



FACILITATION COMMITTEE  
31st session  
Agenda item 20

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## REPORT OF THE THIRTY-FIRST SESSION OF THE FACILITATION COMMITTEE

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## 1 GENERAL - ADOPTION OF THE AGENDA

### Introduction

1.1 The Facilitation Committee held its thirty-first session from 19 to 23 July 2004 under the chairmanship of Mr. C. Abela (Malta). The Vice-Chairman, Captain M.A. de Almeida (Brazil), also attended.

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

ALGERIA	LIBERIA
ARGENTINA	MALAYSIA
BAHAMAS	MALTA
BANGLADESH	MARSHALL ISLANDS
BELGIUM	MEXICO
BRAZIL	MONACO
CANADA	MOROCCO
CHILE	NETHERLANDS
CHINA	NIGERIA
COLOMBIA	NORWAY
CONGO	PANAMA
COTE D'IVOIRE	PERU
CUBA	PHILIPPINES
CYPRUS	POLAND
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	PORTUGAL
DENMARK	REPUBLIC OF KOREA
ECUADOR	RUSSIAN FEDERATION
EGYPT	SAUDI ARABIA
ESTONIA	SINGAPORE
FRANCE	SPAIN
GERMANY	SWEDEN
GHANA	THAILAND
GREECE	TUNISIA
GUATEMALA	TURKEY
INDONESIA	UKRAINE
IRAN (ISLAMIC REPUBLIC OF)	UNITED KINGDOM
ITALY	UNITED STATES
JAPAN	URUGUAY
KENYA	VENEZUELA

and from the following Associate Member of IMO:

HONG KONG, CHINA

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

UNITED NATIONS (UN)  
OFFICE OF THE UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)  
INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)

by observers from the following intergovernmental organizations:

WORLD CUSTOMS ORGANIZATION (WCO)  
EUROPEAN COMMISSION (EC)  
INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)

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

INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU)  
PERMANENT INTERNATIONAL ASSOCIATION OF NAVIGATION  
CONGRESSES (PIANC)  
BIMCO  
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)  
ICHCA INTERNATIONAL LIMITED (ICHCA)  
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)  
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)  
INTERNATIONAL ROAD TRANSPORT UNION (IRU)  
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)  
INTERNATIONAL HARBOUR MASTERS' ASSOCIATION (IHMA)  
INTERNATIONAL BULK TERMINALS ASSOCIATION (IBTA)  
INTERNATIONAL CHRISTIAN MARITIME ASSOCIATION (ICMA)

1.4 In welcoming the participants, the Secretary-General reiterated his plea to the Council and Assembly last year, inviting all with an interest in the affairs of IMO and the shipping industry to join forces to create a safer, more secure and environmentally friendly maritime world.

With respect to the entry into force on 1 July of the special measures to enhance maritime security, the Secretary-General acknowledged the major effort made by Governments and the shipping and port industries to improve maritime security in the weeks and months leading up to that date. The information collated by the Secretariat had indicated that more than 86% of the ships and 69% of port facilities liable to the ISPS Code had their security plans approved by the 1 July deadline. Although these percentages demonstrated a significant improvement compared with those available during the period immediately before that date, he stressed that the efforts to achieve 100 % compliance should continue unabated. Reports as recent as the week before the session indicating that the 1 July had passed without major problems causing serious disruptions to seaborne trade had been welcomed by the maritime community. He hoped that some teething problems reported and any now experienced in the process were minimal and that common sense would prevail in addressing them. The shipping and port industries had now entered a new era in

their joint efforts to protect the international trade against the threat of terrorism. The success in maintaining, from now on, vigilance and ensuring continued compliance with the ISPS Code would certainly provide an indication of how successful the security net put in place had been.

As “maritime security” had now been firmly established on IMO’s agenda and concerns about maintaining the security of the shipping and ports industries were uppermost in everybody’s minds, the Secretary-General stressed that the need to balance these concerns with the need to ensure the smooth and uninterrupted flow of international seaborne trade should, however, not be forgotten. Facilitation and enhanced security were, according to him, complementary to each other and it was necessary to always ensure that appropriate weight was given to them both. The Committee’s role in pursuing appropriate means to facilitate international maritime traffic, whilst ensuring at the same time a secure environment for shipping to operate within, was becoming increasingly important. In support of this view he quoted a report of the Australian Foreign Affairs and Trade Department, which had estimated the cost of implementation of the ISPS Code for the world shipping industry at \$1.5 billion a year on top of a one-off initial outlay of \$2.6 billion. Ship operators would pay \$1.3 billion of that with operating expenses of \$730 million a year. On the plus side, however, efficiency gains and reductions in theft and fraud were anticipated to exceed the expenses involved according to that report. For IMO’s part, to further raise awareness of the need to be and remain always vigilant to any terrorist threat, the Council and the Assembly had agreed that the World Maritime Day theme for this year should be: **“IMO 2004: Focus on Maritime Security”**, which was significant for the importance and seriousness the Organization’s governing bodies attached to the issue.

When, on the eve of the ISPS Code becoming effective, the Secretary-General had appealed to Governments and port authorities to apply the Code with a sense of pragmatism and common sense, his plea had been that they should do so not only when they were dealing with ships and cargoes but also when dealing with seafarers serving on ships calling at their ports. It should not be forgotten that it was on the seafarers’ initiatives, co-operation and constant vigilance that the industry relied upon heavily in order to prevent breaches of maritime security. Without their support and wholehearted commitment to the cause of security, the system the ISPS Code aimed so meticulously to put in place would be severely weakened, to the detriment of the overall effort.

He was of the opinion that if, on security grounds, seafarers faced difficulties, such as refusal of shore leave (and everybody knew, or could imagine, what this meant to professionals reaching port after days or even weeks of isolation at sea, often after having faced the elements at their full strength), they might well feel somehow rejected or their services not sufficiently recognized. While, for prospective entrants to the maritime profession, such restrictions might easily discourage them from joining ranks at a time when the industry was already short of quality officers worldwide - this situation might worsen in the future to include a shortage of ratings as well.

The Secretary-General, therefore, appealed to Governments and port authorities (whose concern over security he fully understood and respected) to treat seafarers as partners in the fight against terrorism and to facilitate their access to ports and shore facilities. Ships’ stays in port were short nowadays and the seafarers’ free time was limited, so they should be provided with every opportunity to relax and recover before they again take their ships out to sea in pursuit of their peaceful objectives in the service of world trade.

In this regard, he recalled the tasks assigned to the Working Group on Ship/Port Interface to identify any areas at the ship/port interface where improvements could be made in the context of

enhancing and implementing security measures. To this end, the SPI Working Group would continue its efforts to enhance security at the ship/port interface, in addition to the work on the development of guidelines on minimum training and education for shore-side mooring personnel.

Turning to the problem of stowaways which continued to impose a heavy burden on ships and crews and on the shipping industry as a whole, he expressed his hope that the entry-into-force of the ISPS Code might, to some extent, ease the problem and that the implementation of the recent amendments to the Annex to the FAL Convention, together with the introduction of the security measures prescribed by the ISPS Code, would lead to a significant reduction in the number of stowaway cases facing the industry. The Committee was expected to review the reports on stowaway incidents submitted by Member Governments and international organizations to ascertain if any further action was necessary, including possible strengthening of the Guidelines on the allocation of responsibilities to seek successful resolution of stowaway cases, with a view to harmonizing them with the relevant ISPS Code provisions.

The Secretary-General highlighted the review of measures and procedures for the treatment of persons rescued at sea from the facilitation point of view, as requested by the Assembly in resolution A.920(22), as another important item on the agenda. Preliminary consideration had been given at the last session to the administrative procedures for the disembarkation of persons rescued at sea; the need for a checklist for recording information on persons rescued at sea; and related amendments to the FAL Convention. At the current session, consideration of these issues would continue, taking into account the relevant amendments to SOLAS chapter V and to the annex to the SAR Convention as amplified by a set of associated Guidelines, all adopted by the Maritime Safety Committee last May. The outcome of the second meeting of the inter-agency group referred to in resolution A.920(22), which was held in the week before the current session, would also assist in these deliberations.

The Secretary-General mentioned also the strategic review of the FAL Convention, which aimed at modernizing and bringing the Convention up-to-date with developments in the shipping industry, as a key issue for the Committee to succeed in the attainment of its objectives. The Committee was expected to also consider proposed amendments to the Annex to the FAL Convention aimed at aligning it with new developments, such as the electronic transmission of information required by public authorities; and the development of an explanatory Manual to the FAL Convention, the general outline of which had been prepared by an intersessional correspondence group. The Manual could help in interpreting the legal provisions of the Convention, some of which were considered to be complex and, at times, difficult to understand.

Turning to the institutionalization of the Facilitation Committee, the Secretary-General expressed his disappointment that this had yet to materialize through acceptance of the 1991 amendments to the IMO Convention. So far 83 of the 110 acceptances required had been received. Although this represented a rather significant increase since the last session, 27 acceptances were still needed to fulfil the requirements for the entry into force of the 1991 amendments. He recalled the various initiatives which had been undertaken over the years, since the amendments were adopted thirteen years ago, to bring them into force, including calls from the then Secretary-General on the occasion of meetings of Committees, the Council and the Assembly; letters to individual administrations requesting that the matter be raised with their respective Governments; and direct approaches to participants at regional seminars. Furthermore, the Council at its eighty-eighth session in June 2002, had adopted an *ad hoc* resolution and the Assembly, at its twenty-third session last year, had adopted resolution A.945(23) to the same effect. Given the close inter-relationship between the need for enhanced security and balanced facilitation of international maritime traffic (to which he had alluded before), he stressed that the

institutionalization of the Committee had now become a pressing issue, particularly after the entry into force of the ISPS Code. Pursuant to the above Assembly resolution, he had written to all Member Governments which had not yet accepted the 1991 amendments encouraging them to do so and explaining the linkage between the FAL Convention and the ISPS Code. He reiterated that he was all times ready and willing to provide additional information and assistance to any Government which might require it when considering accepting the said amendments to the IMO Convention.

1.5 The Chairman thanked the Secretary-General for his words of encouragement and stated that the Secretary-General's advice and requests would be given every consideration in the Committee's deliberations.

### **Credentials**

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

### **Adoption of the agenda**

1.7 The agenda of the session (FAL 31/1), 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 twenty-third session of the Assembly (FAL 31/2/2);
- .2 the ninetieth and ninety-second regular and twenty-second extraordinary sessions of the Council (FAL 31/2/1 and FAL 31/6/2);
- .3 the eighty-seventh and eighty-eighth sessions of the Legal Committee (FAL 31/2);
- .4 the fifty-third session of the Technical Co-operation Committee (FAL 31/2);
- .5 the forty-ninth session of the Marine Environment Protection Committee (FAL 31/2); and
- .6 the seventy-seventh and seventy-eighth sessions of the Maritime Safety Committee (FAL 31/2 and FAL 31/2/3 respectively).

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

### **Outcome of the twenty-third session of the Assembly**

2.3 The Committee noted the outcome of the twenty-third session of the Assembly (FAL 31/2/2) in respect of the consideration of the reports and recommendations of the Committee and other matters pertaining to its work during the past biennium and, in particular, with regard to:

- .1 the review of safety measures and procedures for the treatment of persons rescued at sea (FAL 31/2/2, paragraph 12), that the Assembly had decided that the Maritime Safety Committee and the Committee should continue to work on the subject and that the progress should be reported to the Council in due course; and
- .2 the review of safety measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships (FAL 31/2/2, paragraph 13), that the Assembly had invited the Committee to keep the Council informed of the developments.

### **Outcome of the ninetieth and ninety-second regular and twenty-second extraordinary sessions of the Council**

2.4 The Committee noted the information provided in document FAL 31/2/1 and, in particular, that the Council approved two meeting weeks for the Committee for this biennium.

2.5 The Committee considered the outcome of C 92 on the institutionalization of the Committee, electronic access to IMO publications and the news media to attend meetings under agenda items 16, 14 and 6 (FAL 31/6/2) respectively.

### **Outcome of the eighty-seventh and eighty-eighth sessions of the Legal Committee**

2.6 The Committee noted the relevant information provided in document FAL 31/2, paragraphs 5 to 21.

### **Outcome of the fifty-third session of the Technical Co-operation Committee**

2.7 The Committee noted the outcome of TC 53 contained in document FAL 31/2, paragraphs 22 to 30 and considered the information provided under agenda item 14.

### **Outcome of the forty-ninth session of the Marine Environment Protection Committee**

2.8 The Committee noted the relevant information in document FAL 31/2, paragraph 3.

### **Outcome of the seventy-seventh and seventy-eighth sessions of the Maritime Safety Committee**

2.9 The Committee noted the information provided in relevant parts of document FAL 31/2, paragraph 2 and FAL 31/2/3 and considered them under the appropriate agenda items.

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

### **Status of the Convention**

3.1 The Committee noted the list of Contracting Governments to the FAL Convention, contained in the annex to document FAL 31/3, in particular, the acceptances by Cyprus (9 March 2004) and Tonga (18 September 2003) since its thirtieth session.



3.2 The Committee was informed by the Secretariat that, since the issuance of document FAL 31/3, two further acceptances had been received by St. Lucia (20 May 2004) and Samoa (18 May 2004), thus bringing the total number of Contracting Governments to 98.

3.3 In expressing its appreciation to the Governments of Cyprus, St. Lucia, Samoa and Tonga, the Committee urged those Member Governments, which had not yet accepted the Convention, to consider doing so as soon as possible in order to assist the Organization's efforts to facilitate international maritime traffic in a secure environment.

