach an ever-increasing importance.

1.5 In responding to the Secretary-General's remark, the Chairman stated that his advice and request would be given every consideration in the Committee's deliberations.

1.6 The delegation of Brazil informed the Committee of the latest findings and procedures under way about the unfortunate incident that took place on 6 December 2001 in that country that culminated in the death of Sir. Peter Blake, the famous New Zealander yachtsman and offered their sincerest condolences, on behalf of the Brazilian Government, to his family as well as to the people of his country. That delegation further informed that the criminals were caught within 24 hours due to a prompt action of the police, after being properly informed, and highlighted that the incident occurred in a period of great decline in the statistics of such incidents due to the measures adopted in Brazil since 1997. That delegation also highlighted that this incident was not and cannot be classified as piracy or new armed robbery at sea, but armed robbery at port and treated under domestic legislation. That delegation further stated the position of Brazil that crimes of international and global characteristics, such as piracy and armed robbery at sea are considered under the scope of IMO's activities; however those under the domestic legislation, as this one, are not and as such they should not be classified and counted together.

## **Credentials**

1.7 On behalf of the Secretary-General, the Director of MSD informed the Committee that all credentials presented to the session had been found to be in order.

## **Adoption of the agenda**

1.8 The agenda of the session, as adopted by the Committee, and a list of documents submitted under each agenda item, is given in annex 1.

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

2.1 The Committee noted decisions related to its work taken at:

- .1 the eighty-fifth and eighty-sixth sessions of the Council (FAL 29/2);

- .2 the seventy-third and seventy-fourth sessions of the Maritime Safety Committee (FAL 29/2);
- .3 the forty-sixth session of the Marine Environment Protection Committee (FAL 29/2);
- .4 the forty-seventh session of the Sub-Committee on Safety of Navigation (FAL 29/2);
- .5 the sixth session of the Sub-Committee on Dangerous Goods, Containers and Cargoes (FAL 29/2); and
- .6 the twenty-second session of the Assembly (FAL 29/2/1).

2.2 The action taken by the Committee with respect to the above decisions is reported under relevant sections of this report.

### **Approval of the report of FAL 28**

2.3 The Committee noted (FAL 28/2, paragraphs 2 and 3 and FAL 28/2/1, paragraph 14) that the eighty-fifth session of the Council and the twenty-second session of the Assembly had approved the report of the Committee on its twenty-eighth session.

### **Relations with the United Nations and the specialized agencies**

2.4 The Committee (FAL 29/2, paragraph 4) noted that the eighty-fifth session of the Council had noted the report on the decisions of the General Assembly provided by the Secretary-General and the statement made by the representative of the United Nations, and had taken note of the request to bring General Assembly resolution 55/7 on Oceans and law of the sea to the attention of the IMO committees and sub-committees, as applicable, as soon as possible.

### **Review of the Sub-Committees structure**

2.5 The Committee (FAL 29/2/1, paragraph 13) noted that the twenty-second session of the Assembly had endorsed the course of action agreed by the MSC and MEPC and approved by the Council, and noted the revised terms of reference for reviewing the sub-committees structure and the draft work plan for a review of the sub-committees structure, as set out in annexes 1 and 2 respectively to document A 22/9/1-A 22/11/1.

### **Policy making in IMO - Setting the Organization's policies and objectives**

2.6 The Committee's attention was drawn (FAL 29/WP.1) to resolution A.909(22) on Policy making in IMO - Setting the Organization's policies and objectives.

### **Uniform wording for referencing IMO instruments**

2.7 The Committee (FAL 29/2/1, paragraph 15) noted that the twenty-second session of the Assembly had adopted resolution A.911(22) on Uniform wording for referencing IMO instruments.



## **Safety measures and procedures for the treatment of persons rescued at sea**

2.8 The Committee noted the adoption by the Assembly of resolution A.920(22) on Review of safety measures and procedures for the treatment of persons rescued at sea (FAL 29/2/1, annex 1), in particular, operative paragraph 1, requesting the Maritime Safety Committee, the Legal Committee and the Facilitation Committee, under the direction of the Council, to review, on a priority basis, the international conventions referred to in that resolution (the United Nations Convention on the Law of the Sea; the International Convention for the Safety of Life at Sea, 1974, as amended; the International Convention on Maritime Search and Rescue, 1979, as amended; the Convention on Facilitation of International Maritime Traffic, 1965, as amended; and the International Convention on Salvage, 1989) and any other IMO instruments under their scope for the purpose of identifying any existing gaps, inconsistencies, ambiguities, vagueness or other inadequacies and, in the light of such review, to take action as appropriate so that:

- survivors of distress incidents are provided assistance regardless of nationality or status or the circumstances in which they are found,
- ships, which have retrieved persons in distress at sea, are able to deliver the survivors to a place of safety, and
- survivors, regardless of nationality or status, including undocumented migrants, asylum seekers and refugees, and stowaways, are treated, while on board, in the manner prescribed in the relevant IMO instruments and in accordance with relevant international agreements and long-standing humanitarian maritime traditions.

2.9 The Committee further noted that in accordance with operative paragraph 5 of the resolution, the Secretary-General had been requested to submit a report to the twenty-third session of the Assembly on progress made in the interim.

2.10 In considering the issue from its own competence point of view, the Committee recognized that the following IMO instruments might need to be reviewed to address the requests of the Assembly:

- .1 the FAL Convention, in particular Section 6 (Miscellaneous Provisions), C. (Emergency Assistance), Standards 6.8 to 6.10;
- .2 resolution A.773(18) on Enhancement of safety of life at sea by the prevention and suppression of unsafe practices associated with alien smuggling by ships;
- .3 resolution A.871(20) on Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases; and
- .4 resolution A.867(20) on Combating unsafe practices associated with the trafficking or transport of migrants by sea.

2.11 The Committee agreed:

- .1 to review the FAL Convention, in particular Standards 6.8 to 6.10 and any provisions relating to undocumented migrants, under agenda item 7 (General review of the Convention) (see paragraphs 7.39 to 7.46); and

- .2 to consider, under agenda item 9 (Stowaways) (see paragraphs 9.1 and 9.2), whether there was a need to amend the other three resolutions mentioned above.

### **Measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships**

2.12 The Committee noted the adoption by the Assembly of resolution A.924(22) on Review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships (FAL 29/2/1, annex 2), in particular, the last preambular paragraph and operative paragraph 1 thereof:

- recognizing the need for the Organization to review, with the intent to revise, existing, and consider new, appropriate international legal and technical measures to prevent and suppress terrorism against ships and to improve security aboard and ashore in order to reduce the risk to passengers, crews and port personnel on board ships and in port areas and to the vessels and their cargoes; and
- requesting the Maritime Safety Committee, the Legal Committee and the Facilitation Committee, under the direction of the Council, to undertake, on a high priority basis, a review to ascertain whether there is a need to update the instruments referred to in the preambular paragraphs and any other relevant IMO instrument under their scope and/or to adopt other security measures and, in the light of such a review, to take prompt action as appropriate.

2.13 The Committee (FAL 29/2/1, paragraphs 7 to 11) further noted that the Assembly had:

- .1 decided that, in order for action on the Assembly's requests in the resolution to be taken expeditiously, an intersessional MSC Working Group on Maritime Security should be established from 11 to 15 February 2002 to:
  - .1 start work on the review requested in operative paragraph 1 of the resolution;
  - .2 prepare a list of subjects to be further discussed which, according to their nature, should then be forwarded to the MSC and, if appropriate, the Legal and FAL Committees for further elaboration;
  - .3 consider proposals and information on maritime security issues submitted by Member Governments and international organizations concerned;
  - .4 prepare a work plan and timeframe for the work to be undertaken on this matter; and
  - .5 submit its report to MSC 75;
- .2 recognized that, since FAL 29 would meet before the intersessional Working Group meeting, the Committee would be in a position to decide what contributions it might wish to make to the Working Group;
- .3 further decided that the outcome of the intersessional Working Group be submitted to MSC 75 for follow-up by an *ad hoc* working group; as well as to the Legal and FAL Committees for appropriate action; and

- .4 requested the Secretary-General to submit a report to the twenty-third session of the Assembly on progress made in the interim.

2.14 The delegation of the United States expressed the United States' sincere appreciation for the words of sympathy and support they had received from so many delegations since the tragedy of 11 September 2001 and the swiftness of action taken at the twenty-second session of the Assembly. The delegation further expressed the view that, as highlighted by the discussions at A 22, the Committee should work together with the goal of improving maritime security and, to that end, it had a unique opportunity, before the February 2002 intersessional Working Group on Maritime Security, which should be considered the primary venue for the discussion of maritime security issues, to examine closely what efforts this Committee might contribute to that work. The United States delegation recommended that the Committee tasked the Ship/Port Interface (SPI) Working Group to begin examining maritime security-related issues, with a view to having key SPI members continue their work at the February 2002 intersessional Working Group meeting.

2.15 The Committee, although desiring to address the issue expeditiously, recognized that many Member Governments were still formulating their position on specific items to be addressed by the MSC intersessional Working Group in February. It further recognized that it would be prudent for the intersessional Working Group to first consider the issue and develop specific recommendations to be addressed by the Committees concerned. In this regard, the Committee decided that an initial review of the two MSC circulars (MSC/Circ.443 and MSC/Circ.754) mentioned in resolution A.924 (22) should be carried out to identify any gaps and areas where improvements could be made and that the outcome of the initial review should be submitted to the intersessional Working Group for consideration.

2.16 Following interventions by a number of delegations, the Committee acknowledged that facilitation and enhanced security were complimentary to each other and should not be viewed as excluding each other. Enhanced security could lead to expeditious clearance of ships, crews, passengers and cargoes. To ensure that this aspect was taken into account, the Committee recommended that existing documentation requirements for seafarers and for the clearance of ships should be reviewed and, where necessary, security improvements should be made prior to any action taken to initiate new and/or additional documentation requirements.

2.17 The Committee decided that the SPI Working Group was most suited to carry out the review of the MSC Circulars, considering its broad expertise in both the port and shipping sectors and instructed the SPI Working Group, as a matter of urgency, and apart from instructions given under agenda item 12 (Ship/port interface), as part of the Committee's contributions to the work of the intersessional Working Group on Maritime Security, to:

- .1 review MSC/Circ.443 (Measures to prevent unlawful acts against passengers and crews on board ships) and MSC/Circ.754 (Passenger Ferry Security), referred to in resolution A.924(22), from the SPI viewpoint and identify the areas where there is a need to update/expand, e.g.:
  - .1 the need for security plans on ships, port facilities and off-shore terminals; and
  - .2 ensuring a secure chain of custody for containers from their port of origin to destination;

- .2 identify any gaps and if there is a need to develop new instruments, in particular, for port/offshore terminals and ships security;
- .3 prepare a list of subjects to be further considered, including proposed work plan; and
- .4 report to the Committee on Thursday.

2.18 The report of the SPI Working Group on this matter was considered under agenda item 12 (see paragraphs 12.25 to 12.29).

### **3 CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC**

#### **Status of the Convention**

3.1 The Committee (FAL 29/3) noted that, since its twenty-eighth session, Bangladesh and Dominica had acceded to the Convention on 21 September 2000 and 31 August 2001 respectively; the Republic of Korea and Romania had accepted the Convention on 6 March and 25 April 2001 respectively; and Lebanon had ratified the Convention on 17 July 2001, thus bringing the total number of Contracting Governments to 89.

3.2 In expressing its appreciation to the Governments of Bangladesh, Dominica, the Republic of Korea, Romania and Lebanon, the Committee urged those Member Governments, which had not accepted the Convention yet, to consider doing so as soon as possible in order to assist the Organization's efforts to facilitate international maritime traffic.

### **4 CONSIDERATION AND ADOPTION OF PROPOSED AMENDMENTS TO THE ANNEX TO THE CONVENTION**

4.1 The Committee recalled that, at its twenty-eighth session, it had approved draft amendments to the Annex to the FAL Convention (FAL 29/4 and Circular letter No.2341) concerning FAL Form 7 (Dangerous Goods Manifest) and stowaways, with a view to adoption at this session in accordance with article VII of the Convention.