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

4.1 The Committee recalled that, at its thirtieth session (FAL 30/20, paragraph 7.35), in considering the proposal by France (FAL 29/4/1), it had decided that it would be more appropriate for France to submit a revised proposal to FAL 31 taking into consideration the consolidated text of the Annex to the Convention which incorporated the 1999 (FAL 27/19, annex 2) and the 2002 (FAL 29/18, annex 2) amendments.

4.2 The Committee further recalled that, at its thirtieth session (FAL 30/20, paragraphs 7.36 and 7.37), it had agreed with the proposal by the Netherlands (FAL 30/7/3) in principle and, noting that as the proposal could benefit from improvement in light of the 2002 amendments to the Convention, agreed that it would be appropriate for the Netherlands to submit a revised proposal to FAL 31.

4.3 As requested by the Committee, at its last session, France (FAL 31/4) and the Netherlands (FAL 31/4/1) submitted the proposed amendments to the Annex to the Convention, which address risk management as a modern tool for efficient control measures; community systems of public authorities and participants in maritime transport; pre-arrival and pre-departure information; submission of information to a single point (Single Window); and electronic transmission information.

4.4 The Committee agreed in principle with the above proposals by France and the Netherlands and referred them to the working group for detailed consideration, and instructed the group to prepare draft amendments to the Annex to the Convention, together with an associated FAL resolution on amendments, taking into account comments made in plenary, for approval by the Committee and for formal adoption at the next session.

#### **Consideration of the report of the working group**

4.5 The Committee, upon receiving the report of the working group (FAL 31/WP.1 and Add.1), took action as indicated in the ensuing paragraphs.

4.6 The Committee, while considering the amendments to the Annex to the FAL Convention, with a view to approval, noted that the use of the proposed addition of the data element "port arrived from" in Standard 2.6.1, though consistent with the use of the similar data entries in some of the FAL forms, did not gel in with the customary meaning and use of the term "last port of call", and invited proposals on the issue for consideration at FAL 32.

4.7 The delegation of Panama proposed orally alternative text of estimated time of arrival (ETA): "time when a ship estimates it will arrive at a specific location in a port".

4.8 The Committee approved draft amendments to the Annex to the FAL Convention, including the associated draft FAL resolution, as set out in annex 2\*, for circulation in accordance with article VII(2)(a) of the Convention with the view to adoption at FAL 32.

4.9 The Committee agreed that the definitions in the IMO Compendium on Facilitation and Electronic Business (FAL.5/Circ.15 and Corr.1), Annex 1, should be harmonized with those of the relevant amendments to the Annex to the FAL Convention when they enter into force.

4.10 The Committee also agreed that the FAL forms and their related provisions should be reviewed at the next session in light of the recently introduced security measures, such as those in the ISPS Code which attained mandatory status from 1 July 2004 and other new requirements related to customs, immigration, health and environment.

4.11 The Committee further agreed that when adopting amendments to the Annex to the Convention at its next session, there might be a need to harmonize the use of the terms “electronic data interchange (EDI)” with “electronic transmission of information” throughout the Annex, and invited proposals on the issue for consideration at the next session of the Committee.

4.12 In addition, the Committee noted the view expressed by some delegations that additional new proposals for amendments to the Annex, in particular section 3, would need to be proposed for consideration at FAL 32.

4.13 The Committee noted the established procedure, according to Article VII of the Convention, leading to the adoption of amendments to the Annex to the FAL Convention, that is:

- .1 any Contracting Government may propose an amendment to the Annex to the FAL Convention by forwarding a draft amendment to the Secretary-General of the Organization. Such a proposal shall be considered by the FAL Committee, provided that it has been circulated at least three months prior to the meeting of the Committee;
- .2 upon receipt of these amendments, the Secretariat circulates them as a circular letter, on pink paper, three months prior to the meeting of the Committee. In addition, these amendments are submitted to the Committee, on pink paper, in accordance with the Committee’s Guidelines on the organization and method of work; and
- .3 Member Governments may submit comments on these circulated draft amendments in accordance with the Committee’s Guidelines.

4.14 However, the Committee noted that it was customary that the proposed draft amendments, prior to their adoption, were considered by the Committee for approval with a view to adoption at its following session; and it was perhaps not prudent to deviate from this established practice.

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\* 1 Annex 2 also includes the amendments which were approved under agenda item 9 (see paragraph 9.16 and annex 7).

2 The text which shows the amendments to the current Annex to the Convention has been given in document FAL 31/WP.1/Add.1.

4.15 The Committee noted the difficulty which might be encountered by the Contracting Governments to the Convention to progress with national procedures for acceptance of amendments to the Convention, should a number of amendments be adopted on a piecemeal basis, rather than adopted as a package, and agreed to discuss this issue at the next session of the Committee when considering the amendments to the Convention with the view to adoption.

## **5 ELECTRONIC MEANS FOR THE CLEARANCE OF SHIPS**

5.1 The Committee recalled that, at its thirtieth session (FAL 30/20, paragraph 5.16), it had requested Member Governments to submit proposals to FAL 31 related to the following topics:

- .1 amendments to the IMO Compendium on Facilitation and Electronic Business (FAL.5/Circ.15 and Corr.1);
- .2 exchange of information with a view to keeping the Committee informed of relevant developments relating to E-business in the area of maritime traffic;
- .3 how recent developments in maritime security impact on E-business; and
- .4 how to expand E-business in the area of maritime traffic to less developed countries.

5.2 The Committee, at its thirtieth session (FAL 30/20, paragraph 5.11), had also invited Member Governments to submit reports of studies on “Single Window Concepts and Pre-arrival Information” for information and consideration at FAL 31.

5.3 The Committee noted the information provided by the Republic of Korea (FAL 31/INF.3) on the Port Management Information System and expressed appreciation to the delegation of the Republic of Korea for the presentation given during the meeting.

5.4 The Committee also noted the information provided in document FAL 31/INF.2 on Recommendation and Guidelines on establishing a “Single Window”, which had been developed by the United Nations Centre for Trade and Facilitation and Electronic Business (UN/CEFACT) and expressed appreciation to the representative of UN/CEFACT for the comprehensive presentation given during the meeting.

5.5 The Committee further noted with appreciation the information provided by the United States (FAL 31/INF.6) on development of an electronic system for the submission of crew, passenger and vessel information for vessels arriving in and departing from the United States ports.

5.6 The Committee considered the need to establish a working group on EDI to:

- .1 identify future work on electronic means for the clearance of ships, particularly:
  - .1 how to encourage the use of the Single Window Concept; and
  - .2 in view of the need, for the purpose of maritime security, to transmit information by secure and reliable means prior to a vessel’s arrival in a port; and

- .2 identify, in view of requests by developing countries for technical assistance in introducing E-business, ways and means on how to expand the use of E-business in such countries.

5.7 The Committee agreed that it was premature to consider these issues while still being in the process of adopting amendments to the FAL Convention, notwithstanding the fact that other intergovernmental organizations and agencies were also working on the matter. The Committee agreed that it would be beneficial to continue monitoring the work being carried out by the UN/CEFACT working group TBG15 on the use of Single Window Concept. In welcoming the offer by Japan to participate on behalf of the Committee in the relevant meetings, it invited that delegation to keep it informed of the developments in that UN/CEFACT working group.

5.8 The Committee invited Member Governments to submit comments and proposals on the issues referred to in paragraph 5.1 for consideration at the next session.

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

### **Requests from the news media to attend meetings**

6.1 The Committee recalled that it had adopted its current Rules of Procedure (annex 9 to document FAL 23/19) at its twenty-third session (24 to 28 October 1994) and that, at that time, it had agreed (paragraph 15.4 of document FAL 23/19) to apply its Rules of Procedure on a temporary basis for its future meetings until the 1991 amendments to the IMO Convention relating to the institutionalization of the Committee had entered into force.

6.2 The Committee, having noted the decisions of the ninety-second session of the Council in relation to the issue of attendance by news media of meetings of organs of the Organization (paragraph 1 and annex 1 of document FAL 31/6/2), adopted, in accordance with rule 48 of its Rules of Procedure, the following amendment to rule 9:

“The existing text of rule 9 is replaced by the following new text:

“Meetings of the plenary of the Committee and of its subsidiary bodies shall be held in public unless the Committee or its subsidiary bodies decide otherwise. Meetings of working groups and of drafting groups established by the Committee or by its subsidiary bodies shall be held in private.””

6.3 The Committee, recalling that the Council, at its seventy-third session (14 to 18 November 1994), had noted the approval by the Committee (paragraph 8.2(i) of document C 73/D) of its Rules of Procedure, invited the Council to note the approval by the Committee of the above amendment which should also be applied on a temporary basis for its future meetings until the 1991 amendments to the IMO Convention relating to the institutionalization of the Committee had entered into force.

### **Rearranged and modified Guidelines on the organization and method of work**

6.4 The Committee, at its thirtieth session (FAL 30/20, paragraph 6.2 and 6.3), requested the Chairman, in consultation with the Secretariat, to prepare a draft rearranged text of the Guidelines on the organization and method of work of the Committee (FAL.3/Circ.179) for consideration at the current session, to make them more user-friendly.

6.5 The Committee noted that the Chairman, in consultation with the Secretariat, as instructed by FAL 30, had prepared draft rearranged and modified Guidelines on the organization and method of work of the FAL Committee (FAL 31/16/1).

6.6 The delegation of the United Kingdom raised the concern that the procedure for the submission of documents, established in paragraph 4.9.5 of the revised Guidelines, did only apply to those documents submitted under paragraphs 4.9.2 (20 weeks) and 4.9.3 (13 weeks) and not to those submitted under paragraphs 4.9.4 (9 weeks) although the latter could be also used to introduce substantial items for the consideration of the Committee. That delegation intended to bring this concern also to the attention of MEPC 52 and MSC 79.

6.7 The Secretariat explained that this might be the case because documents submitted under paragraph 4.9.4 were also expected to only comment on those submitted under paragraphs 4.9.2 and 4.9.3 or on items already on the agenda. The 2-week gap between the 9 and 7 weeks submissions would also leave very little time to comment.

6.8 The Committee approved the rearranged and modified Guidelines (FAL 31/6/1, annex), and instructed the Secretariat to circulate as an appropriate FAL circular.

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

### **Review of Standards and Recommended Practices in the Annex to the FAL Convention to which differences have been registered by Contracting Parties**

7.1 The Committee recalled that, at its thirtieth session (FAL 30/20, paragraph 7.27), it had developed a questionnaire (FAL.3/Circ.184), seeking information from FAL Contracting Governments on differences they had registered between national practices and the Standards and Recommended Practices contained in the Annex to the FAL Convention, with a view to determining whether the FAL Standards and Recommended Practices were outdated or could be amended to make them more universally acceptable; and to provide a mechanism through which Contracting Governments would review the differences registered and other measures taken to align their national requirements and procedures with those of the Convention. An additional questionnaire, within FAL.3/Circ.184, was addressed to Member Governments which are not Contracting Governments to the Convention in order to find out what has prevented them from ratifying the Convention.

7.2 The Committee also recalled that, at its thirtieth session (FAL 30/20, paragraph 7.33), recognizing that there might be benefits to be accrued from identifying core Standards contained in the Convention which could be excluded from the exemption provision of article VIII, it had agreed that it would be appropriate to revisit this issue after the results of the questionnaire to obtain up-to-date information from Member Governments have been compiled and evaluated.

7.3 The Committee further recalled that, at its thirtieth session (FAL 30/20, paragraph 7.34), it had noted the view of Denmark that a review of the differences, to be notified to the Secretary-General under article VIII of the Convention, could be initiated without the need to amend the Convention, and had agreed that it would be more appropriate to revisit this issue after the results of the questionnaire to obtain up-to-date information from Member Governments have been compiled and evaluated.

7.4 The Committee noted that the twenty-third session of the Assembly in November/December 2003, noting that FAL 30 had developed the questionnaire, had invited those Governments which had not yet responded to the questionnaire to do so at their earliest convenience.

7.5 The Committee further noted that the Secretariat had issued FAL.3/Circ.185 on 9 February 2004, reminding Member Governments which had not submitted the duly completed questionnaires, to do so as soon as possible, to enable the Secretariat to prepare a consolidated set of results of the questionnaire for consideration at this session of the Committee.

7.6 While appreciating the efforts of fourteen Member Governments and one Associate Member, namely Denmark; Greece; Hong Kong, China; Italy; Malta; Poland; the Republic of Korea; Sweden; the United Kingdom; the United States; Japan (non-Contracting Government to the Convention) (FAL 31/7/1); Singapore (FAL 31/7/1/Add.1); Belgium (FAL 31/7/1/Add.2); Cuba (FAL 31/7/1/Add.3) and Brazil (FAL 31/7/1/Add.4), which had submitted the completed questionnaires, the Committee was of the opinion that it would have been helpful if more Member Governments had taken similar action to enable the Committee to take an informed and well considered decision.

7.7 Some delegations were of the opinion that, in view of the limited number of completed questionnaires submitted, it would be premature for the Committee to review the Convention Standards and Recommended Practices on which differences had been registered from Contracting Governments at this stage and more responses to the questionnaire were needed for consideration of the matter.

7.8 Other delegations were of the view that the work should be carried out in order not to lose the valuable information already provided by Contracting Governments and also to encourage those Governments, which had not yet responded to the questionnaire to do so at their earliest convenience.

7.9 Some delegations also expressed the view that certain Member Governments might have found difficulties in interpreting the questionnaire and might require a considerable time to complete the questionnaire since a number of different national authorities were involved in this exercise.

7.10 Having discussed the issue, the Committee agreed to instruct the working group to be established to consider documents FAL 31/7/1 and the associated Addenda 1 to 4 and identify Standards or Recommended Practices which need to be reviewed in light of differences registered from Contracting Governments to the Convention; and explore avenues, which may include but not be limited to improving the format of the existing questionnaire and the content of the circular to encourage responses to those questionnaires from Member Governments who have not, as yet, responded.

### **Development of an explanatory manual to the FAL Convention**

7.11 The Committee recalled that, at its thirtieth session (FAL 30/20, paragraphs 7.28 to 7.30), having agreed that the development of an explanatory manual could help in interpreting the legal text of the provisions of the Convention that could be complex and at times difficult to understand, and, in addition, could serve as a useful link between the FAL Convention and the preparation of the relevant national legislation, it had established an intersessional correspondence group on the development of an explanatory Manual to the FAL Convention.

7.12 In considering the report of the correspondence group, the Committee agreed with the view of the group (FAL 31/7/2, paragraph 3.3) that the development of a comprehensive explanatory Manual to the FAL Convention could encourage and improve the implementation of the Convention, since with the Manual it would be possible to keep the Standards and Recommended Practices themselves short and simple; and that the Manual should include explanations of the Standards and Recommended Practices of the Convention which indicated their possible implementation, technical advice and best practices.

7.13 The Committee, however, did not agree with the view of the group that important matters, on which no consensus could be reached, could be included in the Manual as examples of best practices and new concepts that were not yet suitable for inclusion in the FAL Convention as well as examples of higher facilitation measures which were beyond the provisions of the current Convention. The scope of the Manual and that of the Convention had to be the same and be consistent.

7.14 The Committee agreed with the group's view (FAL 31/7/2, paragraph 3.5) that the Manual could lead to a better understanding of the underlying principles and promote the full implementation of the FAL Convention by Contracting Governments. It could help Contracting States as a useful instrument for the preparation of the national legislation and other regulatory instruments and it should be a living document and is only explanatory in nature and should be non-binding to Contracting States and entail no legal obligations.

7.15 The Committee also agreed that new proposals for amendments to the FAL Convention should be accompanied with guidance material to facilitate the discussions on the purpose of the proposed amendments and that more detailed guidelines based on that guidance material could be included in the Manual.

7.16 The Committee noted further the group's view that the Manual to the FAL Convention should be developed step by step and placed successively at the disposal of all interested parties and that a first edition of the FAL Manual should be available by the end of 2006.

7.17 The Committee confirmed the need to develop an explanatory Manual to the FAL Convention and agreed that the correspondence group\* should be re-established (see also paragraph 7.24.3 and annex 5).

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\* Co-ordinator of the intersessional Correspondence Group on the development of an explanatory Manual to the FAL Convention

Mr. Eildert Broekema  
Policy Adviser  
Ministry of Finance, Customs Policy  
and Legislation Directorate  
P.O. Box 20201  
The Hague  
2500 EE  
The Netherlands

Telephone: + 31 70 342 8129  
Fax: + 31 70 342 7938  
E-mail: e.broekema@minfin.nl

7.18 The Committee instructed the working group to be established to prepare a frame work and schedule for the development of the Manual as well as terms of reference for the intersessional correspondence group on an explanatory Manual to the FAL Convention.

### **Information submitted on implementation of individual provisions of the Annex to the Convention**

7.19 The Chairman advised the Committee that in his view:

- .1 Contracting Governments are reminded that the main reason for developing the questionnaire (FAL.3/Circ.184) was to encourage them to review existing differences to Standards and Recommended Practices in the Annex to the Convention and to explain the reason for registering these differences with a view to determine whether they are outdated or could be amended to make them more universally acceptable and to provide a mechanism through which Contracting Governments will be encouraged to review those differences they have registered and other measures taken to align their national requirements and procedures with those of the Convention;
- .2 the questionnaire has also been sent to Member Governments which are not Contracting Governments to the Convention in order to find out what obstacles were being faced by them in ratifying the Convention and to encourage them to prepare their national legislation required and, if need be, request assistance from the Organization to enable them to effectively implement the provisions of the Convention;
- .3 the responses to the questionnaire cannot be taken as a formal notification by Contracting Governments of differences to Standards and/or the adoption of Recommended Practices in accordance with article VIII of the FAL Convention unless Contracting Governments inform the Secretariat otherwise; and
- .4 Contracting Governments to the FAL Convention are therefore urged that if, after reviewing their differences as part of the exercise to reply to the questionnaire, they wish to update their previous notification of differences to Standards and adoption of Recommended Practices, they can do so by sending to the Secretary-General of the Organization a formal notification in accordance with article VIII of the Convention. The Secretariat should only include the notifications in Appendix 7 of any future reprints of the sales publication.

7.20 The Committee concurred with the view of the Chairman.

### **Prevention and suppression of unlawful acts at sea or in ports – Facilitation aspects**

7.21 The Committee noted the relevant outcome of MSC 77 (FAL 31/7) and MSC 78 (FAL 31/2/3, paragraphs 2 to 10) on the issue of piracy and armed robbery and, in particular, the information provided on the:

- .1 statistical information on piracy and armed robbery (FAL 31/7, paragraphs 2 to 5 and FAL 31/2/3, paragraphs 2 to 5);
- .2 implementation of the anti-piracy project (FAL 31/7, paragraphs 6 to 10 and FAL 31/2/3, paragraphs 6 to 9); and



- .3 United Nations Open-ended Informal Consultative Process (FAL 31/7, paragraphs 11 and FAL 31/2/3, paragraph 10).

### **Establishment of the working group**

7.22 The Committee established the Working Group on Amendments to the Annex to the Convention, under the chairmanship of Mr. A. Broekema (Netherlands), with the following terms of reference:

- .1 consider the proposed amendments to the Annex to the FAL Convention (FAL 31/4 and FAL 31/4/1) and prepare draft amendments, together with an associated FAL resolution on amendments, taking into consideration the comments made in plenary, for approval by the Committee and for adoption at FAL 32;
- .2 consider documents FAL 31/7/1 and Addenda 1 to 4, and identify Standards or Recommended Practices which need to be reviewed in light of differences registered from Contracting Governments to the Convention; and explore the avenues, which may include but not be limited to improving the format of the existing questionnaire and the content of the circular for encouraging responses to these questionnaires from Member Governments who have not as yet, responded;
- .3 prepare a framework and time schedule for the development of an explanatory Manual to the FAL Convention, taking into account the report of the correspondence group (FAL 31/7/2) and comments made in plenary; and
- .4 prepare terms of reference for the intersessional correspondence group on the development of an explanatory Manual to the FAL Convention.

### **Consideration of the outcome of the working group**

7.23 Upon receiving the report of the working group (FAL 31/WP.1), the Committee took action as indicated in the ensuing paragraphs.

7.24 The Committee approved the report of the working group in general and, in particular:

- .1 approved the framework for the development of the draft explanatory Manual on the FAL Convention, as set out in annex 3;
- .2 approved a time schedule for the development of the draft explanatory Manual on the FAL Convention, as set out in annex 4;
- .3 approved the terms of reference for the correspondence group on the development of the draft explanatory Manual to the FAL Convention, as set out in annex 5;
- .4 urged potential participants to the correspondence group to use the Internet when contributing to the work of the correspondence group;
- .5 urged Member Governments and international organizations in consultative status, with expertise in the development of manuals and knowledge of the

FAL Convention and custom procedures, to participate in the work of the correspondence group; and

- .6 noted that, due to time constraints, the working group could not explore avenues for encouraging responses to questionnaires (FAL.3/Circ.184) from those Member Governments who had not, so far, responded to the questionnaire.

7.25 The Committee agreed that the review of Standards and Recommended Practices to which differences have been registered by Contracting Governments should be further considered at FAL 32 and urged those Member Governments, which had not yet responded to the questionnaire in FAL.3/Circ.184, to do so at their earliest convenience.

7.26 The Greek delegation informed the Committee that the indication that Greece had lifted its reservation regarding Standard 2.16 in document FAL 31/7/1, annex, page 9 was not correct and instead it should have been Standard 2.17, which was previously Standard 2.16 and that in the same document, annex, page 34 no information existed that Greece maintained its reservation on Standard 5.19.

#### **Prevention and control of illicit drug trafficking: Facilitation aspects**

7.27 The Committee considered the document submitted by Colombia (FAL 31/8/2) under this agenda item.

7.28 The delegation of the United Kingdom, supported by a number of other delegations, suggested that the revision of resolution A.872(20) on Guidelines for the prevention and suppression of smuggling of drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic, as proposed by Colombia (FAL 31/8/2), should be considered under agenda item 7.5 on the Prevention and control of illicit drug trafficking: Facilitation aspects. In their opinion, in principle, the issue of illicit drug trafficking involved criminal aspects which are very different from those of terrorism, which the Organization, and in particular the Maritime Safety Committee, had been addressing in the period since the 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.

7.29 The Committee agreed that the illicit trafficking of drugs, psychotropic substances and precursor chemicals is, in essence, a criminal activity and that it should be addressed as such and consequently it should not be mixed with issues of terrorism or maritime security. As a result, the Committee therefore further agreed that the revision of resolution A.872(20) should be kept distinct from the work and activities undertaken by the Organization in its efforts to enhance maritime security and thus, it should be addressed and discussed under agenda item 7.5 on Prevention and control of illicit drug trafficking: Facilitation aspects.

7.30 The Committee recalled that the 2002 SOLAS Conference had adopted Conference resolution 3 entitled "Further work by the International Maritime Organization pertaining to the enhancement of maritime security" which in operative paragraph 1, *inter alia*, requests the Organization to:

- “(h) review the Organization’s Assembly resolution A.872(20) on Guidelines for the Prevention and Suppression of the Smuggling of Drugs, Psychotropic Substances and Precursor Chemicals on Ships Engaged in International Maritime Traffic and, if necessary, develop appropriate amendments thereto;”.

7.31 In this respect, the Committee also recalled that, at its last session (paragraphs 8.4, 8.17 and 8.18 of document FAL 31/20), it had given preliminary consideration of the matter and had agreed that the content of document SOLAS/CONF.5/14 (Colombia), which was submitted to the 2002 SOLAS Conference, needed to be taken into account when reviewing resolution A.872(20). In addition, the Committee had also agreed to discuss the matter further at its present session, since consideration of the issue would require considerable time and effort and had invited proposals to this end, taking into account the content of document SOLAS/CONF.5/14.

7.32 The delegation of Colombia (FAL 31/8/2) stated that the scourge of drug trafficking was very often linked to criminal activity and might provide the motivation for direct or related acts of terrorism or the basis for their funding, thereby threatening the security of ships, port facilities and maritime activities as a whole. Colombia had examined the consequences of drug trafficking and had concluded that the masters and crews of vessels engaged in international maritime traffic were exposed to involvement in criminal situations such as illegal trafficking of drugs and diversion of chemical products, and that it was therefore necessary to provide seafarers with continual guidance and training designed to prevent all incidents relating to drug smuggling as far as possible, and likewise to sever the link between drug smuggling and international organized crime and prevent terrorist groups from using maritime transport for committing their activities. Colombia expressed the view that it was also important that such training should cover the eventuality of drug-dependency on board, since this also posed a significant threat to ship security.

7.33 Colombia proposed (paragraph 7 of document FAL 31/8/2) the consideration and adoption, as an integral of the ISPS Code, provisions entitled “Regulations for the Prevention of Illicit Drug Trafficking and Control of the Diversion of Chemical Products” so as to establish a consistent set of practical arrangements for dealing with such matters and to make the ISPS Code even more effective.

7.34 Colombia further suggested (paragraph 8 of document FAL 31/8/2) to revise the model course on prevention and control of illicit trafficking of drugs on board ships and include it in the programmes concerned with maritime security and port protection in order to provide seafarers and land-based support services with integrated and comprehensive guidance and training.

7.35 Colombia also requested (paragraph 10 of document FAL 31/8/2) the Organization to put in place, for the purpose of completing and updating the proposed regulations, an effective system, enabling access to information on global trends and concealment methods, global statistics on drug seizures at sea and on seizures of diverted chemical products, as an important factor achieving effective international co-operation.

7.36 The Committee, noting that Colombia (paragraph 7 of document FAL 31/8/2) made reference to the adoption of “Regulations for the Prevention of Illicit Drug Trafficking and Control of the Diversion of Chemical Products” intended to become an integral part of the ISPS Code, agreed not to discuss this proposal, since the consideration and adoption of any amendments to the ISPS Code was the prerogative of the Contracting Governments to the 1974 SOLAS Convention and was under the purview of the MSC.

7.37 The Committee also agreed that, although the revision of the existing model course on the prevention and control of illicit drug trafficking on board ships, proposed by Colombia (paragraph 8 of document FAL 31/8/2), might be warranted, this task should be undertaken after

the relevant amendments to resolution A.872(20) had been developed and agreed by the Committee.

7.38 The Committee, noting that Colombia (paragraph 10 of document FAL 31/8/2) suggested that the Organization should put in place the system referred to in paragraph 7.35 above, agreed that, although such a system might have certain benefits, this proposal should not be pursued at this stage. In this respect, the Committee also agreed that, if the Organization was to take the matter forward it would be necessary to identify and discuss all the salient aspects, including how the initial cost for setting up the system, as well as, how the annually recurring cost for its maintenance and continuous operation, would be met. The financial implications would need to be considered and approved by the Council.

7.39 The Committee agreed that, in view of the fact that seven years had elapsed since the adoption of resolution A.872(20), certain aspects of the Guidelines, annexed to the resolution, might warrant review and updating and in this respect instructed the SPI Working Group, taking into account document SOLAS/CONF.5/14 and the discussions and conclusions in plenary, to:

- .1 identify the areas or aspects of the resolution A.872(20) which may need to be revised and amended;
- .2 identify the treaty instruments or other internationally agreed practices which need to be taken into account when undertaking the proposed revision, if any; and
- .3 develop, if necessary, draft terms of reference for setting up a correspondence group with a view of advancing the work on the issue during the intersessional period.

7.40 Upon receiving the report of the SPI Working Group (FAL 31/WP.3), the Committee took action as indicated in the ensuing paragraphs.