4.2 In considering the draft amendments (FAL 29/4, annex), the Committee agreed to remove the square brackets around the "Master's name" and the "Voyage number" and to replace the "Voyage number" with "Voyage reference" in paragraph 2.7*ter*. The Secretariat was instructed to circulate the revised Dangerous Goods Manifest form as a FAL circular.

4.3 Having considered, in general, the proposals for amending the Annex to the FAL Convention, the Committee reconvened the Working Group on Amendments and instructed it to:

- .1 editorially review the proposed amendments, taking into account comments made in plenary; and
- .2 review the associated draft resolution for the formal adoption of the proposed amendments.

4.4 Subsequently, on 10 January 2002 the Committee, having considered the draft amendments (FAL 29/WP.3, annex 1), adopted, by resolution FAL.7(29), and in accordance with article VII(2)(a) of the FAL Convention, amendments to the Annex to the Convention on Facilitation of International Maritime Traffic, 1965, as amended. The text of resolution FAL.7(29), with the text of the adopted amendments annexed thereto, are given in annex 2.

4.5 The Committee authorized the Secretariat, when preparing the authentic and certified texts of the amendments in the official languages, to effect any corrections that may be identified in addition to those already noted by the group and recorded by the Secretariat in order to make sure that the amendments introduced are consistent with agreed rules and procedures, and to ensure that the official text is consistent in all language versions and takes into account the changes related to the IMDG Code.

4.6 The Committee also unanimously decided that the said amendments should enter into force, in accordance with Article VII(2)(b) of the FAL Convention, on 1 May 2003, unless, prior to 1 February 2003, at least one third of Contracting Governments to the Convention had notified the Secretary General in writing that they do not accept them.

4.7 Some delegations indicated that, in the absence of the outcome of internal consultations organized within their national administrations and anticipating some potential conflicts with existing domestic or regional legislations, some reservations should be recorded at this stage.

4.8 The delegation of China made reservations regarding standards contained in the renumbered paragraphs 4.1, 4.9.3 and 4.12.2. The delegation of Canada made reservations regarding standards contained in the renumbered paragraphs 4.2, 4.6.1, 4.15.3 and 4.15.4 and Recommended Practices 4.14.1, 4.14.3, 4.15.1 and 4.15.2. The delegation of Greece made reservation regarding the standard contained in the renumbered paragraph 4.14.3. The delegation of Italy made reservations regarding standards contained in the renumbered paragraphs 4.3.1.1, 4.9, 4.9.1, 4.9.2, 4.9.3, 4.10, 4.11, 4.11.1, 4.11.2, 4.15.3 and Recommended Practices 4.14.1 and 4.14.2. The delegation of Portugal made the same reservations as those listed by the Italian delegation with the addition of a reservation regarding the standard contained in the renumbered paragraph 5.4.2.

4.9 The Chairman, in congratulating the Committee for adopting the amendments, emphasized the valuable contribution which the substantial package of amendments would make to the Contracting Governments' efforts to resolve the stowaway problem and facilitate international maritime traffic.

## **5 EDI MESSAGES FOR THE CLEARANCE OF SHIPS**

5.1 The Committee, at its last session (FAL 28/19, paragraph 5.6), developed an IMO Compendium on facilitation and electronic business (FAL.5/Circ.15) and further established a strategy to promote the use of electronic means to exchange information with the objective of harmonizing and simplifying the relevant procedures (FAL 28/19, annex 2). A correspondence group was established to update the Committee on developments relating to electronic business in the area of maritime traffic and to act as a focal point for any progress needed to be made towards achieving the goal of total electronic clearance of ships and cargoes.

### **Customs clearance for a ship to depart a port**

5.2 The Committee recalled that, at its last session (FAL 28/19, paragraph 5.8), it had considered the proposal by Australia (FAL 28/7/2), and was of the opinion that the current procedure for granting clearance for a departing ship should be examined, and recommended that electronic means to deal with this procedure where applicable should be introduced. Secondly, to further simplify arrival procedures, where a country currently requires to sight a departure clearance from a previous port of call, this practice should be reviewed to assess whether it could be eliminated. Australia also informed the Committee about its intention to submit an information paper to this session identifying the need of the shipping industry for the adoption of electronic reporting and clearance processes covering requirements of all public authorities.

5.3 Australia (FAL 29/5), considering that it would greatly facilitate maritime traffic, if all the formalities involved in obtaining a Customs clearance for a ship to depart a port could be handled through the exchange of electronic messages, proposed to consider the adoption of a Recommended Practice to this end in the FAL Convention (FAL 29/5, paragraph 17); and further provided information (FAL 29/INF.2) on the development by the Australian Customs Service of a Total Electronic Reporting and Clearance (TERC) facility for ships and their cargo.

5.4 The Committee agreed in principle with the proposal by Australia and referred document FAL 29/5 to the EDI Working Group to be established for detailed consideration on how best to proceed with the matter.

### **Report of the correspondence group**

5.5 The Committee considered the report of the Correspondence Group (FAL 29/5/1), which invited it to consider: the need for amendments to the FAL Convention, taking into consideration the changing processes as a result of the use of e-Business solutions (paragraphs 5, 6, 7 and 8); whether a recommendation to Governments to publish e-mail addresses for electronic documents might be contemplated (paragraph 14); direct involvement of IMO FAL whenever any change to standard information and messages dealing with maritime dangerous goods information is contemplated (paragraph 16).

5.6 The Committee, having agreed, in principle, with the proposals of the Correspondence Group, referred the matter to the EDI Working Group to be established for detailed consideration.

### **Use of International Standards in the Maritime Data Exchange Process**

5.7 The Committee noted the information provided by the United States (FAL 29/INF.4) on the progress on the development of ISO Standard-ISO/NP 16917 Data Transfer Standards for Maritime and International Transportation and ISO Standard – ISO 13250 Topic Maps.

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

5.8 The Committee established the EDI Working Group to:

- .1 consider in detail the proposals contained in document FAL 29/5, FAL 29/5/1, taking into account documents FAL 29/INF.2 and FAL 29/INF.4 and comments made in plenary and recommend the best ways to proceed on the issues;

- .2 consider those EDI-related recommendations contained in document FAL 29/7, paragraphs 28.4 to 28.6 and recommend the best ways to proceed on the issues;
- .3 prepare terms of reference for a Correspondence Group, if any work is contemplated intersessionally; and
- .4 report to the Plenary on Thursday.

5.9 Upon receiving the report of the Working Group (FAL 29/WP.5), the Committee took action as indicated in the following paragraphs.

### **E-Business possibilities for the clearance of ships**

5.10 The Committee was of the opinion that enforcement of E-business was hampered by the following factors:

- .1 the lack of appropriate national legislation;
- .2 the costs involved;
- .3 lack of information sharing between the appropriate Governmental authorities;
- .4 the large number of parties involved;
- .5 lack of examples of usage;
- .6 commercial pressures; and
- .7 Governmental commitment.

### **Awareness**

5.11 The Committee concluded that one of the possible ways which would help Governments considerably in their deliberations on how and when to implement certain solutions for the electronic handling of data would be the exchange of information about implemented solutions.

5.12 Therefore, the Committee recommended that Governments should consider providing information to the Committee about projects and solutions dealing with the electronic handling of information requirements of vessels calling at their ports. This includes the use of electronic cargo declarations as mentioned in the IMO Compendium on facilitation and electronic business (FAL.2/Circ.15) or in line with e.g. the G7 recommendations, the use of electronic manifests for dangerous goods and any other EDI or electronic information projects such as information on the ships crew or passengers or pre-arrival notifications. By sharing the results of these initiatives and projects, it is envisaged that Member Governments will raise the awareness and come to a better understanding how the implementation of these tools might contribute to the management of information, including increasing security through advance information and making risk analyses and necessary controls easier and economically viable.

## **E-Address**

5.13 The Committee concluded that publication of dedicated E-addresses of appropriate Governmental authorities in a port or a country would be beneficial to facilitate the exchange of electronic information to be provided by e.g. masters of vessels calling at the ports of these countries. One of the examples given amongst others for the purpose of security was the facility to provide crew lists and passenger lists in advance of the arrival of the vessel in the port.

5.14 The details of these E-addresses could initially be provided by the Member Governments to the IMO Secretariat to ensure the distribution of this information. Member Governments were requested to state only E-addresses of appropriate Governmental authorities and not of individual employees and also to indicate the format of the data e.g. secure file (PDF), web-based solutions, EDI requirements in accordance with the IMO Compendium on facilitation and electronic business and/or any other particulars necessary for secure and safe handling of the information.

## **Mutual exchange of information**

5.15 The Committee considered that it was essential for safety and environmental reasons that public authorities could exchange information on dangerous goods and/or harmful substances mutually.

## **Recommended practice**

5.16 The Committee endorsed the recommended practice that "Public Authorities should wherever possible ensure that electronic information on dangerous goods and/or harmful substances carried as cargo on board ships and available in the port of departure of such a ship is communicated to authorities in countries and or ports which are in need of such information. It should be noted that this information should be communicated in accordance with the international standards as indicated in the IMO Compendium on facilitation and electronic business. It is strongly recommended to use for this purpose the UN EDIFACT IFTDGN message implementation of Protect version 1.0 to ensure compatibility and a harmonised approach".

## **E-Business related recommendations**

5.17 With respect to the identification of available technologies and development and demonstration of operational models to Public Authorities and other stakeholders (FAL 29/7, paragraph 28.4), the Committee noted with appreciation the offer by Poland to demonstrate the possibilities of web-based documents at FAL 30.

5.18 With regard to the pressing need for "single window concepts and pre-arrival information" for ships to allow all the information required to be provided for and by a visiting ship to a port, including that required by Public Authorities, through one point of entry (FAL 29/7, paragraph 28.5), the Committee agreed that an intersessional Correspondence Group should study this concept intersessionally and provide clarifications and definitions based on experiences and report to FAL 30.

5.19 With regard to the most appropriate way to facilitate the process of clearing the ship, its cargo, passengers and crew, by using information technology solutions (e.g. electronic signature) (FAL 29/7, paragraph 28.6), the Committee agreed that an intersessional Correspondence Group should study this concept intersessionally and report to FAL 30.



## **Intersessional Correspondence Group on E-Business matters**

5.20 The Committee approved the Terms of Reference for the intersessional Correspondence Group on E-Business matters\*, as set out at annex 3.

5.21 The Committee also decided that the title of the agenda item "EDI messages for the clearance of ships" should be replaced by "E-business possibilities for the facilitation of maritime traffic".

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

6.1 The Committee, at its twenty-seventh session (FAL 27/19, paragraph 6.4), revised the Committee's Guidelines on the organization and method of its work, which has been subsequently circulated as FAL.3/Circ.179.

6.2 The Committee, noting that no submissions were received on this item, urged Governments and international organizations to apply the Guidelines appropriately and to bring them to the attention of their representatives to IMO meetings advising them to adhere to them. The Secretariat was also instructed to strictly observe the Guidelines.

## **7 GENERAL REVIEW OF THE CONVENTION**

### **STRATEGIC REVIEW OF THE FAL CONVENTION AND THE WORK OF THE COMMITTEE**

7.1 The Committee, at its twenty-eighth session (FAL 28/19, paragraph 7.5), requested, and the Chairman undertook to prepare, in consultation with interested Governments and the Secretariat, a strategic review of the FAL Convention and the work of the Committee, taking into account technological and other developments in the area of international maritime traffic; and to make recommendations on any work to be done to bring the FAL Convention and the work of the Committee up-to-date. The Committee, having further requested that the review should also contain recommendations on how the Committee could face the challenges of the future in its area of competence, invited contributions to the review by all concerned.

7.2 In response to the request of the twenty-eighth session of the Committee, the Chairman (FAL 29/7) prepared a strategic review of the FAL Convention and the work of the Committee. The following areas were identified for the review:

- .1 general analysis of the FAL Convention;

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\* Co-ordinator of the intersessional Correspondence Group on E-Business matters:

Mr. A.A. de Lijster  
Senior Advisor,  
Royal Association of the Netherlands' Shipowners (RANS)  
P & O Nedlloyd B.V.  
P.O. Box 240  
3000 DH Rotterdam  
The Netherlands

Tel: 3110 4006947  
Fax: 3110 4006187  
E-mail: Lijster@tip.nl

- .2 inter-relationships between the Convention and the work of the FAL Committee;
- .3 technological developments vis-à-vis facilitation of international maritime traffic;
- .4 Ship/Port Interface (SPI) Working Group;
- .5 World Trade Organization activities relating to the Committee's work; and
- .6 method of work of the FAL Committee.