#### **Revision of resolution A.872(20)**

7.41 The Committee noted that the group carried out a general review of the Guidelines for the Prevention and Suppression of the Smuggling of Drugs, Psychotropic Substances and Precursor Chemicals on Ships Engaged in International Maritime Traffic (the Guidelines) which are annexed to resolution A.872(20) and concluded that:

- .1 as a result of the adoption and entry into force of the special measures to enhance maritime security, contained in chapter XI-2 of the 1974 SOLAS Convention (SOLAS chapter XI-2) and in the ISPS Code, a considerable number of aspects addressed in the Guidelines relating to security matters, for example from chapter 1 on Prevention of illicit drug trafficking; paragraph 1.4 on cargo security; paragraph 1.5 on security in port, etc.; paragraph 1.6 on general security; paragraph 1.7 on personnel security; paragraph 3 on functions of operating companies in ship security; paragraph 4 on measures and procedures on ship security and various aspects of paragraphs 5 and 6, are now dealt with in a mandatory manner in the ISPS Code and thus there is a need for an extensive review of the provisions of chapter 1 of the Guidelines;

- .2 the annexes (annexes 1 to 8) to the Guidelines contain information which need to be reviewed and updated since, in some cases, the information provided date back to the early 1990s;
- .3 there is a need to review the guidance provided in relation to searches as a result of practical experience;
- .4 there is a need to raise awareness as to the obligations of ships and of shipboard personnel under the provisions of SOLAS chapter XI-2 and of the ISPS Code amongst those authorities involved in drug interdiction and there is a need for them to observe, respect and comply with the security measures and procedures in place on board a ship unless such measures prevent them from carrying out their drug interdiction duties; and
- .5 there is a need to ensure an appropriate balance between the maintenance of the security measures and procedures in place on board a ship whilst at the same time allowing searches of a ship for illicit drugs, psychotropic substances and precursor chemicals and to prevent the use of such measures for the purpose of inhibiting interdiction activities.

7.42 The Committee agreed that the revision of the Guidelines should be done in such a way so as to incorporate, to the extent necessary, appropriate provisions of the ISPS Code in the Guidelines. The Committee also agreed that the revised Guidelines should be a free standing document, as the current ones and that they should not be incorporated, in any way, in the ISPS Code. In addition, the Committee agreed, notwithstanding the fact that the ISPS Code was under the purview of the MSC, it should not be amended at this time to incorporate issues relating to the trafficking of illicit drugs, psychotropic substances and precursor chemicals in its provisions.

7.43 The Committee also agreed that, in view of the fact that the Guidelines contain various ship security-related aspects, which might not be totally in line with the provisions of the ISPS Code, the suitability of the Guidelines, for further use, might be questioned and thus there was an urgent need to revise and amend the Guidelines so as to align them with the provisions of the ISPS Code and thus maintain their continued relevance and usefulness.

7.44 The Committee noted that operative paragraph 3 of resolution A.872(20) requests the Committee “to keep the Guidelines under continuous review and to update them, as appropriate, in the light of experience gained”. The Committee, bearing in mind the various aspects of the Guidelines which need to be reviewed and amended, concluded that the likely amendments to the Guidelines might entail a substantial revision and consequently it was not possible to reasonably argue that the likely amendments merely entail an update of the Guidelines.

7.45 Therefore, the Committee agreed that the revision of the Guidelines would need to be completed within the current biennium, to enable submission of the required amendments to the twenty-fourth session of the Assembly for consideration and adoption. In this respect, the Committee agreed, if necessary, to establish a working group at its next session with a view to completing this work.

7.46 The Committee invited submissions on the matter and urged Member Governments and non-governmental organizations with consultative status to ensure that their delegations to the

next session of the Committee are composed of persons with appropriate expertise to enable the consideration and conclusion of the matter.

7.47 The Committee instructed the Secretariat to review and to prepare, for the consideration of the Committee, appropriate amendments to annexes 1, 3 and 6 to the Guidelines.

7.48 With respect to the review and updating of annex 5 to the Guidelines, which provides information on penal legislation, and of annex 8 to the Guidelines, which provides a list of contact points in ports for reporting drug-related incidents, the Committee invited Member Governments to submit to the Secretariat relevant information so as to enable, in turn, the Secretariat to update these annexes and prepare them for consideration at FAL 32.

7.49 The Committee noted that, depending on the nature and extent of the amendments, reasons of practicality and easiness in the reading of the eventual text of the Guidelines might lead to the need for the Assembly to revoke resolution A.872(20) in its entirety and to replace it with a new one.

7.50 The Committee noted the discussions of the group in relation to the establishment of a correspondence group on the matter to advance the issue during the intersessional period and agreed not to establish such a group at the current session.

## **8 MEASURES TO ENHANCE MARITIME SECURITY: FACILITATION ASPECTS**

8.1 The Committee recalled that, at its last session (paragraphs 8.2 to 8.7 of document FAL 30/20), it had considered the outcomes of the 2002 SOLAS Conference which had adopted special measures to enhance maritime security. In particular, the Committee recalled that it had given preliminary consideration to those aspects of the 2002 SOLAS Conference that related to its work and had referred certain matters to the SPI Working Group for consideration and advice. In addition, the Committee had also noted various matters, relating to the enhancement of maritime security, which MSC 76 had referred to the SPI Working Group for consideration and advice.

8.2 The Committee also recalled the Secretary-General's opening statement and, in particular, his comments relating to the need to maintain a proper balance between measures designed to enhance maritime security and those intended to facilitate international trade and, in this context, the importance of the role of the Committee in pursuing the means to facilitate international maritime traffic, whilst ensuring at the same time a secure environment. The Committee also acknowledged and supported the Secretary-General's appeal to Governments and port authorities to treat seafarers as partners in the fight against terrorism and to facilitate their access to ports and shore facilities, and inviting those concerned to apply common sense and to adopt a pragmatic approach.

### **Outcome of the twenty-third session of the Assembly**

8.3 The Committee noted, in general, the various issues relating to the enhancement of maritime security, which were discussed during A 23, as reported in paragraphs 8 of document FAL 31/2/2, as well as the discussions during A 23 (paragraph 13 of document FAL 31/2/2) of the progress report on the review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships, submitted by the Secretary-General in compliance with operative paragraph 6 of resolution A.924(22).

8.4 The Committee also noted that A 23 had adopted:

- .1 resolution A.955(23) entitled “Amendments to the principles on safe manning (resolution A.890(21))”;
- .2 resolution A.956(23) entitled “Amendments to the Guidelines for the onboard operational use of shipborne automatic identification systems (AIS) (resolution A.917(22))”; and
- .3 resolution A.959(23) entitled “Format and guidelines for the maintenance of the Continuous Synopsis Record (CSR)”.

#### **Outcome of MSC 77 and MSC 78**

8.5 The Committee noted that MSC 78 had, *inter alia*, adopted:

- resolution MSC.159(78) entitled “Interim guidance on control and compliance measures to enhance maritime security”,

and also noted that the following MSC circulars, relating to the special measures to enhance maritime security adopted by the 2002 SOLAS Conference, had been approved by MSC 77 and MSC 78:

- MSC/Circ.1074 on Interim Guidelines for the authorization of RSOs acting on behalf of the Administration and/or Designated Authority of a Contracting Government;
- MSC/Circ.1097 on Guidelines for the implementation of SOLAS chapter XI-2 and the ISPS Code;
- MSC/Circ.1111 on Guidance relating to the implementation of SOLAS chapter XI-2 and the ISPS Code;
- MSC/Circ.1112 on Shore leave and access to ships under the ISPS Code; and
- MSC/Circ.1113 on Guidance to port State control officers on the non-security related elements of the 2002 SOLAS amendments.

8.6 The Committee also noted that MSC 78 had instructed the STW Sub-Committee not to pursue the issues relating to the training and certification of port facility security officers (PFSOs) further, since STW 35 had not received any submissions on the matter.

#### **ILO/IMO Code of Practice on Security in Ports**

8.7 The Committee noted that the 289th session (11 to 26 March 2004) of the ILO Governing Body and MSC 78 had approved the ILO/IMO Code of Practice on Security in Ports.

## **IMO Model Courses**

8.8 The Committee noted that the Organization had published the following IMO Model Courses relating to the special measures to enhance maritime security adopted by the 2002 SOLAS Conference:

- .1 IMO Model Course 3.19 on Ship Security Officer;
- .2 IMO Model Course 3.20 on Company Security Officer; and
- .3 IMO Model Course 3.21 on Port Facility Security Officer.

## **Developments within ILO**

8.9 The Committee noted that the 91st session of the General Conference of the ILO had adopted, on 19 June 2003, the Seafarers' Identity Documents Convention (Revised), 2003 (No.185) and that the ILO Governing Body, at its 289th session, in order to facilitate the early acceptance of the Convention had selected for use the *minutiae*-based method for fingerprint template creation, truncation, and barcode storage (PDF417 2-D bar code) and had approved document ILO SID-0002 (ILO document GB.289/7 Appendix II), as embodying the standard for the fingerprint template required under item (k) of Annex I to the aforesaid Convention.

8.10 In addition, the Committee noted that MSC 78, at the request of the representative of ILO, supported by the observers from ISF, ICFTU and IFSMA, had urged Member States to become parties to the ILO Convention No. 185 as soon as possible, which so far had only been ratified by the Government of France.

## **G8 meeting**

8.11 The Committee noted that the delegation of the United States, referring to the Communiqué issued at the end of the Meeting of G8 Justice and Home Affairs Ministers, which was held in Washington, DC on 11 May 2004, had advised MSC 78 that the Ministers had agreed that:

“Since terrorists can exploit the vulnerabilities of international port and maritime services, co-operation is essential for the security of this crucial facilitator of trade. To address this threat, and in order, among other purposes, to provide impetus to consultation within the International Maritime Organization (IMO), we (the Ministers) agree to ask our experts to develop an auditing checklist to enable countries, should they so choose, to conduct voluntary self-audits to verify their compliance with the International Ship and Port Security (ISPS) Code. This checklist could serve as a model for harmonizing compliance regimes among IMO Contracting States and increase international co-operation through the IMO and other organizations”,

and had also informed MSC 78 that, once the checklist was approved, it would be forwarded to the MSC for its consideration.

## **ISO Publicly Available Specification**

8.12 The Committee noted (FAL 31/INF.8) that the ISO Technical Committee ISO/TC 8, Ships and marine technology, Subcommittee SC11, Intermodal and Short-Sea Shipping had adopted Publicly Available Specification ISO/PAS 20858:2004 on Ships and marine



technology - Maritime port facility security assessments and security plan development, which had been published on 1 July 2004.

### **Development within WCO**

8.13 The Committee recalled that, at its last session (paragraph 8.16 of document FAL 30/20), it had instructed the Secretariat to keep it abreast of developments, in the area of facilitation of maritime traffic in the context of maritime security, *inter alia*, within the framework of WCO. In this respect, the Committee noted the WCO Customs data model and a list of essential data elements for identification of high-risk consignments, set out in the annex to document FAL 31/INF.5, and the WCO Guidelines on integrated supply chain management (ISCM Guidelines), formerly known as Customs Guidelines for Advance Cargo Information (ACI Guidelines), set out in the annex to document FAL 31/INF.7. The ISCM Guidelines had been considered and adopted by WCO in June 2004.

### **Standardized format of information and arrival of vessels in port**

8.14 The Committee recalled that the 2002 SOLAS Conference had adopted Conference resolution 3 entitled "Further work by the International Maritime Organization pertaining to the enhancement of maritime security" which in operative paragraph 1, *inter alia*, requests the Organization to:

- “(g) consider, in the context of security, relevant aspects of facilitation of maritime traffic such as, for example, port arrivals and departures, standardized forms of reporting and electronic data interchange and take action as appropriate;”.

8.15 In this respect, the Committee also recalled that, at its last session (paragraphs 8.4, 8.14 and 8.15 of document FAL 31/20), it had given preliminary consideration to the matter and it had agreed, having noted that the WCO had established data requirements for a Cargo Report, that it would be prudent to make a detailed study of this Data Set along with the seven FAL forms, EDI Compendium and the following security-related documentation requirements:

- .1 International Ship Security Certificate;
- .2 Continuous Synopsis Record;
- .3 Declaration of Security between Ship and Port facility; and
- .4 Additional security related information required to be available on board.

8.16 In addition, the Committee had recognized that the exercise would entail an in-depth study and comparison of the above-mentioned documents and had decided to consider further this issue at the present session, inviting proposals to this end.

8.17 The delegation of Colombia (FAL 31/8) proposed that in order to facilitate international maritime traffic, as an essential part of international trade, it was necessary to set up a mechanism that establishes in a legal, uniform and global manner that relates to, and deals with, a vessel on entering or leaving port. For this, in the view of Colombia, it was necessary to develop a standardized Model Arrival and Departure Form to be applied uniformly, that would contain the basic minimum information to ascertain what was being carried on board the ship, why it was being transported, where it was going to and where it had come from and that this basic information was managed by the competent national Administrations, so that they were able to take appropriate measures to prevent and combat possible terrorist acts against port installations or vessels, on entering or leaving port. In this respect, the delegation of Colombia had invited the

Committee to approve the development of a standardized Model Arrival and Departure Form based on the document Colombia had proposed in the annex to their submission.

8.18 The Committee agreed, when considering the matter further, that the following aspects relating to the provisions of chapter XI-2 of the 1974 SOLAS Convention (SOLAS) and of the ISPS Code had to be borne in mind:

- .1 the ISPS Code, provided that, in certain cases, a ship may be issued with an Interim International Ship Security Certificate (section A/19.4 of the ISPS Code);
- .2 the Continuous Synopsis Record, in the strict sense, although the relevant SOLAS regulation had been adopted by the 2002 SOLAS Conference, is not a security document. SOLAS regulation XI-1/5, which specifies that each ship to which SOLAS chapter I applies, falls under SOLAS chapter XI-1 entitled special measures to enhance maritime safety;
- .3 the Declaration of Security (section A/5 and paragraph B/5 of the ISPS Code) is a document which may be used to record the security measures and arrangements to be put in place during a ship/port interface (as defined in SOLAS regulation XI-2/1.1.8) and a ship-to-ship activity (as defined in SOLAS regulation XI-2/1.1.10);
- .4 SOLAS regulation XI-2/5 on the Specific responsibility of Company, specifies that the Company should ensure that the master has available on board, at all times, certain additional information specified in that regulation; and
- .5 SOLAS regulation XI-2/9 on Control and compliance measures, paragraphs B/4.37 to B/4.39 of the ISPS Code and resolution MSC.159(78) relating to Interim guidance on control and compliance measures to enhance maritime security, specify certain information a SOLAS Contracting Government may require (see SOLAS regulation XI-2/9.2.1) a ship, intending to enter its ports, to provide to duly authorized officers by that Government. In this way the compliance of the ship with the requirements of SOLAS chapter XI-2 will be checked prior to entry into port and this will avoid the need to impose control measures or steps on or against the specific ship under the provisions of SOLAS regulation XI-2/9.

8.19 The delegations of Germany, the Islamic Republic of Iran and Panama, whilst supporting the idea to develop a standardized form through which the information required by SOLAS chapter XI-2 and the ISPS Code can be reported by a ship to a port authority, gave specific comments on various aspects of the form proposed by Colombia in the annex to document FAL 31/8. In addition, the delegations of Germany and of the Islamic Republic of Iran questioned whether the proposal that this information should be submitted 72 hours prior to the arrival of a ship in port was practically feasible in all cases and suggested that the period should be reduced to 24 hours.

8.20 The delegation of the Netherlands, bearing in mind the work currently undertaken by the Committee in relation to the revision of the FAL Convention, suggested that it might not be appropriate to pursue the matter further at this stage. In addition, they pointed out that they were aware that ships were required to submit to port authorities a series of other information prior to arrival and thus, in their view, it would be more appropriate and, in fact, would contribute to the

facilitation of maritime traffic if the Committee were to consider and address all information elements a ship is required to report in a holistic manner.

8.21 The delegations of France, Denmark and Norway expressed the view that it was premature to develop a standardized form of reporting at this stage and it would be more appropriate to consider the matter at a later stage when Governments had acquired practical experience with the implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code. In addition, they pointed out the need to avoid creating a form which duplicated information which was already provided through the existing IMO FAL Forms.

8.22 The delegation of the United Kingdom indicated that there might be certain benefits if ships were to use a standardized form for reporting information in accordance with the provisions of SOLAS chapter XI-2 and the ISPS Code. However, in their view the information to be provided, in an eventually standardized form, should only address those aspects a ship was required to report to a Contracting Government to the 1974 SOLAS Convention in accordance with the aforesaid provisions and such a form should not duplicate information already provided through the existing IMO FAL Forms. Furthermore, in their view the matter was an issue which, at the end, needed to be considered and decided by the Maritime Safety Committee.

8.23 The Committee subsequently instructed the SPI Working Group, taking into account the information provided in document FAL 31/8, to the extent that such information was relevant; the provisions of chapter XI-2 of the 1974 SOLAS Convention and the ISPS Code; and the discussions and conclusions in plenary, to:

- .1 identify whether there is a need to develop and adopt a specific form for conveying the information a ship is required to provide to a Contracting Government to the 1974 SOLAS Convention in accordance with regulation XI-2/9 of the 1974 SOLAS Convention and, if so, to provide an outline of the such form(s) together with the required justification;
- .2 identify whether there is a need to revise and amend any of the existing IMO FAL Forms, in the above context and, if so, to provide an outline of the proposed amendments together with the required justification; and
- .3 develop, if necessary, draft terms of reference for setting up a correspondence group with a view of advancing the work on the issue during the intersessional period.

### **Consideration of the outcome of the SPI Working Group**

8.24 Upon receiving the report of the SPI Working Group (FAL 31/WP.3), the Committee took action as indicated in the ensuing paragraphs.

### **Standardized format of information and arrival of vessels in port**

8.25 The Committee noted that the group, in considering the matter, had recalled that SOLAS regulation XI-2/9.2.1 made reference to information which a SOLAS Contracting Government may require to submit to officers duly authorized by that Government to ensure the compliance of the ship with the provision of SOLAS chapter XI-2 prior to entry into port with the aim of avoiding the need to impose control measures or steps against the ship as envisaged in SOLAS regulation XI-2/9.

8.26 The Committee further noted that in this respect, the group had also recalled that SOLAS regulation XI-2/9.2.2 stated that every ship to which SOLAS chapter XI-2 applies intending to enter the port of another SOLAS Contracting Government shall provide the information specified in SOLAS regulation XI-2/9.2.1 on the request of the officers duly authorized by that Government and that the master may decline to provide such information on the understanding that failure to do so may result in denial of entry into port.

8.27 The Committee concurred with the conclusion of the group that the provisions of SOLAS regulation XI-2/9, as such, do not create any obligation on a ship to which SOLAS chapter XI-2 applies to provide, in advance of arrival in a port located within the territory of a SOLAS Contracting Government, information to a duly authorized officer by that Government without receiving a formal request from such an officer.

8.28 The Committee noted that the group was advised that some SOLAS Contracting Governments were requiring ships calling at their ports to provide, *inter alia*, the following information, beyond what is specified in SOLAS regulation XI-2/9.2.1 and in paragraphs B/4.37 to B/4.39 of the ISPS Code, prior to arrival:

- .1 the number of the International Ship Security Certificate or approved equivalent and its date of expiry;
- .2 the name and expected arrival date for the four next ports of call after the arrival of the ship in port;
- .3 the purpose of call;
- .4 the name of the anchorage or port facility the ship is bound for;
- .5 the name and occupation of the ship security officer;
- .6 information (port and berthing facility) of all ports of call in the specific SOLAS Contracting Government after departure and schedule of entrance;
- .7 the operational security level, as opposed to the security level set on the ship;
- .8 possession of a record book;
- .9 entry position into specific area and expected time of arrival after departure;
- .10 information on all security incidents and other practical security-related information, without specifying a period;
- .11 what are the previous ports of call during international voyages (irrespective of whether these relate to the last calls at port facilities);
- .12 records of past ports of call in the specific SOLAS Contracting Government; and
- .13 confirmation that the ship can implement the security measures and procedures envisaged in the ship's security plan.

8.29 In addition, the Committee also noted that the group was further informed that the various SOLAS Contracting Governments appear to confuse the distinction between ports and port facilities and attribute to various terms defined in SOLAS chapter XI-2 and in the ISPS Code different meanings.

8.30 The Committee concluded that these developments were not conducive to the facilitation of maritime traffic and it was questionable whether they contribute to the efforts of the Organization to enhance maritime security.

8.31 The Committee agreed that, in view of the fact that several SOLAS Contracting Governments had enacted national legislations through which ships were obliged to submit security-related information prior to their arrival and in some cases certain Governments were requiring the submission of information which were beyond those specified in SOLAS regulation XI-2/9.2.1 and paragraphs B/4.37 to B/4.39 of the ISPS Code, it would be in the interest of the shipping industry, it would facilitate maritime traffic and hopefully it may stem the proliferation of various national practices if a certain minimum security-related information are submitted by ships in advance of their arrival.

8.32 The Committee also agreed that, subject to the consideration of the matter by the Maritime Safety Committee (MSC), such minimum security-related information should include, in addition to information identifying the ship, the information specified in SOLAS regulations XI-2/9.2.1.1 to XI-2/9.2.1.5 only.

8.33 The Committee noted that the group had had an extensive discussion on various aspects relating to the provisions of SOLAS regulation XI-2/9.2.1.6, which states that a SOLAS Contracting Government may request a ship to provide, prior to entry into port, other practical security-related information (but not details of the ship security plan) and on whether the minimum security-related information should include appropriate elements relating to the provisions of SOLAS regulation XI-2/9.2.1.6. The Committee also concurred with the conclusion of the group that, although it might be desirable to address this aspect from the facilitation point of view, the group was not in a position, notwithstanding the provisions of paragraph B/4.39 of the ISPS Code, to determine what might be considered as acceptable minimum security-related information in this context. Thus, the Committee decided to invite the MSC to consider the issue with a view to providing the Committee with advice and guidance on the matter. In this respect, the Committee urged SOLAS Contracting Governments to provide to the MSC information on their current practices so as to enable the MSC to address this issue.

8.34 The Committee noted that the group had further agreed not to prescribe a form for transmitting the security-related information and, instead, to develop a standard minimum data set that ships could expect to be required to transmit prior to entry into port and agreed with the decision of the group. In this context the Committee agreed to the data set indicated in annex 6.

8.35 The Committee decided to bring the outcome of this work of the group to the attention of the MSC for its consideration. The Committee further decided to invite the MSC to review the content of the recommended data set with a view of advising the Committee on whether the suggested data set includes the security-related information a ship might expect to provide prior to its arrival, if it is requested to do so. The Committee agreed that, once the contents of the data set has been established and agreed by the MSC, the Committee might consider including an appropriate message in the IMO Compendium on Facilitation and Electronic Business (FAL.5/Circ.15 and Corr.1).

8.36 The Committee agreed that the existing IMO FAL Forms provide, in the context of the requirements of SOLAS regulation XI-2/9.2.1 and of paragraphs B/4.37 to B/4.39 of the ISPS Code, appropriate information and thus there is no need, as far as security-related information is concerned, to review and amend, at this stage, in any way the existing IMO FAL Forms. However, the Committee noted that, following the consideration of the recommended data set by the MSC, the Committee might need to revisit the issue and, in this respect, to examine IMO FAL Form 1 on IMO General Declaration.

8.37 The Committee agreed that, in view of the outcome of the consideration of the issue, there was no reason for the Committee to establish a correspondence group on the matter.

## **9 MEASURES AND PROCEDURES FOR THE TREATMENT OF PERSONS RESCUED AT SEA: FACILITATION ASPECTS**

9.1 The Committee, at its thirtieth session, after a lengthy discussion on the review of measures and procedures for the treatment of persons rescued at sea (FAL 30/20, section 9), agreed:

- .1 to further consider administrative procedures for disembarking persons rescued at sea; and urged Member Governments to identify such procedures and submit them to FAL 31 (FAL 30/20, paragraph 9.20);
- .2 that there was a need for the development of a check-list of information on persons rescued at sea to be used for guidance purposes and that the preliminary check-list prepared by the working group (FAL 30/20, paragraph 9.21) needed to be further reviewed at a later stage, when administrative procedures for disembarking persons rescued at sea were clearly identified (FAL 30/20, paragraph 9.23);
- .3 to consider at FAL 31 the preliminary draft amendments to the FAL Convention, prepared by the working group (FAL 30/20, annex 2), taking into consideration relevant developments in the Organization and other international organizations or fora (FAL 30/20, paragraph 9.25); and
- .4 that in the context of measures and procedures for the treatment of persons rescued at sea: facilitation aspects, there was no need, for the time being, to make amendments to resolutions A.773(18), A.867(20) and A.871(20) (FAL 30/20, paragraph 9.26).

9.2 The Committee noted the outcome of MSC 77, C 90, LEG 87, A 23 and COMSAR 8 (FAL 31/9) on the issue.

9.3 The Committee (FAL 31/9/Add.1) noted that MSC 78 had adopted amendments to SOLAS chapter V (resolution MSC.153(78)), the 1979 SAR Convention (resolution MSC.155(78)) and the associated Guidelines on the treatment of persons rescued at sea (resolution MSC.167(78)) (FAL 31/9/Add.1, annexes 1, 2 and 3 respectively).

9.4 The Committee further noted (FAL 31/2/3, paragraph 21) that MSC 78, recalling the Secretary-General's inter-agency initiative on the treatment of persons rescued at sea, had

instructed the Secretariat to bring the above developments and the MSC's decision to the attention of the next inter-agency meeting in order to consider what additional guidance could be developed for the co-operation between Contracting Governments and parties to the respective conventions in discharging their collective responsibility in providing appropriate places of safety for survivors.

9.5 The Committee was informed by the Secretariat that following the adoption of amendments to the SOLAS and SAR Conventions, and associated guidelines for the treatment of persons rescued at sea by MSC 78, a second meeting of the United Nations inter-agency initiative was held at IMO Headquarters (12 July 2004), chaired by IMO. It was attended by representatives of the UN Division for Ocean Affairs and the Law of the Sea (DOALOS), the Office of the United Nations Commissioner for Refugees (UNHCR), the Office of the United Nations Commissioner for Human Rights (OHCHR) and the International Organization for Migration. Apologies had been received from the United Nations Office on Drugs and Crime (UNODC), which was therefore also represented by UN DOALOS.

The meeting discussed in detail the amendments to the SOLAS and SAR Conventions, (resolutions MSC.153(78) and MSC.155(78)) and associated guidelines (resolution MSC.167(78)), as adopted by MSC 78 and shared the view that IMO Member States had arrived at a very carefully crafted compromise which seemed to balance all of the often conflicting interests of parties concerned. The meeting noted that by these amendments, if accepted by Member States, the provisions placed, for the first time, obligations on Contracting Governments to "co-ordinate and co-operate" to progress the matter so that survivors assisted are disembarked from the assisting ship and delivered to a place of safety within a reasonable time.

The meeting reaffirmed the need for the development of a common approach at the UN inter-agency level and considered that these inter-agency meetings were a major step forward in establishing a co-ordinating mechanism to respond, in a coherent and consistent manner, to future emergencies. The meeting also reaffirmed the respective areas of competence and co-competence of the organizations and agencies concerned.