7.3 The Committee expressed appreciation to the Chairman for the excellent work he had done in preparing the strategic review and, having considered the recommendations in paragraph 28 of document FAL 29/7, took action as indicated in the following paragraphs.

### **General analysis of the FAL Convention**

7.4 To date (end of December 2001) the FAL Convention has been accepted by 89 States, which is an increase of 5 since FAL 28. Although the rate of acceptance of the Convention has improved over recent years, it is still low compared with the total membership of IMO (161 States) and the corresponding rate of other IMO Conventions (i.e. SOLAS, MARPOL, LL, STCW, etc.).

7.5 The Committee, agreeing that, more acceptances of the FAL Convention would certainly assist the Committee's effort and work towards the universal implementation of measures to facilitate international maritime traffic, urged Member Governments to consider accepting the FAL Convention as soon as possible so that the Convention can be implemented more widely.

7.6 The FAL Convention provides the basis for simplifying, unifying and standardizing formalities, documentary requirements and procedures to be applied by Public Authorities on arrival, during stay and on departure of ships, their crews, passengers, baggage and cargo. The Convention has the potential to facilitate and expedite international maritime traffic and to prevent unnecessary delays to ships and, as a consequence, save time and reduce the associated costs, if properly and widely implemented. This has been recognised and appreciated.

7.7 The Convention provides an easy exception procedure (Article VIII) for Contracting Governments to use with respect to the Standards and Recommended Practices contained in its Annex. A significant number of parties to the Convention have pointed to the fact that the Convention deals with issues that have historically been regulated by long standing local norms and sectorial interests, i.e. immigration, customs and health. The standardization and unification of national requirements relating to immigration, customs and health for all modes of international transport involving road, rail, air and sea creates, therefore, a complex mixture. To reach a workable balance for these sectors and produce harmonized requirements, there is a need for parties to be provided with certain flexibility. Therefore, the exception provision contained in the FAL Convention is a well thought out flexibility for States desirous of accepting and implementing the provisions of the Convention and should, therefore, be retained although industry representative organizations view it as a major impediment to the universal attainment of the goals and objectives of the Convention.

7.8 Notwithstanding the argument for the retention of the exception provision, it is apparent that a number of the exceptions registered to date by parties may no longer be applicable or

necessary for the parties concerned. There is, therefore, a need for parties to review their exceptions registered against certain provisions of the Annex to the Convention, with a view to withdrawing such exceptions or take measures to modify their national requirements and procedures to conform to the Standards and Recommended Practices of the FAL Convention. In this respect, the Committee has a significant role to play.

7.9 The Committee agreed to include, in its work programme, a specific item, to review those Standards and Recommended Practices in the Annex to the Convention to which exceptions have been registered by Contracting Governments with a view to determining whether they are outdated or could be amended to make them more universally acceptable; and to provide a mechanism through which parties will be encouraged to review those exceptions they have registered and other measures taken to align their national requirements and procedures with those of the Convention.

7.10 The delegation of the Netherlands, supported by a number of other delegations, proposed that there is a need for the Committee to consider reviewing the Annex to the Convention to identify core Standards contained therein that could be excluded from the exception provision of Article VIII.

7.11 The Committee agreed, in principle, to the proposal of the Netherlands and instructed the Working Group on amendments to develop further the Netherlands' proposal and propose a mechanism for undertaking the work in paragraph 7.9 above.

7.12 Having received the report of the Working Group (FAL 29/WP.3/Add.1), the Committee agreed that it would be desirable to reduce the number of exceptions and in order to reach this objective recognized that it was necessary in the first instance to obtain up-to-date information from Contracting Governments concerning exceptions to the standards and the implementation of recommended practices of the Annex to the Convention. This could be achieved by sending a questionnaire to all Contracting Governments requesting them to update their exceptions and implementation of recommended practices. With that information the Committee could then determine the adequacy of certain provisions. The Committee decided to consider the development of a questionnaire at the next session.

7.13 The Committee instructed the Secretariat to collate available information on the exceptions to standards and recommended practices for consideration at its next session.

7.14 The Committee also agreed to further consider issues such as:

- .1 Contracting Governments should submit detailed reasons for their exceptions;
- .2 exceptions should be limited to real differences and not to explanations or greater facilities;
- .3 the introduction of an explanatory manual to the Convention; and
- .4 article VIII could contain a requirement calling for the review of exceptions on a regular basis.

### **Inter-relationships between the Convention and the work of the FAL Committee**

7.15 The FAL Convention establishes areas on which the FAL Committee must, of necessity, focus its attention. In this regard, the inter-relationship of the Convention and the work of the Committee is well established. However, recalling that one of the objectives of IMO, as reflected

in the Convention on the International Maritime Organization, Article 1 (b), is to encourage “the removal of discriminatory action and unnecessary restrictions by Governments affecting shipping engaged in international trade”, the wider scope for the Committee expanding its deliberations on facilitation into other areas of concern to the providers of international shipping services may be recognized. In addition, bearing in mind the broad terms of reference of the Committee, contained in the 1991 Amendments to the IMO Convention (not yet in force), the Committee agreed that it should be prepared to entertain proposals from industry on pertinent and contemporary issues they consider falling within the purview of the Committee. In this regard, the existing agenda items provide adequate coverage of subject areas for submissions from industry and where any concern fall outside the established agenda item, submissions can be made under “any other business” as a means of alerting the Committee to any such concerns.

7.16 The Committee, therefore, did not see the need to change its existing practice or make special provisions to accommodate this aspect.

### **Technological developments vis-à-vis facilitation of international maritime traffic**

7.17 Technological developments have made it easier to exchange, manage and distribute information. Yet, for the facilitation of maritime traffic, the universal acceptance and application of information technology appears to be slow. The Committee has tried to address this issue but with insufficient urgency and priority. For the Committee to remain focussed and forward looking, it must identify universal and readily available communication technology solutions and standards for acceptance by Public Authorities to facilitate procedures for visiting ships, their cargo, crews and passengers.

7.18 Whilst a lot of work has been directed towards developing EDI formats and E-Business solutions as reflected in the IMO Compendium on facilitation and electronic business, there appears to be a lack of understanding of suitable technological means to implement the required solutions.

7.19 The Committee agreed to identify available technologies and develop, with industry, practical ways to demonstrate and make available, where required, operational models to Public Authorities and other stakeholders.

7.20 The Committee agreed to consider the pressing need for a “single window concepts and pre-arrival information” for ships to allow all the information required to be provided for and by a visiting ship to a port, including that required by Public Authorities, through one point of entry.

7.21 A major obstacle to the use of electronic transmission technologies is said to be the problem of signature. A large number of Public Authorities require the signature of the Master of a visiting ship on certain documentation before they can be accessed and processed. This is an archaic requirement, which must be addressed with utmost priority. There is nothing more detrimental to facilitation than the requirement for a signature before pre-arrival clearance or final clearance can be agreed. There are many ways to resolve this issue without compromising the concerns of Public Authorities. One method that has been widely used and accepted is the old fashioned and costly facsimile transmission of signed documents. However, with today’s technology, required information or the electronic FAL Form can be transmitted with an electronic signature or without as a “read only” file to the end user. The transmitted document can be used for pre-arrival clearance or final clearance and where the signature of the Master is required for legal reasons, Public Authorities can bring on board a copy of the “read only” document transmitted by the ship for verification by the Master and for his signature. At least the

process of clearing the ship, its cargo, passengers and crew would have started prior to the arrival of the ship.

7.22 The Committee agreed to consider the most appropriate way to facilitate the process of clearing the ship, its cargo, passengers and crew, by using information technology solutions (e.g. electronic signature).

7.23 The Committee further agreed to refer the above EDI-related issues (paragraphs 7.19 to 7.22) to the EDI Working Group to consider how to advance the matter (see paragraphs 5.17 to 5.20).

### **Ship/Port Interface (SPI) Working Group**

7.24 The Maritime Safety Committee, at its fifty-ninth session in May 1991, considered the study prepared by a consultant on the responsibilities of the Organization regarding technical port matters (MSC 59/30/11). The study suggested a strategy for port interface to meet the potential needs of both developed and developing countries in port operations and recommended that the Organization should establish a new Sub-Committee on Ports and Harbours and the MSC (MSC 59/33, paragraph 30.22) agreed that IMO should adopt a strategy for port interface. MEPC 31, in March 1992 (MEPC 31/21, paragraphs 37 to 39), concurred with the view of the MSC. As a result of the MSC consideration on how to proceed towards developing and implementing such a strategy and associate activities, MSC 60, in April 1992 (MSC 60/21, paragraphs 19.3 to 19.14) agreed to convene a working group to develop a coherent work programme and priorities, together with recommendations for implementing IMO's port strategy. FAL 21 in April/May 1992 (FAL 21/17, paragraphs 2.26 to 2.28) expressed the wish to be associated with the work of the working group and encouraged its Members to participate in that group's meeting in December 1992.

The main results of the first meeting of the Working Group on Strategy for Port Interface (14 to 16 December 1992) were:

- .1 a proposal that a Working Group on Ship/Port Interface (SPI) be established to consider matters relating to ship/port interface (SPI 1/8, paragraph 4.7);
- .2 a proposal for a draft strategy for ship/port interface (SPI 1/8, annex 2); and
- .3 the drafting of a list of subject areas and topics relating to the ship/port interface with objectives to be achieved against each subject area (SPI 1/8, annex 3).

The recommendations of the Working Group were approved by the Committees concerned. However, MSC 62, in May 1993 (MSC 62/25, paragraph 23.44), could not agree on which Committee the group should be attached to and deferred consideration to the Joint MSC/MEPC session for consideration in the context of the possible restructuring of sub-committees. The Joint MSC/MEPC session in November 1993 (MSC/MEPC 1/6, paragraph 3.19) did not support the establishment of a new sub-committee and agreed that the Working Group on Ship/Port Interface (SPI Working Group) should meet as a joint MSC/MEPC/FAL working group.

The Assembly, having considered the recommendation of MSC 63, MEPC 37 and FAL 23, adopted, in November 1995, resolution A.786(19) on Strategy of ship/port interface.

FAL 23 in October 1994 (FAL 23/19, paragraphs 12.6 and 12.7) considered the SPI Working Group's method of work and concluded that the Group was *ad-hoc* and *quasi* independent with

no one parent body supervising its work, and that the Group's report was not definitive, i.e. having to report to three parent bodies was not conducive to its optimal functioning. The FAL Committee then suggested that the SPI Working Group should function under its aegis. It could, if considered necessary, invite the advice and input of other Committees or Sub-Committees on matters falling under their scope and *vice-versa*.

MSC 65, in May 1995 (MSC 65/25, paragraph 17.13), agreed with the recommendation of the FAL Committee on the understanding that safety-related ship/port interface matters would be referred to the MSC for consideration. MEPC 37 (MEPC 37/22, paragraph 7.12) concurred with the MSC's decision on the understanding that ship/port interface matters relating to the environment would be referred to MEPC for consideration.

Currently, the SPI Working Group operates, as agreed at FAL 24 (FAL 24/19, paragraphs 12.10), as a Working Group within the Facilitation Committee, being convened at the beginning of the FAL Committee's sessions. Documents on SPI matters are therefore issued with the FAL symbol under the appropriate agenda item of the Committee and in all the Organization's working languages. This method of work has facilitated the wider understanding of the issues under consideration by the SPI Working Group.

However, over the past few years, the work programme of SPI had become very restrictive and uninspiring for delegations to participate at its meetings. This negative development could be attributed to a number of reasons. Firstly, some national delegations to the MSC and MEPC continue to hold reservations on the usefulness of the work of the SPI, particularly with regard to ports, an area which falls outside the remit of the classic maritime administration; the ports being either privately operated or regulated by different national statutory provisions and agency of government. Secondly, most delegations to the MSC and MEPC are not privy to the first-hand debate in the SPI Working Group; thus, the intent of proposals emanating from the Group may not be well understood and appreciated.