The meeting agreed that IMO had completed its work in closing the gap identified in the regulations relating to the search and rescue and delivery to a place of safety phases. Any further supplementary guidance would only be required for the post-rescue phase and was beyond IMO's remit.

In considering whether further guidance was necessary to shipmasters and other relevant parties when the persons rescued at sea, in accordance with the provisions of the amendments to SOLAS and SAR Conventions, subsequently turned out to be refugees or asylum seekers, the meeting reaffirmed that in order to protect the integrity of the SAR System, the master was not competent, and should not be required, to decide upon the legal status of the persons rescued, whatever their status. However, the meeting also agreed that, in general, guidance was required in these instances for the post-rescue phase to assist the master, shipowners and Contracting Governments in those cases.

Such guidance should be drafted by the inter-agency group, as a whole, as soon as possible and comprise a brief guide as to which organizations to contact, their respective major responsibilities and other relevant general advice. This brief guide would be intended to further assist the master, shipowners, insurance companies, and other interested parties to disembark the persons rescued with the least disruption and delay. The IMO Secretariat agreed to provide the co-ordinating role in the drafting of this guidance. The meeting agreed, however, that the major part of the guidance would in fact be drafted by, and was more properly the responsibility of, other agencies, e.g. UNHCR, as it applied to the post-rescue phase.

Whilst recognizing that those maritime search and rescue incidents involving potential asylum seekers formed only a small number of the many search and rescue incidents routinely undertaken by maritime SAR agencies, the meeting agreed that there was a need to maintain communication and share information between relevant agencies and programmes in respect of any future incidents. The need for a third meeting was acknowledged as and when the above guidance had been prepared.

9.6 The Committee noted that the Secretariat would report any future developments on the above to its future sessions, including the guidelines referred to above, which will be developed by the inter-agency group, co-ordinated by the IMO Secretariat.

9.7 The Committee agreed that the draft amendments to the Annex to the FAL Convention, prepared at FAL 30, should be finalized and approved at this session for adoption at FAL 32.

9.8 The Committee further agreed that the other two issues (i.e., the development of administrative procedures and a check-list for disembarking persons rescued at sea) should be further considered at FAL 32 and invited Member Governments and international organizations to submit proposals on these issues.

9.9 The Committee established a drafting group to review and finalize the draft amendments to the FAL Convention, prepared at FAL 30 (FAL 31/9/Add.1, annex 4), taking into consideration the amendments to SOLAS, 1979 SAR Convention and the Guidelines on persons rescued at sea, adopted by MSC 78, and comments made in plenary, for approval and adoption at FAL 32.

9.10 Upon receiving the report of the drafting group (FAL 31/WP.2), the Committee took action as indicated in the following paragraphs.

9.11 The Committee noted that, in reviewing the draft amendments, the group was of the opinion that the proposed new Standard 7.9.1 could spark, due to some regional and domestic sensitivities of the matter, more discussion and could also misbalance the compromise reached for the SOLAS and SAR Convention provisions. Therefore, the group had suggested to delete the proposed new Standard 7.9.1.

9.12 The delegation of Malta stated that it had participated in the drafting group's work within the context of the instruction given by the Committee to review and finalize the draft FAL amendments, in conformity with the amendments to the 1974 SOLAS and 1979 SAR Conventions and the associated guidelines adopted by MSC 78. However, Malta reiterated its reservation in respect of parts of the aforementioned SAR and SOLAS amendments, which attributed, in Malta's opinion, the responsibility of providing a place of safety to the Government responsible for the SAR region within which persons were rescued at sea. The delegation also noted with regret that those parts of the draft amendments prepared at FAL 30, which had actually reflected the Maltese position on the matter, had been deleted from the final text, as proposed to the Committee.

9.13 The delegation of Portugal reserved its position on the draft amendments, subject to the European Commission's consideration and decision on the issue.

9.14 The delegation of Liberia and the observers from ICS, ICFTU and BIMCO registered their concerns that the draft amendments to the FAL Convention in document FAL 31/WP.2 did not reflect the position agreed by the Committee at the last session, or the expressed understandings and conclusions of both the SAR and SOLAS Conventions regarding the treatment of persons rescued at sea, specifically that the persons be removed to a place of safety



at the earliest opportunity. They requested that this significant issue be kept under review and referred to the next session of the FAL Committee.

9.15 The Chairman observed that Standard 7.9.1, if accepted as modified, should repeat the already approved provision of the SOLAS and SAR Conventions which was not appropriate for the FAL Convention addressing facilitation matters.

9.16 After some discussion, the Committee approved the draft amendments, as prepared by the drafting group (FAL 31/WP.2, annex) and supported by the majority of delegations, as set out in annex 7, and instructed the Secretariat to circulate them for formal adoption at FAL 32 together with those approved under agenda item 4.

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

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

10.1 The Committee noted the extent of implementation of the standardized FAL Forms by 54 Contracting Governments and an Associate Member (FAL 31/10) which reflected updated information received from the Governments of Belgium, Greece, Italy, Malta, Poland, the Republic of Korea, Singapore, Sweden, the United Kingdom, the United States and from the Associate Member, Hong Kong, China as well as information from Japan as a non-contracting Government to the FAL Convention, as provided in documents FAL 31/7/1, FAL 31/7/1/Add.1 and FAL 31/7/1/Add.2.

10.2 The Committee, recalling (FAL 30/INF.3) that the European Commission's Directive (Directive 2002/6/EC) on reporting formalities for ships arriving in and/or departing from ports of Member States of the Community, which made IMO FAL Forms (1 to 6) mandatory in EC Member States, had formally entered into force and, therefore, EC Member States had to amend or bring into force their respective national laws, regulations and administrative provisions to comply with the Directive in September 2003, invited those EC Member Governments, which had not provided updated information on the status of implementation of the FAL forms, to do so at their earliest convenience.

10.3 The delegation of Brazil informed the Committee that updated information on the implementation of FAL Forms by Brazil had been reflected in document FAL 31/7/1/Add.4.

10.4 The Committee urged those Governments which had not so far responded to the request for information, to do so at their earliest convenience, including information on the status of implementation of the new FAL Form 7 on dangerous goods manifest (FAL.2/Circ.51/Rev.1).

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

### **Stowaway incident reports**

11.1 The Committee noted that, since FAL 30, the Secretariat had issued quarterly reports on stowaway incidents (FAL.2/Circ.78, 79, 80, 81, 82 and 84) for the period between 1 January 2003 and 30 June 2004. The total number of stowaway incidents, reported from November 1998 to 30 June 2004, was 2,342.

11.2 The Committee further noted from the annual statistics for the years 2002 and 2003 (FAL.2/Circ.83) that 450 stowaway incidents had occurred, involving 1,055 stowaways (574 in 2002 and 481 in 2003). From the statistics, it is emerged that the most affected areas were West Africa (193 stowaways – 33.6% in 2002 and 203 stowaways – 47.8 % in 2003) and the Mediterranean, the Black Sea and the North Sea (274 stowaways – 47.7 % in 2002 and 117 stowaways – 24.3% in 2003).

11.3 Recalling the 1 July 2004 entry-into-force date of SOLAS chapter XI-2 and the ISPS Code, the Chairman expressed his expectation that the new regulatory maritime security regime and the resulting implementation of measures to enhance both ship and port facility security would have a positive impact on the reduction of stowaway cases.

11.4 The observer from BIMCO stated that the stowaway issue raised many concerns. BIMCO was pleased to see that the effort of the Committee resulted in the amendments adopted to the FAL Convention which address these concerns in a constructive manner.

While acknowledging that progress had been made, and whilst BIMCO was grateful to the Coastal States that were dealing with stowaway cases in a pragmatic manner by co-operating with ships' crews, owners and P & I Club correspondents in accordance with the spirit of the FAL Convention, it had been brought to BIMCO's attention that there were some coastal States that still today flatly refuse to allow for the disembarkation of stowaways under any circumstances.

BIMCO could certainly understand and accept that in some cases there might be reasonable grounds to deny permission to disembark specific stowaways. However, BIMCO found it difficult to accept the policies of countries that had chosen to flatly deny the disembarkation of all stowaways. This was particularly difficult to understand in situations as described in Standard 4.9.2 of the FAL Convention, where stowaways were in possession of valid travel documents and all necessary arrangements had been made for the stowaways' timely repatriation.

Having expressed these concerns BIMCO was seeking the Committee's agreement to request States that presently refused to allow for the disembarkation of any stowaways to reconsider their policies in the spirit of the general principles of the stowaway amendments as described in Standard 4.2 of the Convention calling on all parties to "co-operate to the fullest extent possible". BIMCO hoped that such reconsiderations would result in a more universal application of the FAL Convention Standards addressing stowaways, leading to fewer ship deviations to disembark stowaways and expediting the repatriation of stowaways, and thereby limiting the time stowaways had to spend on ships.

11.5 The Committee noted the above concerns and agreed that such concerns could be addressed through Contracting Governments' implementation of the FAL Convention Standards and Recommended Practices addressing stowaways.

### **National legislations or practices addressing stowaways**

11.6 The Committee, at its last session, had urged Member Governments to provide the Organization with their national legislations or current practices, in accordance with FAL.2/Circ.50/Rev.1.

11.7 The Committee noted with appreciation the information (FAL 31/INF.4) provided by Denmark and the Islamic Republic of Iran on national legislations and practices addressing stowaways.

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

11.8 The Committee, at its last session (FAL 30/20, paragraph 11.10), had invited Member Governments to submit to FAL 31 models of their national forms and notifications used for the return of stowaways and had decided that such information should be reviewed with the aim of preparing standard forms to be included in the FAL Convention.

11.9 The Committee, noted that Denmark had provided information on their national form for notification of stowaways (FAL 31/INF.4).

### **Guidelines on stowaways**

11.10 The Committee, at its last session (FAL 30/20, paragraph 11.11), had invited Member Governments to submit comments and proposals to strengthen the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaways to this session.

11.11 The Committee noted that no proposal had been submitted to this session.

11.12 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.

## **12 SHIP/PORT INTERFACE**

12.1 The Committee considered under this agenda those aspects of its work which relate to the ship/port interface and the work of the SPI Working Group. Matters which had been submitted under this agenda item but related to the work undertaken by the Organization in the area of enhancement of maritime security were transferred to agenda item 8 and were discussed under that agenda item.

### **Outcome of MSC 77 and MEPC 49**

#### ***Availability of adequate tug assistance***

12.2 The Committee noted that MSC 77, having considered the draft circular prepared by the SPI Working Group at FAL 30, had approved it (paragraph 2.5 of document MSC 77/26) as an MSC/MEPC/FAL circular (annex 1 to document MSC 77/2), subject to MEPC's concurrent decision and deleted this item from the group's work programme.

12.3 In this respect, the Committee also noted that MEPC 49 (paragraph 11.3.1 of document MEPC 49/22) had approved the aforementioned draft MSC/MEPC/FAL circular on the availability of tug assistance and that this circular was subsequently issued as MSC/Circ.1101-MEPC/Circ.409-FAL/Circ.100, dated 8 September 2003.

#### ***Development of a Manual on loading and unloading of solid bulk cargoes for terminal representatives***

12.4 The Committee noted that MSC 77 (paragraph 2.7 of document MSC 77/26), had recalled that MSC 76 (paragraph 13.28 of document MSC 76/23) had decided that the work on the development of a Manual on loading and unloading of solid bulk cargoes for terminal

representatives should be continued and the risk control measure proposed by the Bulk Carrier Safety Working Group should be addressed in the manual. Noting that the SPI Working Group had considered the issue as far as ports and terminals were concerned and had agreed that, while the outline and draft text submitted to DSC 7 (DSC 7/9/1) had addressed all those issues identified by the Bulk Carrier Safety Working Group, MSC 77 recognized that only ship/shore communications were adequately covered and that the other two areas (i.e., training of stevedores and terminal operators and better control of loading capabilities) would require further consideration when the text was drafted.

12.5 In this respect, the Committee also noted that MSC 77 had decided, since the development of the manual had been tasked to the DSC Sub-Committee, to delete this item from the work programme of the SPI Working Group, on the understanding that, if the DSC Sub-Committee needed the group's advice, the MSC would reinstate the item in the group's work programme.

### ***Development of guidelines for the training of port marine personnel***

12.6 The Committee was informed that MSC 77 (paragraph 2.9 of document MSC 77/26) had noted that FAL 30 had considered and agreed with the justification for work to be undertaken on the development of guidance for minimum training and education requirements for mooring service personnel (paragraph 30 and annex 2 of document MSC 77/2), which was prepared by the SPI Working Group during FAL 30, as instructed by MSC 75 and by FAL 30. In addition, MSC 77 had noted that FAL 30 had agreed to change the title of the item to "Guidelines on minimum training and education for shore-side mooring personnel" to clearly indicate that the Guidelines were directed to shore-side personnel and concurred with this decision of FAL 30 and, thus, approved MSC/Circ.1098-FAL/Circ.99 on Development of guidelines on minimum training and education for shore-side mooring personnel.

### **Increase in denying shipments of class 7 radioactive materials specifically "Cobalt-60/UN 2916" in or through worldwide ports**

12.7 The delegation of Canada (FAL 31/12/1) advised the Committee that Canada, as the world's largest producer and distributor of cobalt-60, encounters increasing difficulties in the worldwide shipments of cobalt-60 (an IMDG Code class 7 radioactive material with UN 2916). Cobalt-60, as reported by Canada, is used to sterilize about 40% of all disposable medical supplies used worldwide such as syringes, surgeons' gloves, bandages, and a wide variety of other products. Cobalt-60 is also relied upon to sterilize a vast array of consumer products and is used to make the food supply safer by eliminating food pathogens and to reduce the incidence of disease-carrying insects.