7.25 The delegation of the Bahamas stated that the principal reason for the reduction in the work of the SPI Working Group was that Member Governments had not submitted work programme items through the Committee, which were appropriate for the SPI Working Group's consideration.

7.26 The Committee agreed that, if the SPI Working Group was to remain relevant, the MSC and MEPC should be invited to revisit its terms of reference taking into consideration the expressed policy of the Organization in this respect as contained in resolution A.786(19).

7.27 The Committee further agreed that the Committees (MSC, MEPC and FAL) should be invited to consider allowing the SPI Working Group to discuss all issues within their terms of reference and make recommendations to the Committees, as appropriate, for their consideration.

7.28 The Committee recognized the need to adhere to the Guidelines on the organization and method of work of the Committees and their subsidiary bodies and this should apply to work items for the SPI Working Group as well. It was further recognized that the work of the SPI Working Group should not be viewed primarily as regulatory in nature but more as advisory for consideration by the Committees. In this regard, the Committee expressed strong support for the work of SPI and invited the MSC and MEPC to seriously consider reviving the work of the Group. If the review by the other Committees of the work of Ship/Port Interface is not conclusive, then the Committee should consider whether it should continue to host the SPI Working Group under the current arrangement.

7.29 The Chairman of the MSC welcomed the informative review of the SPI Working Group and recommended that the section of document FAL 29/7 dealing with SPI be made available to the MSC and MEPC. The MSC Chairman further observed the apparent differences of views within national delegations attending the FAL Committee and those attending the MSC or MEPC. He requested delegations to the FAL Committee to reiterate their strong support for the work of the SPI Working Group to their colleagues at home who attend the MSC and MEPC.

### **World Trade Organization (WTO) activities relating to the Committee's work**

7.30 At previous sessions of the Committee, a debate was carried out about the work of the WTO and its possible impact on the work of the Committee. The Chairman, as part of an IMO delegation and at no cost to the Organization, attended a meeting of the WTO Council for Trade in Goods. From his observation of the issues under consideration at WTO, it became obvious that their consideration is the larger aspect of trade facilitation for which facilitation of maritime traffic is a small element. With the FAL Convention already in force and widely implemented, there appear to be no need to reinvent regulations that already exist. Rather, it appears that, as progress is made at the WTO on the overall picture of trade facilitation, the provisions of the FAL Convention could be recognised and endorsed.

7.31 The Committee agreed that there was no need for the Committee to constrain its work because of work at WTO; however, the Committee needs to remain cognizant of developments in WTO and the Secretariat should continue to monitor developments therein and advise the Committee accordingly.

### **Method of work of the FAL Committee**

7.32 The Committee agreed that there was no need for radical changes to the way the Committee conducts its business. However, it should be recognized that the thrust of the FAL Convention is very much to the benefit of the shipping industry and not necessarily to the national administrations; therefore, the provision in the Guidelines on the organization and method of work of the FAL Committee (FAL.3/Circ.179), that new work programme items cannot be proposed by a non-governmental organization without the co-sponsorship of a Member Government may have a negative impact on the industry's desirability to raise new issues of concern.

7.33 The Committee, recalling its earlier decision as reflected in paragraph 7.16, agreed that the Guidelines on the organization and method of work of the Committee (FAL.3/Circ.179) should not be amended to allow the industry to propose new work programme items without the co-sponsorship of a Member Government.

7.34 The Committee accepted that it would continue to examine its work programme and consider flexible meeting schedules for the Committee based upon the workload and urgency of the issues to be considered. It was further noted from the Committee's deliberation that the MSC and MEPC should consider convening the SPI Working Group intersessionally when there is a demand for urgent work and not necessarily wait for meetings of the Facilitation Committee.

7.35 The Committee agreed that the ongoing work of the Committee to find satisfactory resolutions to the various problems caused by stowaways and for electronic exchange of information should be continued with high priority.

**PROPOSED AMENDMENTS TO THE ANNEX TO THE FAL CONVENTION**

7.36 The Committee recalled that it had agreed to consider a document submitted by France (FAL 29/4/1) under this agenda item.

7.37 France (FAL 29/4/1), recalling that at previous sessions of the Committee, it was recognized that the Annex to the FAL Convention needed to be revised to bring it in line with the global maritime environment which had changed and modernized, and also noting that a great number of differences between national practices and the Standards in the Annex to the Convention had been notified to the Organization, proposed, as contained in the annex to document FAL 29/4/1, that the Convention should be revised by:

- .1 amending the text of certain Standards and Recommended Practices to limit the differences reported by Contracting Governments;
- .2 adopting the Annex to the Convention to the practices observed in countries where France had held FAL seminars; and
- .3 updating certain concepts.

7.38 The Committee welcomed the initiative taken by France and thanked the French delegation for its efforts in preparing the draft. During the debate, a number of delegations spoke on the issue and indicated that formal positions were still being developed nationally, considering the cross-sectorial interests involved, and as such could not support the proposal at this stage. Other delegations highlighted several amended terminology and provisions in the draft that created difficulties for their acceptance under national law. The Committee agreed to keep the French proposal for future consideration when reviewing the provisions of the FAL Convention.

**SAFETY MEASURES AND PROCEDURES FOR THE TREATMENT OF PERSONS RESCUED AT SEA**

7.39 Recalling its earlier consideration on the issue (see paragraphs 2.8 to 2.11.1), the Committee instructed the Working Group on Amendments to consider the concerns expressed in resolution A.920(22) on Review of safety measures and procedures for the treatment of persons rescued at sea and review whether existing Standards 6.8 to 6.10 of the FAL Convention could provide the basis for these concerns to be properly addressed.

7.40 Having received the report of the Working Group (FAL 29/WP.3/Add.1), the Committee noted that measures and procedures for the treatment of persons rescued at sea may differ in various countries and further noted the existence of different levels of responsibilities for public authorities when dealing with the matter, as well as the potential risk of confusion between maritime casualties and smuggling of migrants by sea.

7.41 A number of delegations recognized that there are gaps and other inadequacies in the FAL Convention and other IMO instruments regarding some of the issues raised in the above Assembly resolution. These delegations pointed out that there are no provisions for the landing of persons rescued at sea, that these persons should not remain unduly on board the rescuing ship, and that there should be a limitation to the formalities concerning the ship itself.

7.42 Some delegations were of the opinion that further consideration was needed in order to address issues such as territoriality, available accommodation and financial aspects.



7.43 Other delegations recognized that the scope of the FAL Convention is limited in Article I to the adoption of "... appropriate measures to facilitate and expedite international maritime traffic and to prevent unnecessary delays to ships and to persons and property on board". Accordingly these delegations recognized that the SOLAS and SAR Conventions may be more appropriate instruments than the FAL Convention in which to further refine international standards for the treatment of persons rescued at sea. These delegations also noted that the SOLAS provisions relating to the obligation of Contracting Parties to ensure arrangements for coast watching and for the rescue of persons in distress round their coasts are particularly relevant to the treatment of persons rescued at sea, and could be amended to ensure that the life of persons on board ships is safeguarded pending delivery to a place of safety.

7.44 The Committee noted that a possible way to address these issues in the framework of the relevant IMO instruments could be to develop provisions to ensure:

- .1 disembarkation in the next port of call or the nearest port;
- .2 decision on the acceptance/admissibility according to national law and international conventions; or
- .3 the return to their country of origin or reception in a third country\*.

7.45 The Committee invited Member Governments and international organizations to address the issues raised regarding the treatment of persons rescued at sea, taking into account, if found appropriate, existing Standards 2.19 to 2.26 and 6.8 to 6.10.

7.46 The Committee instructed the Secretariat to inform the Maritime Safety Committee and the Legal Committee on the outcome of its consideration of these issues at this session and, in particular, regarding the views expressed on the international instruments which may be relevant to meet the concerns in resolution A.920(22).

#### **INFORMATION SUBMITTED ON IMPLEMENTATION OF INDIVIDUAL PROVISIONS OF THE ANNEX TO THE CONVENTION**

7.47 The Committee considered the summary tables of a compilation (FAL 29/7/1) of notifications submitted by Contracting Governments on differences between national practices and Convention Standards intended to assist Member Governments to identify those Standards which may need reviewing because of the significant number of "differences" notified, and to encourage Members to review their differences. The Committee noted notifications received from Belgium (FAL.3/Circ.181) and Brazil (FAL.3/Circ.182) and the annex to FAL 29/7/1 constituted Indexes I and II of Appendix 6 of the sales publications of the FAL Convention, as amended.

7.48 The delegation of Italy informed the Committee that Italy had notified on 2 May 2001, in accordance with Article VIII of the FAL Convention, the differences between the Italian legislation and the Convention Standards 1.4, 1.5, 1.6, 1.8 and 3.3.6 and Recommended practices 1.7, 4.7 and 4.8.

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\* The Danish delegation presented the following text for further consideration: "When a ship has retrieved persons in distress at sea, public authorities in the next port of call or the nearest port shall allow disembarkation of such persons. The public authorities shall decide whether they are admissible according to national law and international conventions, and if not arrange for their reception in another State (i.e. return to their country of origin or reception in a third country)."

7.49 The Committee instructed the Secretariat to include the annex to FAL 29/7/1 in Appendix 6 of the publication of the FAL Convention with the next print.

#### **PREVENTION AND SUPPRESSION OF UNLAWFUL ACTS AT SEA OR IN PORT: FACILITATION ASPECTS**

##### **UN General Assembly resolution 55/2 on the United Nations Millennium Declaration**

7.50 The Committee (FAL 29/2, paragraph 11) noted the information on the UN General Assembly resolution 55/2 on the United Nations Millennium Declaration, paragraph 9, indents 5 to 7, by which the General Assembly resolved:

- “to take concerted action against international terrorism, and to accede as soon as possible to all the relevant international conventions;
- to redouble our efforts to implement our commitment to counter the world drug problem; and
- to intensify our efforts to fight trans-national crime in all its dimensions, including trafficking as well as smuggling in human beings and money laundering”.

7.51 The Committee further noted that pursuant to the three “resolves”, MSC 74 had urged Member Governments:

- .1 to take concerted action against international terrorism and to accede to the 1988 Convention on Suppression of Unlawful Acts against the Safety of Maritime Navigation (the SUA Convention) and the related Protocol dealing with the same issue in respect of fixed platforms located on the continental shelf, at their earliest convenience;
- .2 to redouble their efforts to implement their commitment to counter the world drug problem; and
- .3 to intensify their efforts to fight trans-national crime in all its dimensions, including trafficking as well as smuggling of migrants by sea and piracy and armed robbery against ships.

##### **Unsafe practices associated with the trafficking or transport of illegal migrants by sea**

7.52 The Committee (FAL 29/2, paragraph 13) noted that the final text of the Protocol against the smuggling of migrants by land, sea and air, supplementing the Convention against Transitional Organized crime, adopted on 15 November 2000 by the UN General Assembly; and also noted that the instruments referred to above had been open to all States for signature in Palermo, Italy, from 12 to 15 December 2000 and that, thereafter, would remain open at the United Nations Headquarters in New York until 12 December 2002.

7.53 The Committee further noted that MSC 73 had agreed to establish a reporting procedure similar to the reports on piracy and armed robbery against ships and the first biannual report was issued as MSC.3/Circ.1 on 30 April 2001.

7.54 The Committee also noted that MSC 74 had agreed to the proposed amendments to MSC/Circ.896, as amended (MSC 74/WP.23, annex), for dissemination as MSC/Circ.896/Rev.1; the further revision, at MSC 75, of MSC/Circ.896 in light of the consideration of any incident reports received by IMO and further submissions by Member Governments following the adoption of the 2000 United Nations Protocol against Smuggling of Migrants by Land, Sea and Air; and urged Member Governments to sign and ratify that Protocol at their earliest convenience to achieve its earliest possible entry into force.

### **Piracy and armed robbery against ships**

7.55 The Committee (FAL 29/2, paragraph 16) noted, with deep concern, that the number of acts of piracy and armed robbery against ships, which had reportedly occurred in 2000, was 471 representing an increase of 162 by number and 52 by percentage points over the figure for 1999; and that the total number of incidents of piracy and armed robbery against ships, reported to have occurred from 1984 to the end of May 2001, was 2,309. Most of the attacks worldwide were reported to have occurred in the coastal States' concerned territorial waters while the ships were at anchor or berthed. The Committee was extremely concerned that, during the same period, the crews of the ships involved in the reported incidents had been violently attacked by groups of five to ten persons carrying knives or guns as a result of which seventy-two crew members had been killed, one hundred and twenty-nine had been wounded and five had been reported missing; and that, in addition, one ship had been destroyed, two ships had been hijacked, three ships had gone missing and on three occasions the attackers had used explosive devices.

7.56 The Committee, recognizing that the maritime community could no longer tolerate this situation and the serious repercussions it has on the safety of passengers and crews, once again, invited all Governments (of flag, port and coastal States) and the industry to intensify their efforts to eradicate these unlawful acts.

7.57 The Committee (FAL 28/2, paragraphs 10 to 17) was informed of the implementation of the anti-piracy project following expert missions, and particularly noted that MSC 74 had endorsed the report of the evaluation and assessment missions to Jakarta and Singapore, in particular the conclusions/recommendations of the Singapore Meeting; and:

- .1 agreed that a more precise distinction on the reporting of piracy and armed robbery attacks to distinguish between actual attacks and attempts (threats) thereof was needed, so that a more accurate picture of the situation might be drawn as a result;
- .2 urged flag States to make reports on attacks or threats thereof using the agreed format; and coastal States to report on action they have taken when informed of such unlawful acts having taken place within their national waters;
- .3 urged industry to ensure reporting of all incidents to flag/coastal States; and
- .4 urged coastal States to put in place national legislation for dealing with piracy and armed robbery incidents.

7.58 The Committee (FAL 29/2/1, paragraph 16) noted that the twenty-second session of the Assembly had adopted:

- .1 resolution A.922(22) on Code of practice for the investigation of the crimes of piracy and armed robbery against ships; and
- .2 resolution A.923(22) on Measures to prevent the registration of “phantom” ships.

7.59 The Committee (FAL 29/2, paragraph 23) further noted that, pursuant to resolution A/55/7 of the General Assembly, the United Nations Secretariat had begun an ‘open-ended’ Informal Consultative Process on Oceans and Law of the Sea (UNICPOLOS) to consider, *inter alia*, the issue of maritime piracy with the prospect of drafting appropriate text for submission to the General Assembly for consideration and action as appropriate. To this end, two preparatory meetings had been held at the United Nations headquarters in February and March 2001 identifying two areas of focus - marine science and technology; and piracy and armed robbery at sea – leading to a meeting of UNICPOLOS, which took place in New York from 7 to 11 May 2001. With respect to piracy/armed robbery, there were two specific questions for discussion at that latest meeting:

- first, whether there was adequate action at regional level to ensure co-ordination and co-operation among relevant authorities and law enforcement agencies; and
- secondly, how the United Nations could assist States in enacting the necessary legislation so that offenders are punished; and in the establishment of law enforcement capabilities.

7.60 The Committee instructed the Secretariat to keep the Committee updated on the piracy and armed robbery issue, as appropriate.

#### **PREVENTION AND CONTROL OF ILLICIT DRUG TRAFFICKING: FACILITATION ASPECTS**

7.61 The Committee, at its last session (FAL 28/19, paragraph 7.22), was informed of the progress made on the implementation of the Kingston workshop recommendations and the Guidelines for the prevention and suppression of the smuggling of drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic (resolution A.872(20)).

7.62 The Committee considered the outcome of IMO Model course on prevention and suppression of illicit drug trafficking, which was held in Mexico under agenda item 11 (Technical co-operation subprogramme for facilitation).

### **8 FORMALITIES CONNECTED WITH THE ARRIVAL, STAY AND DEPARTURE OF SHIPS**

#### **Implementation of the Standardized IMO Model FAL Forms**

8.1 The Committee considered the extent of implementation of the standardized FAL Forms by 54 Contracting Governments and Associate Members (FAL 29/8 and Corr.1) and was informed by the Secretariat that no further information had been provided intersessionally.

8.2 The Committee urged Member Governments, who have so far not responded to the request for information, including information on the status of implementation of the new IMO FAL Form 7 (Dangerous Goods Manifest), to do so at their earliest convenience.

8.3 The observer of the EC informed the Committee that, on 6 December 2001, the EC had adopted the legislation to introduce uniformity to the ship's arrival and departure forms in the EU ports. IMO FAL Forms 1, 3, 4, 5, 6 have been made mandatory in EC Member States without modifications or national changes.

## **9 FORMALITIES CONNECTED WITH THE ARRIVAL, STAY AND DEPARTURE OF PERSONS - STOWAWAYS**

### **Safety measures and procedures for the treatment of persons rescued at sea**

9.1 The Committee recalled that, in considering the issue of safety measures for treatment of persons rescued at sea under agenda item 2 (see paragraph 2.11.2), it had agreed to consider under this agenda item whether there was a need to amend the following three resolutions:

- .1 resolution A.773(18) on Enhancement of safety of life at sea by the prevention and suppression of unsafe practices associated with alien smuggling by ships;
- .2 resolution A.871(20) on Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases; and
- .3 resolution A.867(20) on Combating unsafe practices associated with the trafficking or transport of migrants by sea.

9.2 The Committee agreed to defer the consideration of the issue to its next session and invited the Member Governments and international organizations to submit comments and proposals to FAL 30 for further consideration.

### **Stowaway incidents reports**

9.3 The Committee noted with concern the considerable number of stowaway incident reports submitted intersessionally by Belgium, Bulgaria, Canada, Denmark, Germany, Italy, Liberia and the International Chamber of Shipping (ICS) (FAL.2/Circ.64, 67, 68, 69 and 70). The total number of stowaway incidents reported to the Organization by 31 December 2001 was 1,686, an increase of 516 since 30 September 2000.

### **National legislation on current practices addressing stowaway incidents**

9.4 The Committee further noted with appreciation the information submitted by the Islamic Republic of Iran (FAL 29/INF.3) on the Iranian national legislation concerning stowaway cases named as "Guidelines for prevention of stowaways by sea", which became mandatory for all the Iranian ports from 1 September 2001.

### **Harmonization of forms and notifications for the return of stowaways**

9.5 The Committee, at its last session (FAL 28/19, paragraphs 10.29 to 10.31), noting the difficulties experienced in the context of the return of stowaways, identified the lack of harmonization of national forms and notifications as a contributing factor and agreed to work towards the harmonization of these forms and notifications in the future. The Committee further agreed that there would be a need to consider samples of the national forms and notifications prior to embarking on a work of harmonization and invited Member Governments to submit to the next session models of their national forms and notifications used for the return of stowaways and decided that such information should be reviewed with the aim of preparing standard forms to be included in the FAL Convention.

9.6 The Committee, noting that there had been no proposals submitted to this session, invited Member Governments to submit their national forms and notifications used for return of stowaways to the next session of the Committee.

#### **Guidelines on stowaways (resolution A.871(20))**

9.7 The Committee, at its last session (FAL 28/19, paragraph 10.20), agreed that the existing Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution A.871(20)) should be scrutinized at a later stage in order to strengthen its content and invited Member Governments and international organizations to submit proposals to strengthen the Guidelines to the next session.

9.8 The Committee, noting that there had been no such proposals, invited Member Governments to submit comments and proposals to strengthen the Guidelines to the next session of the Committee.

9.9 The Committee urged Member Governments and international organizations to continue to report stowaway incidents, and further urged Member Governments to provide the Organization with their national legislations or current practices, in accordance with FAL.2/Circ.50/Rev.1.

## **10 FACILITATION ASPECTS OF OTHER IMO FORMS AND CERTIFICATES**

### **Harmonization of certificates**

10.1 The Committee, at its last session (FAL 28/19, paragraphs 11.10 to 11.15), agreed that, in order to avoid any legal problems which might occur if the certificates required under different conventions were combined, it would be prudent to consolidate, simplify and unify certificates within the same convention, which would result in Safety Certificate (SOLAS 74 and Protocol 78); and Environmental Certificate (MARPOL 73/78), and established a Correspondence Group to continue the work intersessionally and further instructed the co-ordinator of the Group to submit the outcome to the MSC and MEPC for their comments.

10.2 The Committee (FAL 29/2, paragraphs 26 and 27) noted that MSC 73 endorsed the Committee's view and action on harmonization of ship's certificates (FAL 28/19, paragraphs 11.10 to 11.15) and MEPC 46 and MSC 74, having considered the progress reports of the Correspondence Group on Harmonization of Certificates and Documents (MSC 74/23/2 and MEPC 46/12/5), endorsed the approach being taken by the Group to develop four certificates; requested it to continue its work; report the results to the MSC and MEPC; and further requested Member Governments and international organizations to participate in the Group's work.

10.3 The Committee considered the report of the Correspondence Group (FAL 29/10/Rev.1) and noted that the Group was not convinced that combining of certificates would add any significant benefit and proposed the re-establishment of the Working Group to discuss, *inter alia*, the overall practical benefits of the proposed consolidation of the number of certificates before any further work is undertaken.

10.4 The International Association of Classification Societies (IACS) was of the view that introduction of a combined certificate would bring a series of complications and practical difficulties, as referred to in paragraphs 4 to 6 of document FAL 29/10/1, which, in practice,

would outweigh any reduction in paperwork that may be associated with such a certificate, and expressed its position against the possible introduction of a combined certificate.

10.5 The Committee could not reach a unanimous decision on whether to continue the work on harmonization of ships' certificates; however, it identified the following pros and cons of such harmonization and invited the next sessions of the MSC and MEPC to consider and advise the Committee on the issue:

**Pros**

- reduction in number of certificates will assist all parties (e.g. master, flag States, port officials).
- further work on this subject could lead to the prevention of:
  - the proliferation of paper; and
  - the addition of new certificates and documents.
- an alternative to producing certificates may be to use modern technology, which in combination with harmonization and simplification could form a significant benefit. It is possible that some of the difficulties mentioned in the IACS document (FAL 29/10/1) may be overcome by the use of modern technology.

**Cons**

- different parts of a convention may apply to different countries and different types of ships.
- different Recognized Organizations (ROs) by administrations may be authorized for different aspects of certification.
- changes to one part of the document may result in re-issue of the entire document.

**11 TECHNICAL CO-OPERATION SUBPROGRAMME FOR FACILITATION**

**ITCP subprogramme for facilitation**

11.1 The Committee, at its twenty-eighth session (FAL 28/19, paragraph 13.2), reviewed the thematic priorities for facilitation and agreed to include the three thematic priorities (FAL 3, FAL 4, and FAL 6) in the ITCP for 2002-2003 and instructed the Secretariat to inform TC 49 accordingly. TC 49 (TC 49/11, paragraph 6.2) was informed accordingly.

11.2 The Committee (FAL 29/11, paragraph 2) noted that TC 49 approved the ITCP for 2002-2003 (TC 49/4) and the Secretariat was requested to proceed with the necessary resource mobilization efforts so that the required funding is secured in advance of the scheduled start for implementation in the year 2002. In this respect, TC 49 called on all development partners, from the public and private sectors, to contribute generously to its funding.

**FAL seminars**

11.3 The Committee (FAL 29/11, paragraphs 3 and 4 and FAL 29/INF.6) noted that in the year 2001, one IMO subregional FAL seminar was held in Moscow, Russian Federation (25 to 28 June), in co-operation with the Ministry of Transport of the Russian Federation, financed by the Technical Co-operation Fund. That seminar was attended by participants from 9 selected CIS/Eastern Europe region countries (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Russian Federation, Slovak Republic and Slovenia).

11.4 The Committee expressed its appreciation to the Government of the Russian Federation for hosting and to the Secretariat for organizing the Moscow seminar; and responded positively to the recommendation of the delegation of the Russian Federation that a similar seminar be held in 2003.

11.5 The Committee, recalling that, at its last session (FAL 28/19, paragraph 13.3 and FAL 28/INF.9), it had noted that the report of the FAL seminars held in Panama (17 to 21 July 2000) and in Dominican Republic (23 to 26 October 2000) would be submitted to this session, noted the conclusions of those seminars (FAL 29/INF.5 and FAL 29/INF.7).