12.8 The delegation of Canada further advised the Committee that the number of commercial carriers, ports and handling facilities not accepting radioactive material had been increasing in recent years. In many cases the difficulties encountered resulted in unnecessary increases in shipment duration, risks along extended or alternate routes, questions about radiation exposure to workers and overall costs.

12.9 The Committee was further informed by the Canadian delegation that the use of sterile disposable medical products in clinics and hospitals worldwide is linked directly to a reasonable and safe system for international supply and delivery of Cobalt-60. The rising incidents of shipment denials is seriously jeopardizing this supply and as a result this trend is having a negative impact on global health care.

12.10 The observer from IAEA advised the Committee that the IAEA had established, within the framework of its Action Plan for the safety of transport of radioactive material (the IAEA Action Plan), a fact-finding discussion forum for addressing concerns of relevant entities, national regulatory authorities and international organizations about how delays and denials in transporting radioactive material might be alleviated, in particular for medical applications. The forum had met at the IMO Headquarters on 16 July 2004 for the purpose of discussing, *inter alia*, the issues raised by Canada. The meeting had provided an excellent opportunity for obtaining information of denial and delay of shipments. Reasons and areas for additional information were also identified. These would be provided to the Consultants Meeting, the next stage in the process envisaged by the IAEA Action Plan, which was scheduled to meet between 26 and 30 July 2004. In accordance with the IAEA Action Plan, the results for the Consultants Meeting would be reported to the General Conference (GC) of the IAEA later this year. A guidance document or report on denial and delay of shipments would be developed in consultation with the IAEA Member States and other international organizations and, pursuant to a GC resolution as a minimum, an IAEA Technical Meeting would be convened later this year to address the outcomes of the Consultants Meeting. The observer from IAEA also advised the Committee that the generic reasons for the denial or delays of shipment, *inter alia*, include multiplicity of competent authorities both within and between countries; requirements for a carrier radiation protection programme; travel through “nuclear free zones”; port docking prohibitions of vessels containing class 7 (radioactive) materials; some ports not permitting transshipment of class 7 cargo; lack of training, prohibitive costs of training and exclusion of class 7 from, and distinction between, other class of dangerous goods training programmes; and lack of awareness among authorities, carriers and the public.

12.11 The delegation of the United Kingdom referred to similar difficulties encountered with the shipment of tantalite, an iron manganese tantalum niobium oxide, an inert ore shipped in bulk which is classified also as an IMDG Code class 7 radioactive material and suggested that the consideration of the issue raised by Canada should not be limited to Cobalt-60 and that it should address the sphere of substances which fall under IMDG Code class 7 radioactive materials and which are used in medical or other similar applications.

12.12 The delegation of the Islamic Republic of Iran referred to various issues relating to the transport of IMDG Code class 7 radioactive materials and suggested that the issues raised by Canada might be referred to a working group for in-depth consideration.

12.13 The delegation of Bangladesh expressed the view that, although certain carriers might be interested in transporting various IMDG Code class 7 radioactive materials, the difficulties they encountered at various ports of call *en route* and the lack of appropriate facilities at the port of discharge were so discouraging that they, despite the rewarding freights offered, had to decline such cargoes.

12.14 The Committee instructed the SPI Working Group to consider the issues raised by Canada (FAL 31/12/1) in relation to the shipments of IMDG Code class 7 radioactive materials, specifically “Cobalt-60/UN 2916” in or through worldwide ports and, taking into account the discussions and conclusions in plenary in relation to the shipment and handling of other IMDG Code class 7 radioactive materials in port areas, to advise the Committee on how the matter should be taken forward with a view to reaching a solution which would be acceptable to all parties involved. In this respect, the group was instructed to advise the Committee whether the matter should be brought to the attention of the DSC Sub-Committee for consideration of the matter from the safety point of view.

12.15 Upon receiving the report of the SPI Working Group (FAL 31/WP.3), the Committee took action as indicated in the ensuing paragraphs.

12.16 The Committee noted that, during the deliberations of the group, a number of delegations had stated that it has transpired that during the recent years a considerable number of IMDG Code class 7 radioactive materials, including Cobalt-60, which have a variety of industrial applications, encounter increasing difficulties in their transportation and denial of shipment.

12.17 The Committee also noted that the Group was informed that, in some instances, simply the fact that a material is classified as IMDG Code class 7 radioactive material is sufficient for a carrier to deny transportation of the consignment or for a port to decline the entry of a ship carrying such materials despite the fact that the material in question is destined to be discharged at a port elsewhere.

12.18 The Committee further noted that the group, in the absence of specific information in relation to other IMDG Code class 7 radioactive materials, apart from tantalite (an iron manganese tantalum niobium oxide, which is an inert ore shipped in bulk and which is classified as IMDG Code class 7 radioactive material) which the delegation of the United Kingdom mentioned during the discussions of the issue in plenary, decided to limit its discussions to issues relating to the transportation and denial of shipment of consignments of Cobalt-60.

12.19 The Committee agreed that, although the Maritime Safety Committee is the appropriate forum, within the Organization, to discuss, in the context of SOLAS chapter VII and of the IMDG Code, issues relating to the transportation of dangerous goods from the safety point of view, there might be issues relating to the transport of such goods which fall within the scope of facilitation of maritime traffic and thus, the Committee would need to consider issues relating to difficulties encountered in the shipment of other IMDG Code class 7 radioactive materials when such matters are brought to its attention.

12.20 The Committee noted that the group had an extensive discussion in relation to Cobalt-60 during which the delegation of Canada and the observer from IAEA provided the group with various information in relation to the physical properties of Cobalt-60, which is a non-fissile material and details of the physical dimensions and weight (approximately 450 mm in length, 11 mm in diameter having an approximate weight of 0.24 kg) of the double encapsulated Cobalt-60 source produced in Canada. In addition, the group was advised on the type of packing used in the transportation of Cobalt-60 and that such packing is approved by Governments based on the regulations of the IAEA (IAEA Safety Standard Series, Regulations for the Safe Transport of Radioactive Materials, 1996 Edition (Revised), Requirements TS-R-1 (ST-1, Revised)).

12.21 The Committee further noted that the group was also informed that Cobalt-60 emits high-energy gamma rays that are used to eliminate harmful micro-organisms, bacteria and pathogens from a variety of products from single-use surgical and medical supplies, lab ware, packing materials, pharmaceutical products, cosmetics, raw materials, spices, fruits, seafood, poultry and red meat. The gamma rays kill micro-organisms, bacteria and pathogens, without damaging the product, thus preventing the spread of diseases and infections. After the radiation treatment process, the product is not left radioactive. Over 40% of single use medical supplies in the world are sterilized in this way.

12.22 The Committee also noted that, following a discussion of the matter, the group concluded that, although complete reasons are unclear at this stage, it appears that the reasons for denying

shipment in or through ports of consignments of Cobalt-60 might be associated with underlined political considerations, such as “nuclear free zones”, existing, or variations in, statutory requirements or lack of awareness of the issues involved.

12.23 The Committee decided to request the DSC Sub-Committee to consider the matter at its next session (27 September – 1 October 2004) and to confirm that shipments of consignments of Cobalt-60, when in compliance with the relevant provisions of SOLAS chapter VII and of the IMDG Code, should not be denied on grounds of safety. In this respect, the Committee agreed to suggest that the DSC Sub-Committee, if it considers it appropriate, might wish to review the existing provisions of the IMDG Code in light of any recent developments on the matter within the framework of the IAEA or the Committee of Experts on the Transport of Dangerous Goods of the Economic and Social Council of the United Nations. Thus, the Committee decided to invite the IAEA and those having an interest in the matter to provide the DSC Sub-Committee with relevant information to facilitate the consideration of the matter and instructed the Secretariat to inform the MSC accordingly.

12.24 The Committee decided to encourage the work undertaken on the matter within the framework of IAEA, an outline of which was provided by the observer from IAEA during the discussion of the matter in plenary, and to invite the IAEA to inform, in due course, the Organization of the outcome of the consideration of the issue.

12.25 The Committee, bearing in mind the fact that the information relating to the reasons leading to the denial of transportation of consignments of Cobalt-60 and its shipment in and through ports are very sketchy and rather limited, also decided to encourage further fact finding discussion of the matter between the various industry groups with an interest on the issue and to invite those involved in such discussions to submit the results of their fact finding studies to the Committee so as to enable further consideration of the matter.

12.26 The Committee agreed that the shipment of consignments of Cobalt-60, and in fact the transportations of all consignments of IMDG Code class 7 radioactive materials which have medical applications, in an efficient, expeditious and low cost manner, has a humanitarian dimension, is in the interest of public health and thus is for the benefit of the society at large.

12.27 The Committee decided that the Organization, in co-operation with the IAEA, if possible, should raise the matter with the World Health Organization (WHO) and should seek the support of the WHO in the efforts undertaken with a view of resolving the issue. In this respect, the Committee decided to point out the beneficial use of Cobalt-60 in medical applications and in the context of public health, as well as, the potential adverse consequences the denial of shipment of consignments of other IMDG Code class 7 radioactive materials might have for radiotherapy and the evolving science of nuclear medicine. The Committee agreed that, whilst resolution of the aspects relating to the shipments of consignments of Cobalt-60, in the context facilitation of maritime traffic, would need to be dealt with by the Organization and the IAEA, the involvement of the WHO in the matter would raise awareness amongst public health authorities and would provide an added weight and significance to the outcome of the work undertaken.

12.28 The Committee agreed that ultimately, subject to the consideration of the matter by the DSC Sub-Committee and within the framework of the IAEA, the aim should be to develop either a communication by the Organization, possibly in the form of a FAL circular, or a joint communication by the Organization, the IAEA and the WHO, if possible, stressing benefits resulting from the use of Cobalt-60 in its various applications, confirming that the shipment of consignments of Cobalt-60 in accordance with the relevant provisions of SOLAS chapter VII and

of the IMDG Code provide the required level of safety and inviting Governments and those concerned to facilitate its shipment in and through ports.

### **The SPI Working Group working methods**

12.29 The Committee recalled that MSC 76, after discussion of the issue of the SPI Working Group work method at some considerable length (paragraphs 22.25 to 22.36 of document MSC 76/23), had concluded that ship/port interface issues were important for the Organization and a group dealing with SPI issues was necessary; however, management of such a group under the MSC, MEPC and the FAL Committee was an issue which needed to be considered carefully. In this respect, MSC 76 had agreed that there was also a need to consider whether the group should be under the purview of the FAL Committee only; the MSC only; both the MSC and MEPC; or MSC/MEPC/FAL and, in this connection, that the interface between the three Committees should be considered and addressed. In relation to this, MSC 76 had concluded that Member Governments should also review the current terms of reference of the group and thus it had invited proposals and comments on the matter for consideration at MSC 77.

12.30 The Committee also recalled that MSC 77 (paragraph 25.29 of document MSC 77/26), having noted that no comment or proposals had been submitted, requested the Chairmen of the MSC, MEPC and the FAL Committee, in consultation with the Secretariat, to prepare proposals on the work of the SPI Working Group and advise the MSC, MEPC and the FAL Committee accordingly.

12.31 The Committee further recalled that, at its last session, it had considered the matter (paragraph 12.5 of document FAL 30/12) and it had invited Members to submit comments and proposals to the MSC for its consideration.

12.32 The Chairman, before introducing document FAL 31/12/2, informed the Committee that the same aforesaid document would be considered by MEPC 52 in October and by MSC 79 in December this year. MSC 78 had been scheduled to discuss the document in May this year however, owing to lack of time the MSC had deferred the matter to MSC 79.

12.33 The Chairman stated that, as requested by MSC 77, the Chairmen of the MSC, of the MEPC and of the FAL Committee (the Chairmen), in consultation with the Secretariat, had prepared the document (FAL 31/12/2), which contained, in paragraphs 1 to 8, background information on the issue, namely the outcome of FAL 29, MSC 76 and MSC 77; in paragraphs 6 and 7, the current work method of the SPI Working Group; and in paragraphs 8 to 16 and in its annex, proposals on the future work method of the SPI Working Group.

12.34 The Committee was advised that the Chairmen had agreed that, the current terms of reference of the SPI Working Group, as approved by MSC 63, MEPC 35 and FAL 23 (annex 2 to document MSC 76/22/2), were too broad and, therefore, allowed the group to identify work programme items, which should otherwise be proposed by Member Governments, through the Committees, in accordance with the Guidelines on the organization and method of work, as in the case of sub-committees. Hence, the Chairmen proposed that the terms of reference should be more specific and the work method of the SPI Working Group should follow the same procedure as stipulated in the Guidelines on the organization and method of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies, as amended (MSC/Circ.1099-MEPC/Circ.405), and those of the FAL Committee (FAL.3/Circ.179).



12.35 The Committee was informed that the Chairmen were of the view that the successful outcome of the 2002 SOLAS Conference on Maritime Security, which had resulted in, *inter alia*, the adoption of SOLAS chapter VI-2 and the ISPS Code, had given a more coherent picture of how ports could/should contribute towards maritime security and the role of the Organization in pursuing this objective. As a result, the Chairmen were also of the opinion that facilitation and enhanced security were complementary to each other and should not be viewed as excluding each other. Considering its broad expertise in both the port and shipping sectors, the SPI Working Group should be a forum to identify any gaps and areas where improvements could be made and to address facilitation issues related to security. Consequently, the Chairmen proposed that the SPI Working Group should act as a forum within the Organization to address specifically maritime security issues relating to the ship/port interface, the wider issue of port security, as appropriate, and facilitation issues related to maritime security, and the terms of reference of the group should be modified accordingly.

12.36 The Committee was further advised that the Chairmen were of the view that the current situation, where the SPI Working Group operates as a working group of the FAL Committee but refers those matters related to safety and marine environment to the MSC and the MEPC respectively, for their approval, made the work of the group complicated and inefficient. Thus, the Chairmen had identified the three options that may improve the current situation of the SPI Working Group work, as indicated in paragraph 15 of document FAL 31/12/2, for consideration by the Committees.