11.6 The delegation of Panama, informing the Committee of the successful subregional FAL seminar held in Panama for the ROCRAM countries, expressed his Government's willingness to host another similar seminar in near future. The Committee expressed its appreciation to the Government of Panama for hosting the seminar and welcomed the offer by that delegation.

11.7 The Committee expressed its appreciation to the Technical Co-operation Fund and the Government of the Netherlands for making the above seminars possible, and further recognized the need for evaluation and assessment missions to follow up the past FAL seminars in Africa.

**FAL technical co-operation project in the Latin American and Caribbean region**

11.8 The Committee (FAL 29/11, paragraph 5 and FAL 29/INF.5) noted that the IMO model course on prevention and control of illicit drug trafficking on board ships was held in Manzanillo (26 to 28 June 2001) for the 19 Latin American countries, in co-operation with the Inter-American Committee on Ports (ICP), the Organization of American States (OAS), the European Commission (EC), UNDP, the Mexican Secretariat of Communications and Transport and the Port Authority of Manzanillo (API), with financing from the TC Fund and the European Commission.

**12 SHIP/PORT INTERFACE**

12.1 The Committee considered under this agenda item the report of the SPI Working Group on its last session (FAL 29/12), the outcome of the relevant sessions of the MSC, MEPC and Sub-Committees concerned relevant to the ship/port interface matter (FAL 29/12/1), the report of the Correspondence Group on Development of guidelines for the training of port marine personnel (FAL 29/12/2) and the note by the Secretariat on updating of the bibliography (FAL 29/12/3).

12.2 The outcome of the Committee's consideration on the issues raised by the above documents is reflected in the ensuing paragraphs.



## **REPORT OF THE LAST SESSION OF THE SPI WORKING GROUP**

12.3 The Committee recalled that, at its last session, it had received the SPI Working Group's report on urgent matters (FAL 28/WP.2), including the Working Group's work programme (FAL 28/WP.2, annex 2), and had taken action as indicated in its report (FAL 28/19, paragraphs 12.26 to 12.40). The Committee, recalling further that it had received an oral progress report by the Chairman of the SPI Working Group on the remaining issues at its twenty-eighth session, considered the report of the Working Group as set out in document FAL 29/12.

12.4 The Committee, having agreed to address the issues referred to in document FAL 29/12, paragraph 3, under sub-item 12.3, approved the report in general.

## **DECISIONS OF OTHER IMO BODIES, RELEVANT TO SHIP/PORT INTERFACE MATTERS**

### **Places of refuge**

12.5 The Committee (FAL 29/12/1, paragraphs 2 to 6) noted that MSC 74, having decided to consider the issue at this stage from the "operational safety" point of view, had assigned the NAV Sub-Committee to act as co-ordinator with possible contributions from other Sub-Committees and the SPI Working Group. The Committee further noted that NAV 47 had agreed that only the NAV and COMSAR Sub-Committees along with MEPC should provide inputs at this stage. Thereafter, if need be, other IMO bodies such as the SLF, STW, DE and FSI Sub-Committees and the SPI Working Group could be requested to contribute.

### **Assessment of model course on the safe and secure packing of cargo transport units**

12.6 The Committee (FAL 29/2/1, paragraph 7) noted that MSC 73 had approved the model course on the safe packing of cargo transport units (FAL 28/INF.3, annex), subject to editorial improvements by the Secretariat, and agreed to delete the relevant item from the SPI Working Group's work programme.

### **Work Programme of the SPI Working Group**

12.7 The Committee, recalling that, at its last session, it had approved the revised work programme of the SPI Working Group as far as facilitation related items were concerned (FAL 28/19, annex 9), noted that MSC 73 had approved, as far as safety-related items are concerned, the SPI Working Group's work programme (FAL 29/12/1, annex). The Committee (FAL 29/12/1, paragraph 16) further noted that MSC 73, in considering the SPI Working Group's work programme, had requested the Chairmen of the MSC, MEPC and the FAL Committee to consider the need to re-examine the future work of the Working Group and its work method and submit a proposal to the next sessions of the MSC, MEPC and the FAL Committee.

12.8 The Committee, recalling its decisions in the context of the strategic review of the FAL Convention and the work of the Committee under agenda item 7 (see paragraphs 7.24 to 7.29), noted that decisions on the SPI Working Group were expected to be made following consideration of the outcome of the meeting of the MSC, MEPC, the TC and FAL Committees Chairmen and the Sub-Committee Chairmen for reviewing the Sub-Committee structure, which is scheduled to take place immediately after the conclusion of MSC 75 in May of this year.

**SUB-ITEM 12.1 UPDATING OF THE BIBLIOGRAPHY**

12.9 The Committee, noting that a revised list of existing publications relevant to areas and topics relating to ship/port interface matters was circulated by FAL.6/Circ.9/Rev.1 of 26 July 2001, referred document FAL 29/12/3 to the SPI Working Group and instructed it to continue updating the bibliography.

**Sub-item 12.2 – Availability of tug assistance**

12.10 The Committee (FAL 29/12/1, paragraph 8) noted that MSC 73 and MEPC 46 had concurred with its view and action on this issue on the understanding that a circular to be developed by the SPI Working Group should be a joint MSC/MEPC/FAL circular, highlighting the key elements of the Nautical Institute's publication entitled "Tug Use in Ports - A Practical Guide".

**SUB-ITEM 12.3 – DEVELOPMENT OF A MANUAL UNLOADING AND UNLOADING OF SOLID BULK CARGOES FOR TERMINAL REPRESENTATIVES**

12.11 The Committee (FAL 29/12/1, paragraphs 9 to 11) noted that DSC 6, due to time constraints, could not produce a fully developed document and requested the Secretariat to submit the outline of the Manual (DSC 6/WP.5, annex) to the SPI Working Group for comments and contributions, which should be reported to MSC 75 for further guidance.

**SUB-ITEM 12.4 – DEVELOPMENT OF GUIDELINES FOR THE TRAINING OF PORT MARINE PERSONNEL**

12.12 The Committee recalled that, at its last session (FAL 28/19, paragraphs 12.36 to 12.38), the SPI Working Group could not develop a more definite proposal on the scope of work to be undertaken as it was not in a position to identify the full scope required because of lack of advice received from Member Governments and the industry and it had established a correspondence group with the terms of reference as given in paragraph 12.38 of document FAL 28/19.

12.13 The Committee (FAL 29/12/1, paragraphs 12 and 13) noted that MSC 73, in considering the issue, had agreed that, at this stage, the SPI Working Group should not develop such guidelines but identify the areas where there is a need for the training of port marine personnel; substantiate the need for such a work in detail; and specify the IMO bodies or international organization which might be capable to contribute to the development of such guidelines.

12.14 The Committee further noted that MSC 73 had revised the terms of reference (MSC 73/21, paragraph 2.37) and instructed the Secretariat to inform the co-ordinator of the Correspondence Group accordingly; and invited the Committee to note its actions on this matter.

12.15 The Committee further noted that MEPC 46, having noted the Committee's view and action on this matter and also noting that MSC 73 had discussed the issue, endorsed the views of the MSC.

12.16 In considering the report of the Correspondence Group (FAL 29/12/2), the delegation of the Bahamas expressed the view that it did not consider that the case for developing guidelines for port marine personnel, as instructed by the MSC, has been proven. Referring further to the terms of reference for the Correspondence Group to identify other bodies capable of developing guidelines, that delegation identified the ILO as the main international body with the

responsibility for training of shore-based workers and it had developed codes on most of the areas which the Correspondence Group has identified.

12.17 The ILO representative informed the Committee that ILO's work was based on health and safety of dock workers and it was in the process of revising its Code of Practice and Guidelines to Safety and Health in Dock Work which supplements the ILO's occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) and Dock Work Recommendation 1979 (No. 160). He further informed that ILO's "Port Development Programme (PDP)" contained training in management, operations and handling of containers which has been implemented in more than 45 port training institutes and centres worldwide and is available in various languages.

12.18 The delegation of Malta, supported by some other delegations, expressed the view that the work done by the Correspondence Group should be continued in order to enhance the training of port personnel who would be in demand in the near future.

12.19 The Chairman of the MSC pointed out that although the Correspondence Group had identified certain useful safety issues, this was not in relation to the instructions of the MSC and therefore the Working Group should revisit the instructions given by the MSC and provide proper justification.

12.20 After a long deliberation, the Committee decided to request the SPI Working Group to revisit the instructions of the MSC and submit a report to MSC 75 for consideration.

### **Reconvening of the SPI Working Group**

12.21 The Committee reconvened the SPI Working Group and instructed it to:

- .1 consider the documents as referred to it above;
- .2 submit a report on urgent matters including its future work programme to the Committee on Thursday; and
- .3 give an oral progress report on the remaining issues and to submit the main report to FAL 30.

12.22 The Committee reminded the SPI Working Group of the instructions given to it with regard to the maritime security issue (see paragraph 2.17).

12.23 On receiving the SPI Working Group's report (FAL 29/WP.2), the Committee approved the report in general, and, in particular, took action as indicated in the ensuing paragraphs.

### **Updating of the bibliography**

12.24 The Committee approved the list of updated information for inclusion in the bibliography (FAL 29/WP.2, annex 1); invited all organizations listed in the circular (FAL.6/Circ.9/Rev.1) to provide the Secretariat with an update on their publications; and requested the Secretariat to update all IMO instruments listed in FAL.6/Circ.9/Rev.1.

## **MEASURES AND PROCEDURES TO PREVENT ACTS OF TERRORISM WHICH THREATEN THE SECURITY OF PASSENGERS AND CREWS AND THE SAFETY OF SHIPS**

12.25 The Committee, in thanking the SPI Working Group for the amount of work undertaken in the short time available for this issue, recognized that the report reflected the initial consideration given to maritime security matters from the port perspective, aiming at drawing the attention of the intersessional meeting of the MSC Working Group on Maritime Security (ISWG) to those items which should be further considered, as having the potential to improve security on ships or in ports.

12.26 It was noted in this context that the work to be undertaken was not solely under the scope of IMO but the role of other organizations, in particular that of ILO needed to be taken into consideration as well.

12.27 Recalling that the Technical Committee of the twenty-second session of the Assembly had recognized that, since FAL 29 would meet before the ISWG meeting, it would be in a position to decide what contributions it might wish to make to the ISWG, the Committee agreed that in the context of the items on List of subjects for further elaboration; and Preparation of the work plan and time frame for further work, to be developed by the ISWG, the relevant parts of the SPI Working Group report and its own report should be conveyed to that meeting. This would assist the work of the ISWG, which could then categorize and prioritize the matters and identify which bodies should consider the relevant issue further in detail and in what time frame.

12.28 The Committee recognized that, due to time constraints, and in view of the fact that the work of the SPI Working Group on this issue was only a first initial approach, it could not consider the matters discussed on maritime security in detail and, therefore, agreed to authorize the Secretariat to editorially amend the relevant part of FAL 29/WP.2, as appropriate, and to convey it to the ISWG meeting.

12.29 The Committee endorsed the SPI Working Group's recommendation that port expertise should be included in the composition of delegations to both the ISWG and MSC 75 and in any subsequent work related to port security.

### **13 RELATIONS WITH OTHER ORGANIZATIONS**

13.1 The Committee, at its last session (FAL 28/19, paragraph 14.3), noted that, in response to the request of the Secretary-General, WTO members had invited the IMO Secretariat to attend informal meetings of the WTO Council for Trade in Goods (CTG) on Trade Facilitation; and further noted the outcome of the CTG held on 13 July 2000 (FAL 28/14).

13.2 The Committee (FAL 29/13) noted the outcome of the informal meetings of the CTG held on 26 October 2000, 12 February 2001 and 11 May 2001 and the Workshop on Technical Assistance on Capacity Building in Trade Facilitation, which took place on 10 and 11 May 2001.

13.3 The Committee, recalling that, in considering the strategic review of the FAL Convention and the work of the Committee under agenda item 7, it had agreed that there was no need for the Committee to constrain its work because of work at WTO; however, it needed to be cognizant of developments in WTO and the Secretariat should continue to monitor developments therein and advise the Committee accordingly, instructed the Secretariat to keep the Committee updated on the development in the WTO on trade facilitation matters.

## **Applications for consultative status**

13.4 The Committee (FAL 29/2, paragraph 29) noted that the Council, at its eighty-sixth session, decided that in the light of recommendations received from the MSC and the Committee, consultative status should be granted to the International Christian Maritime Association (ICMA), subject to future review if and when another organization with similar global service to the world's seafarers would request such status with IMO.

## **14 INSTITUTIONALIZATION OF THE FACILITATION COMMITTEE**

14.1 The Committee noted (FAL 29/14) with concern that the 1991 amendments to the IMO Convention aiming at institutionalizing had so far been adopted only by 58 Member States.

14.2 Noting further that a total of 107 explicit acceptances were needed to enable the entry into force of the said amendments twelve months thereafter, the Committee urged those Member Governments which had not yet accepted them to do so as soon as possible, pointing out that doing so would entail no financial consequences.

14.3 The delegation of Poland informed the Committee of having adopted the 1991 amendments to the IMO Convention.

## **15 WORK PROGRAMME AND DATE OF NEXT SESSION**

15.1 The Committee noted that the twenty-second session of the Assembly adopted resolution A.906(22) on work programme and budget for the financial period 2002-2003.

### **Work programme and long-term work plan**

15.2 The Committee (FAL 29/2/1, paragraph 18) noted that the twenty-second session of the Assembly considered the draft Assembly resolution on Long-term work plan of the Organization up to 2008 (A 22/23 and Add.1) and adopted resolution A.907(22), as amended by the addition to the Maritime Safety Committee's list of general subjects of the following two new high-priority items:

"10 Prevention/suppression of acts of terrorism against shipping; and

11 Safety measures and procedures for the treatment of persons rescued at sea";

and, regarding the Committee's list of subjects, by modifying item 8 to read:

" 8 Facilitation aspects of IMO's work on prevention and suppression of acts of piracy and armed robbery against ships; and dealing with trafficking or transport of migrants issues";

and adding the following two new high-priority items:

" 9 Facilitation aspects of IMO's work on prevention and suppression of acts of terrorism against shipping; and

10 Facilitation issues and procedures for the treatment of persons rescued at sea."

15.3 The Committee noted its long-term work plan for the period up to 2008, as approved by the twenty-second session of the Assembly (FAL 29/2/1, annex 3), and the high priority subjects, indicated by an asterisk.

### **Substantive items for inclusion in the agenda of the next session**

15.4 On the basis of the progress made during the session, the Committee reviewed and revised its work programme, approved a list of substantive items to be included in the agenda for its thirtieth session (FAL 29/WP.6, annex, as amended), and invited the Council to approve them (annex 4).

### **Dates of next session**

15.5 The Committee noted that its thirtieth session has tentatively been scheduled to take place from 27 to 31 January 2003.

### **Work programme of the SPI Working Group**

15.6 The Committee recalled that MSC 73, as far as safety-related items were concerned and MEPC 46, as far as environmental protection related items were concerned, had approved the SPI Working Group's work programme (FAL 29/12/1, annex).

15.7 The Committee considered the proposed revised work programme of the SPI Working Group (FAL 29/WP.2, annex 3) and approved it, as far as facilitation related items are concerned, as set out in annex 5.

## **16 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2003**

16.1 The Chairman, Mr. L. Barchue Sr. (Liberia) announced that he did not offer himself for re-election and proposed that his successor be elected at the Committee's next session. The Committee accepted his proposal and thanked him for his excellent chairmanship of the Committee for the last six years and his invaluable contributions to the work of the Organization over many years and wished him every happiness for the future.

16.2 The Committee unanimously elected Mr. C. Abela (Malta) as Vice-Chairman for 2002 and 2003.

## **17 ANY OTHER BUSINESS**

### **International Health Regulations (IHR)**

17.1 The Secretariat informed the Committee that World Health Organization (WHO) is currently reviewing the WHO IHR. The Committee will be informed of the developments in reviewing the Regulations in order for the Committee to see if any implications on the relevant provisions of the FAL Convention, which addresses matters relating to public health and quarantine etc. from the ship's clearance point of view, referring to the IHR.

## Expression of appreciation

17.2 The Committee expressed appreciation to Mrs. Guo Xin (China); Captain J.R. Bergallo (Argentina); and Mr. Pak Jong Il (Permanent Representative of the Democratic People's Republic of Korea to IMO) on their impending return home, for their valuable contribution to its work and the work of the Organization and wished them every happiness and success for the future.

## 18 REPORT TO THE COUNCIL

The Council is invited:

- .1 to note, in the context of resolution A.920(22), the action taken by the Committee on safety measures and procedures for the treatment of persons rescued at sea (paragraphs 2.8 to 2.11, 7.39 to 7.46, 9.1 and 9.2);
- .2 to note, in the context of resolution 924(22), the action taken by the Committee on measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships (paragraphs 2.12 to 2.18 and 12.25 to 12.29);
- .3 to note the adoption of amendments to the FAL Convention concerning FAL Form 7 (Dangerous Goods Manifest) and stowaways (paragraph 4.4 and annex 2);
- .4 to note the action taken by the Committee to facilitate the process of ships, passengers and crews clearance by using information technology solutions (paragraphs 5.11 to 5.19);
- .5 to endorse the re-establishment of the EDI correspondence group on E-business matters (paragraph 5.20 and annex 3);
- .6 to endorse the Committee's decision on the strategic review on the FAL Convention and the work of the Committee (paragraphs 7.5, 7.9, 7.12 to 7.14, 7.16, 7.22, 7.23, 7.26 to 7.29, 7.31, 7.34 and 7.35);
- .7 to note the Committee's position and action on the work and work methods of the SPI Working Group (paragraphs 7.26 to 7.29);
- .8 to note the Committee's action on the harmonization of forms and notifications for the return of stowaways; and to strengthen the Guidelines on Stowaways (resolution A.871(20)) (paragraphs 9.6 and 9.8);
- .9 to note the Committee's action on the harmonization of ships' certificates (paragraph 10.5);
- .10 to note the Committee's decision on the development of Guidelines for the training of port marine personnel (paragraph 12.20);
- .11 to note the action taken by the Committee on World Trade Organization (WTO) activities relating to the Committee's work (paragraph 13.3);
- .12 to note the action taken by the Committee to expedite its institutionalization (paragraph 14.2);

- .13 to approve the list of substantive items to be included in the agenda for the Committee's thirtieth session (paragraph 15.4 and annex 4);
- .14 to note the Committee's action in respect of the SPI Working Group's work programme (paragraph 15.7 and annex 5); and
- .16 to approve the report in general.

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## ANNEX 1

**AGENDA FOR THE TWENTY-NINTH SESSION INCLUDING  
A LIST OF DOCUMENTS**

**1 Adoption of the agenda**

Circular letter No.2287	-	Secretariat
Circular letter No.2341	-	Secretariat
FAL 29/1	-	Secretariat
FAL 29/1/1	-	Secretariat

**2 Decisions of other IMO bodies**

FAL 29/2	-	Secretariat
FAL 29/2/1	-	Secretariat
FAL 29/WP.1	-	Secretariat

**3 Convention on Facilitation of International Maritime Traffic**

FAL 29/3	-	Secretariat
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**4 Consideration and adoption of proposed amendments to the Annex to the Convention**

FAL 29/4	-	Secretariat
FAL 29/4/1	-	France
FAL 29/WP.3	-	Drafting Group

**5 EDI messages for the clearance of ships**

FAL 29/5	-	Australia
FAL 29/5/1	-	Netherlands (on behalf of the Correspondence Group)
FAL 29/INF.2	-	Australia
FAL 29/INF.4	-	United States
FAL 29/WP.5	-	Working Group

**6 Application of the Committee's Guidelines**

No document issued under this agenda item.

**7 General review of the Convention**

FAL 29/7	-	Chairman of the Committee
FAL 29/7/1	-	Secretariat
FAL 29/WP.3/Add.1	-	Working Group
FAL 29/WP.5	-	Working Group

**8 Formalities connected with the arrival, stay and departure of ships**

FAL 29/8	-	Secretariat
FAL 29/8/Corr.1	-	Secretariat

**9 Formalities connected with the arrival, stay and departure of persons - Stowaways**

FAL 29/INF.3	-	Iran (Islamic Republic of)
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**10 Facilitation aspects of other IMO forms and certificates**

FAL 29/10/Rev.1	-	United Kingdom (on behalf of the Correspondence Group)
FAL 29/10/1	-	IACS

**11 Technical co-operation sub-programme for facilitation**

FAL 29/11	-	Secretariat
FAL 29/INF.5	-	Secretariat
FAL 29/INF.6	-	Secretariat
FAL 29/INF.7	-	Secretariat

**12 Ship/port interface**

FAL 29/12	-	SPI Working Group
FAL 29/12/1	-	Secretariat
FAL 29/12/2	-	Germany
FAL 29/12/3	-	Secretariat
FAL 29/WP.2	-	Working Group

**13 Relations with other organizations**

FAL 29/13	-	Secretariat
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**14 Institutionalization of the FAL Committee**

FAL 29/14 - Secretariat

**15 Work programme and date of next session**

FAL 29/WP.6 - Secretariat

**16 Election of Chairman and Vice-Chairman for 2003**

No document issued under this agenda item.

**17 Any Other Business**

No document issued under this agenda item.

**18 Report to the Council**

FAL 29/WP.4 and Add.1 - Committee

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**Information papers**

FAL 29/INF.1 - List of participants  
FAL 29/INF.8 - List of documents

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**ANNEX 2**

**RESOLUTION FAL.7(29)**

**Adopted on 10 January 2002**

**ADOPTION OF AMENDMENTS TO THE CONVENTION ON FACILITATION OF  
INTERNATIONAL MARITIME TRAFFIC, 1965, AS AMENDED**

THE FACILITATION COMMITTEE,

RECALLING article VII(2)(a) of the Convention on Facilitation of International Maritime Traffic, 1965, as amended, hereinafter referred to as "the Convention", concerning the procedure for amending the Annex to the Convention,

RECALLING FURTHER the functions which the Convention confers upon the Facilitation Committee for the consideration and adoption of amendments to the Convention,

HAVING CONSIDERED, at its twenty-ninth session, amendments to the Annex to the Convention proposed and circulated in accordance with article VII(2)(a) thereof,

1. ADOPTS, in accordance with article VII(2)(a) of the Convention, the amendments to the Convention, the text of which is set out in the annex to the present resolution;
2. DETERMINES, in accordance with article VII(2)(b) of the Convention, that the amendments shall enter into force on 1 May 2003 unless, prior to 1 February 2003 at least one-third of Contracting Governments have notified the Secretary-General in writing that they do not accept the amendments;
3. REQUESTS the Secretary-General, in conformity with article VII(2)(a) of the Convention, to communicate the amendments contained in the Annex to all Contracting Governments;
4. FURTHER REQUESTS the Secretary-General to notify all Signatory Governments of the adoption and entry into force of the said amendments.

## ANNEX

### AMENDMENTS TO THE ANNEX TO THE FAL CONVENTION, AS AMENDED

#### Section 1 - Definitions and general provisions

##### A. Definitions

1 Add the following definitions:

*"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."

*"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."

*"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."

#### Section 2 - Arrival, stay and departure of the ship

2 In 2.1 **Standard**, a note should be added as follows:

"Note:

The following FAL forms have been developed, as presented in Appendix 1:

- General declaration - FAL Form 1
- Cargo Declaration - FAL Form 2
- Ship's Stores Declaration - FAL Form 3
- Crew's Effects Declaration - FAL Form 4
- Crew List - FAL Form 5
- Passenger List - FAL Form 6
- Dangerous Goods Manifest - FAL Form 7."

3 Add two renumbered new paragraphs after the existing paragraph 2.7.5 as follows:

"2.8 The Dangerous Goods Manifest shall be the basic document providing public authorities with the information regarding dangerous goods.

2.8.1 In the Dangerous Goods Manifest public authorities shall not require more than the following information:

- Name of ship
- IMO number
- Nationality of ship
- Master's name
- Voyage reference
- Port of loading
- Port of discharge
- Shipping agent
- Booking/reference number
- Marks and numbers:
  - container ID. No(s).
  - vehicle Reg. No(s).
- Number and kind of packages
- Proper shipping name
- Class
- UN Number
- Packing group
- Subsidiary risk(s)
- Flashpoint (in °C, c.c.)
- Marine Pollutant
- Mass (kg) – gross/net
- EmS
- Stowage position on board"

4 Renumber existing paragraphs 2.8 to 2.26 accordingly from 2.9 to 2.27 and amend the associated footnote under paragraph 2.13.

5 Delete paragraphs 2.7.6 and 2.7.6.1 and associated notes.

6 In renumbered paragraph 2.11 **Standard**, insert a new bullet as follows:

- "• 1 copy of the Dangerous Goods Manifest"

7 In renumbered paragraph 2.12 **Standard**, insert a new bullet as follows:

- "• 1 copy of the Dangerous Goods Manifest"

8 In the footnote under paragraph 3.3.1 replace “appendix 4” by “appendix 2”.

9 New Section 4 should be added as follows: "**Section 4 – Stowaways**

## **A. General Principles**

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

**4.2 Standard.** Public authorities, port authorities, shipowners and their representatives and shipmasters shall co-operate to the fullest extent possible in order to prevent stowaway incidents and to resolve stowaway cases expeditiously and secure that an early return or repatriation of the stowaway will take place. All appropriate measures shall be taken in order to avoid situations where stowaways must stay on board ships indefinitely.

## **B. Preventive measures**

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

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

**4.3.1.1 Standard.** Contracting Governments shall ensure that the necessary infrastructure, and operational and security arrangements for the purpose of preventing persons attempting to stow away 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 co-operation with relevant public authorities, shipowners and shore-side entities, with the aim of preventing stowaway occurrences in the individual port.

**4.3.1.2 Recommended Practice.** Operational arrangements and/or security plans should, *inter alia*, address the following issues where appropriate:

- a) regular patrolling of port areas;
- b) 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;
- c) inspections of warehouses and cargo storage areas;
- d) search of cargo itself, when presence of stowaways is clearly indicated;
- e) co-operation between public authorities, shipowners, masters and relevant shore-side entities in developing operational arrangements;
- f) co-operation between port authorities and other relevant authorities (e.g. police, customs, immigration) in order to prevent smuggling of humans;

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\* 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))



- g) developing and implementing agreements with stevedores and other shoreside entities operating in national 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;
- h) developing and implementing agreements with stevedores and other shoreside entities to ensure that their personnel having access to the ship is 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
- i) encouragement of stevedores and other persons working in the port area to report to the port authorities, the presence of any persons apparently not authorised to be in the port area.

#### **4.3.2 Shipowner/Shipmaster**

**4.3.2.1 Standard.** Contracting Governments shall require that shipowners and their representatives in the port, the masters as well as other responsible persons have security arrangements in place which, as far as practicable, will prevent intending stowaways from getting aboard the ship, and, if this fails, as far as practicable, will detect them before the ship leaves port.

**4.3.2.2 Recommended Practice.** 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:

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

**4.3.2.3 Standard.** Contracting Governments shall require that ships entitled to fly their flag, except passenger ships, when departing from a port, where there is risk of stowaway embarkation, have undergone a thorough search in accordance with a specific plan or schedule, and with priorities given to places where stowaways might hide. Search methods, which are likely to harm secreted stowaways shall not be used.

**4.3.2.4 Standard.** Contracting Governments shall require that fumigation or sealing of ships entitled to fly their flag may not be carried out until a search which is as thorough as possible of

the areas to be fumigated or sealed has taken place in order to ensure that no stowaways are present in those areas.

#### **4.3.3 National Sanctions**

**4.3.3.1 Standard.** Where appropriate, contracting Governments shall, according to their national legislation, prosecute stowaways, attempted stowaways and persons aiding stowaways in gaining access to ships.

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

#### **4.4 General principles – Humane treatment**

**4.4.1 Standard.** Stowaway incidents shall be dealt with consistent with humanitarian principles, including those mentioned in Standard 4 .1. Due consideration must always be given to the operational safety of the ship and the safety and well being of the stowaway.

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

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

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

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

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

**4.6.2 Recommended Practice.** When gathering relevant details for notification the shipmaster should use the form as specified in appendix 3.

**4.6.3 Standard.** Contracting Governments shall instruct shipmasters operating ships entitled to fly their flag that when a stowaway declares himself/herself to be a refugee, this information shall be treated as confidential to the extent necessary for the security of the stowaway.

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

**4.7.1 Recommended Practice.** Public authorities should report all stowaway incidents to the Secretary General of the International Maritime Organization.

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

**4.8 Standard.** Public authorities shall urge all shipowners operating ships entitled to fly their flag to instruct their masters not to deviate from the planned voyage to seek the disembarkation of stowaways discovered on board the ship after it has left the territorial waters of the country where the stowaways embarked, unless:

- permission to disembark the 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 for disembarkation; or
- there are extenuating security, health or compassionate reasons.

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

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

**4.9.1 Standard.** Public authorities in the country of the ship's first scheduled port of call after discovery of a stowaway shall decide in accordance with national legislation whether the stowaway is admissible to that State.

**4.9.2 Standard.** Public authorities in the country of the ship's first scheduled port of call after discovery of a stowaway shall allow disembarkation of the stowaway, when the stowaway is in possession of valid travel documents for return, and the public authorities are satisfied that timely arrangements have been or will be made for repatriation and all the requisites for transit fulfilled.

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

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

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

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

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

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

**4.11.2 Standard.** Public authorities shall, when possible, assist in determining the identity and nationality/citizenship of stowaways claiming to be a national or having a right of residence in their State.

#### **4.12 State of Embarkation**

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

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

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

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

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

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

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

**4.14.1 Recommended Practice.** When a stowaway has inadequate documents, public authorities should, whenever practicable and to an extent compatible with national legislation and security requirements, issue a covering letter with a photograph of the stowaway and any other important information. The letter, authorising the return of the stowaway either to his/her country of origin or to the point where the stowaway commenced his/her journey, as appropriate, by any means of transportation and specifying any other conditions imposed by the authorities, should be handed

over to the operator affecting the removal of the stowaway. This letter will include information required by the authorities at transit points and/or the point of disembarkation.

**4.14.2 Recommended Practice.** Public authorities in the State where the stowaway has disembarked should contact the relevant public authorities at transit points during the return of a stowaway, in order to inform them of the status of the stowaway. In addition public authorities in countries of transit during the return of any stowaway should allow, subject to normal visa requirements and national security concerns, the transit through their ports and airports of stowaways travelling under the removal instructions or directions of public authorities of the country of the port of disembarkation.

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

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

**4.15.1 Recommended practice.** The public authorities of the State where a stowaway has been disembarked should generally inform the shipowner, on whose ship the stowaway was found, or his representative, 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.

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

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

**4.15.4 Recommended practice.** Public authorities should, according to national legislation, consider mitigation of other charges that might otherwise be applicable, when shipowners have co-operated with the control authorities to the satisfaction of those authorities in measures designed to prevent the transportation of stowaways."

10 Sections 4, 5 and 6, and corresponding paragraphs should be renumbered as sections 5, 6 and 7.

11 In renumbered paragraphs 5.16, 5.17 and 5.18 replace "Standard 4.8" by "Standard 5.15".

12 In renumbered paragraph 7.5 replace "Standard 6.2" by "Standard 7.2".

13 In renumbered paragraph 7.9 replace "Standard 6.2" by "Standard 7.8".

14 Appendices should be renumbered as follows:

.1 Appendix 1 to be kept as Appendix 1;

.2 Appendix 2 to become Appendix 6;

- .3 Appendix 3 to become Appendix 4;
  - .4 Appendix 4 to become Appendix 2;
  - .5 Appendix 5 to be kept as Appendix 5; and
  - .6 Appendix 6 to become Appendix 7.
- 15 Add the following new Appendix 3 – *Form referred to in Recommended Practice 4.6.2:*

**“APPENDIX 3****Form of Stowaway Details referred to in Recommended Practice 4.6.2**

<b>SHIP DETAILS</b>	
<i>Name of ship:</i>	<i>ID-document type, e.g. Passport No.,</i>
<i>IMO number:</i>	<i>ID Card No. or Seaman’s book No.:</i>
<i>Flag:</i>	<i>If yes,</i>
<i>Company:</i>	<i>When issued:</i>
<i>Company address:</i>	<i>Where issued:</i>
<i>Agent in next port:</i>	<i>Date of expiry:</i>
<i>Agent address:</i>	<i>Issued by:</i>
<i>IRCS:</i>	<i>Photograph of the stowaway:</i>
<i>INMARSAT number:</i>	
<i>Port of registry:</i>	
<i>Name of the Master:</i>	
<b>STOWAWAY DETAILS</b>	
<i>Date/time found on board:</i>	<i>General physical description of the stowaway:</i>
<i>Place of boarding:</i>	
<i>Country of boarding:</i>	
<i>Date/time of boarding:</i>	
<i>Intended final destination:</i>	
<i>Stated reasons for boarding the ship*:</i>	
<i>Surname:</i>	
<i>Given name:</i>	
<i>Name by which known:</i>	
<i>Gender:</i>	

\* 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.

<i>Date of birth:</i>	<i>First language:</i>
<i>Place of birth:</i>	<i>Spoken:</i>
<i>Claimed nationality:</i>	<i>Read:</i>
<i>Home address:</i>	<i>Written:</i>
	<i>Other languages:</i>
<i>Country of domicile:</i>	<i>Spoken:</i>
	<i>Read:</i>
	<i>Written:</i>

***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:*

*Date:*

*Master's signature:*

*Date:*                   ”



17 At the end of Form 6 in Appendix 1 delete the entire text starting with “Example of a form...”.

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**ANNEX 3****TERMS OF REFERENCE FOR THE INTERSESSIONAL CORRESPONDENCE  
GROUP ON E-BUSINESS MATTERS**

- 1 to ensure the exchange of information with a view to keeping the FAL Committee informed of relevant developments relating to E-business in the area of maritime traffic;
- 2 in this capacity, to act as a virtual focal point with a view to making further progress towards achieving the goal of total electronic clearance of ships and cargo;
- 3 to ensure that during the review process of the FAL Convention, E-business requirements do increasingly form an integral part of the Convention;
- 4 to define proposals for the changes to procedures as a result of the electronic exchange of information;
- 5 to actively follow the developments within the ISO TC8, Sub-Committee 10 and to encourage exchange of information between ISO and IMO on ship and electronic information related matters; and
- 6 to actively follow and report on developments in amongst others in WTO, WCO and UNCEFACT in the area of electronic exchange of information.

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**ANNEX 4**

**SUBSTANTIVE ITEMS FOR INCLUSION IN THE AGENDA OF  
THE THIRTIETH SESSION**

Convention on Facilitation of International Maritime Traffic

- Status of the Convention

Consideration and adoption of proposed amendments to the Annex to the Convention

Electronic means for the clearance of ships

- .1 Development of uniform systems for the arrival and clearance of ships, persons and cargoes.
- .2 E-business possibilities for the facilitation of maritime traffic.

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

- .1 Review of Standards and Recommended Practices in the Annex to the Convention to which exceptions have been registered by Contracting Parties
- .2 Information submitted on implementation of individual provisions of the Annex to the Convention
- .3 Prevention and suppression of unlawful acts at sea or in port:  
Facilitation aspects
- .4 Prevention and control of illicit drug trafficking  
Facilitation aspects

Prevention and suppression of acts of terrorism against shipping; Facilitation aspects

Measures and procedures for the treatment of persons rescued at sea; Facilitation aspects

Formalities connected with the arrival, stay and departure of ship

- Implementation of the Standardized IMO Model FAL Forms

Formalities connected with the arrival, stay and departure of persons - Stowaways

Facilitation aspects of other IMO forms and certificates

Ship/port interface

Technical co-operation subprogramme for facilitation

Institutionalization of the FAL Committee

Application of the Committee's guidelines

Work programme

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## ANNEX 5

## WORK PROGRAMME OF THE SPI WORKING GROUP

		<b>Target Completion Date</b>
1	Updating of the bibliography (under the supervision of FAL)	Continuous
2	Availability of adequate tug assistance (under the supervision of MSC, MEPC and FAL)	[2003]
3	Development of a manual on loading and unloading of solid bulk cargoes for terminal representatives (under the supervision of MSC)	[2003]
4	Development of guidelines for the training of port marine personnel (under the supervision of MSC and FAL)	2003

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