12.37 In concluding his introduction, the Chairman advised the Committee that the draft revised terms of reference of the SPI Working Group, as proposed by the Chairmen, taking into consideration the views expressed in the document, are set out at annex to document FAL 31/12/2.

12.38 Following the introduction by the Chairman of document FAL 31/12/2, the delegations of Bangladesh, Brazil, France, Italy, Malta and the United Kingdom and the observers from ICS and ICHCA International (speaking also on behalf of IAPH) expressed various views on how they saw the future of the SPI Working Group. Some delegations, after acknowledging the contributions the SPI Working Group has made over the years in the work of the Organization, expressed the view that the time had come for the SPI Working Group to lose its standing status and to be convened as an *ad hoc* working group as and when the need arises. Other delegations saw the need for the Committee to have, at its disposal, a group to which issues relating to maritime security can be referred from the facilitation and ship/port interface point of view. Some delegations suggested that the SPI Working Group might become a joint MSC/FAL Working Group and that efforts should be made to address the difficulties which were encountered over the years with the management of the work of the group which had been reported to the MSC, the MEPC and the FAL Committee simultaneously. One observer delegation pointed out that during the recent years, experts from the port industry had lost interest in the work of the SPI Working Group and these aspects needed to be considered and addressed.

12.39 In his intervention, the Secretary-General referred to the comment made by the MSC (MSC 75/24, paragraph 2.21) that the ongoing work on maritime security had injected a new dimension in the importance and significance of the SPI Working Group, which should be seriously considered before any decisions on the group's future were made. He added that the question the Committee should provide an answer to should be whether the SPI Working Group should, acting on behalf of the Committee, continue to be tasked with the consideration of maritime security issues in an effort to assist the Committee to achieve, on behalf of the Organization, the required balance between "security" (which is MSC's area of competence) and

“traffic facilitation”. He reminded the Committee of the new general theme for the Organization, which had introduced the element of “efficient shipping” for the particular reason of the Organization seeking and achieving that balance. He concluded that it would, in the current climate of global uneasiness because of the widely perceived threat of terrorism, be politically incorrect to deprive the Organization of the services of the SPI Working Group.

12.40 Taking into account the above comments and proposals, the Committee agreed that facilitation aspects of a ship/port interface nature (especially those concerning maritime security, in particular the recognized need for a balanced approach to security *vis-à-vis* facilitation of maritime traffic) should continue to be considered by the Facilitation Committee under an appropriate work programme and agenda item. When considering in plenary such an item on the basis of specific proposals, the Committee may decide whether its in-depth examination would necessitate it being referred to an *ad hoc* SPI working group under terms of reference agreed by the Committee on an *ad hoc* basis.

12.41 Furthermore, the Committee agreed that:

- .1 although the adoption of measures for the enhancement of the security of ships and of port facilities would henceforth be the prerogative of the Contracting Governments to the 1974 SOLAS Convention and under the purview of the MSC, facilitation aspects of such measures should be considered by the FAL Committee to balance the interests and needs of the shipping and port industries. Therefore, the Committee, for the foreseeable future would need to retain in its agenda and work programme an item on “Measures to enhance maritime security: Facilitation aspects”. Such an arrangement would also enable the Committee to discuss issues relating to maritime security other than those raised within the MSC, for example as a result of the work undertaken by the WCO or the ILO;
- .2 the existing agenda item and work programme on Ship/Port Interface should be maintained and any sub-agenda item should be listed under this item. Thus, the Committee would have the flexibility and opportunity to address any issues arising from the ship/port interface; and
- .3 that the SPI Working Group need not be convened as a joint Working Group of the MSC, the MEPC and the FAL Committee and would henceforth be convened as a working group of the FAL Committee as and when the FAL Committee considered it necessary. In such a case, the Committee would determine the terms of reference of the SPI Working Group, based on the nature of the items to be referred to the group for consideration at the particular time.

12.42 As a result the Committee saw no reason in discussing the terms of reference of the SPI Working Group set out in annex to document FAL 31/12/2.

12.43 The Committee requested the Secretariat to bring the above decision to the attention of the MSC and MEPC for information and action as they may deem appropriate.

### **Development of guidelines on minimum training and education for shore-side mooring personnel**

12.44 The Committee recalled that FAL 30 (paragraph 12.31 of document FAL 30/12) and MSC 77 (paragraph 2.9 of document MSC 77/26) had agreed to establish a correspondence

group on the development of guidelines on minimum training and education for shore-side mooring personnel, with Germany as the co-ordinator, and that FAL 30 (paragraph 12.31 and annex 4 of document FAL 30/12) had also approved the terms of reference of the correspondence group.

12.45 In this respect, the Committee also recalled that FAL 30 and MSC 77 had recognized that certain Member Governments, port authorities and industry associations may already have standards in place and, in order to avoid duplication of work, the Committees (MSC and FAL) approved MSC/Circ.1098 - FAL/Circ.99 inviting Member Governments and non-governmental organizations in consultative status to submit these to the co-ordinator of the correspondence group by the end of August 2003.

12.46 The co-ordinator of the correspondence group advised the Committee (FAL 31/12/3), with regret, that it had not received any requests for participation in work of the correspondence group or information on existing standards from Member Governments or non-governmental organizations in consultative status. The European Boatman Association, an organization which has no consultative status with the Organization, had provided the co-ordinator with information on their agreed Minimum Standards for Boatmen Qualifications, Education & Training and a statement related to security, which are attached as annexes to document FAL 31/12/3.

12.47 The delegation of Germany advised the Committee that, based on their experiences, a number of countries needed the proposed guidelines on minimum training and education of shore-side mooring personnel and thus it suggested that this item should not be deleted from the work of the Committee. The delegation of Germany further indicated that they intend to solicit additional information from the European Boatman Association, a non-governmental organization who has no consultative status with the Organization but which, however, has an extensive experience on the subject and to make an appropriate submission to the next session of the Committee for its consideration.

12.48 The Committee agreed to maintain this item in its work programme with a target completion date of 2005. As a result of its decisions on the future work of the SPI Working Group (paragraphs 12.40 to 12.42), the Committee decided to delete this item from the work programme of the SPI Working Group and instructed the Secretariat to inform MSC 79 accordingly.

## **Bibliography**

12.49 The Committee decided to remind Member Governments and international organizations to submit to the Secretariat relevant information, for example information on publications which have been withdrawn, new editions of existing publications, new publications which need to be included in the bibliography, so as to enable, in turn, the Secretariat, to keep the bibliography (FAL.6/Circ.9/Rev.1 and Corr.1) updated.

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

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

13.1 The Committee, at its last session (FAL 30/20, paragraph 13.5), recognizing that more than two years had already passed since the issuance of the list of certificates and documents required to be carried on board ships (FAL/Circ.90-MEPC/Circ.368-MSC/Circ.946), instructed the Secretariat to prepare a draft revised list and submit it to the MSC, the MEPC and the

Committee for consideration. MSC 77 (MSC 77/26, paragraph 2.4) noted the decision of FAL 30.

13.2 The Committee noted that the draft revised list (FAL 31/13) had been prepared to take account of the relevant provisions of the amendments to the 1974 SOLAS Convention, as amended, which entered into force on 1 January 2002, 1 July 2002, 1 January 2004 and most recently on 1 July 2004, respectively; amendments to MARPOL 73/78, which entered into force on 1 September 2002, as well as the entry into force of Annex IV of that Convention on 27 September 2003.

13.3 The Committee further noted that the same document had been submitted to MSC 78 and MEPC 52 for consideration and that MSC 78 (MSC 78/26, paragraph 23), owing to lack of time, had deferred it to MSC 79, for consideration.

13.4 The Committee reviewed the draft revised list of certificates and documents required to be carried on board ship (FAL 31/13 and FAL 31/WP.6) and approved it, with the amendments shown in annex 8.

13.5 The Committee instructed the Secretariat to inform MSC 79 and MEPC 52 accordingly and issue the joint FAL/MEPC/MSC circular subject to comments made and approval received by the two Committees.

13.6 The Committee agreed that the FAL/MEPC/MSC circular should clearly indicate that the certificates and documents the circular lists are only those required under IMO instruments and that it does not include documents required by other international organizations or governmental authorities.

13.7 The Committee further agreed that the list of certificates and documents required to be carried on board ships should be kept under review and updated as appropriate.

## **14 TECHNICAL CO-OPERATION SUBPROGRAMME FOR FACILITATION**

### **Integrated Technical Co-operation Programme (ITCP)**

14.1 The Committee noted the outcome of TC 53 on the ITCP (FAL 31/2, paragraphs 15 to 18).

#### **Access to IMO instruments in electronic format**

14.2 The Committee noted the outcome of TC 53 (FAL 31/2, paragraphs 28 to 30) as well as C 90 and C/ES.22 (FAL 31/2/1, paragraphs 9 to 12) on access to IMO instruments in electronic format.

14.3 The Committee noted in particular that C 92 had decided to include the relevant instruments (FAL Convention, MARPOL, STCW Convention and Code, and ISM Code, currently available as downloadable PDF files from the IMO website in English only) in all of the official languages of the Organization in the pilot scheme and to continue data collection until the end of 2004, on the basis of which the Secretary-General would report to the fifty-fifth session of the Technical Co-operation Committee, which, in turn, would advise the ninety-fourth session of the Council (June 2005) on its conclusions.

## **FAL Seminars**

14.4 The Committee noted that a regional FAL seminar was held in Maputo, Mozambique (24 to 28 May 2004), in co-operation with the Ministry of Transport and Communications of Mozambique, financed by the Technical Co-operation Fund. The seminar was attended by 23 participants from 14 selected East African region countries (Angola, Comoros, Djibouti, Ethiopia, Eritrea, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Kenya, Seychelles, Tanzania, Uganda). In addition, a sub-regional FAL seminar was held in Algiers, Algeria (23 to 26 May 2004), in co-operation with the Ministry of Transport of Algeria, financed by the Technical Co-operation Fund. The seminar was attended by 50 participants from the Maghreb region countries (Algeria, Morocco, Tunisia).

14.5 The Committee expressed its appreciation to the Governments of Algeria and Mozambique for hosting and to the Secretariat for organizing and successfully conducting those seminars.

14.6 The Committee noted the outcome of those seminars (FAL 31/14, annexes 1 and 2), in particular the outcome of the Maghreb region seminar that:

- .1 in tackling economic development and the significant rise in trading in their commercial and tourist sectors, the countries of the Maghreb had been obliged to take urgent steps to solve the problems that have arisen, especially when it comes to accommodating members of their communities who reside abroad. Thus, they had improved facilities at their maritime terminals, simplifying passenger procedures by deploying customs officials, insurance representatives and, in certain countries, on-board police, with a view to completing formalities prior to disembarkation;
- .2 given the success of the above-mentioned measures, the seminar proposed that a Recommended Practice Part G should be added to the Convention so as to make provision for the on-board presence of customs, police and insurance officials. This measure would ease the transit, especially in summer, of passengers, their baggage and vehicles, by advancing the respective procedures;
- .3 being aware of the problems that might arise during implementation of the ISPS Code, the seminar recommended that port security and facilitation activities should be considered together, and that provisions of the ISPS Code should be integrated into the FAL Convention;
- .4 following its general discussion of the Convention and the forms, the seminar recommended to IMO that it replace the Cargo Declaration by the Manifest and bring all its FAL documents into conformity with the system used by the United Nations, whose standardised electronic format is recommended; and
- .5 the representatives of the three countries requested assistance from IMO for the purpose of organizing, at regional or national level, the following:
  - .1 regular meetings between representatives of national facilitation committees with a view to co-ordinating their actions and developing exchanges of experience; and

.2 training activities in the following areas:

- transport, handling and storage of dangerous goods in ports;
- implementation of the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990;
- course for inspectors, on port State control of ships;
- evaluation and investigation as prescribed in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as amended; and
- the regulations on the safety of fishing vessels.

14.7 The Committee invited the Maghreb region countries to submit proposals on the above-mentioned seminar recommendations (paragraphs 14.6.2 to 14.6.4) to FAL 32 and to request IMO to provide technical assistance (paragraph 14.6.5).

## **15 RELATIONS WITH OTHER ORGANIZATIONS**

15.1 The Committee instructed the Secretariat to keep the Committee updated on the developments in the World Trade Organization (WTO) and other international organizations, such as UN/ECE and UNCTAD on trade facilitation.

## **16 INSTITUTIONALIZATION OF THE FACILITATION COMMITTEE**

16.1 The Committee noted (FAL 31/16) that the Council, at its twenty-second extraordinary session (21 November 2003), took note of the information provided by the Secretary-General concerning the number of Member Governments which had accepted the 1991 amendments to the IMO Convention, aiming at institutionalizing the Committee, and the steps he had undertaken to encourage the further acceptances required to bring the amendments into force. The Council commended the Secretary-General on the initiatives he had taken and urged those Member Governments, which had not already done so, to consider accepting the 1991 amendments at the earliest possible opportunity.

16.2 The Committee further noted that the Assembly, at its twenty-third session (24 November to 5 December 2003), noted the need for more Member Governments to accept the 1991 amendments to the IMO Convention aimed at institutionalizing the FAL Committee, to enable them to enter into force without further delay. The Assembly adopted resolution A.945(23) entitled "1991 amendments to the Convention of the International Maritime Organization (Institutionalization of the Facilitation Committee)" (FAL 31/16, annex).

16.3 The Committee further noted that the Council, at its ninety-second session (21 to 25 June 2004), took particular note of the information provided by the Secretary-General concerning the number of Member States which had accepted the 1991 amendments to the IMO Convention and the steps he had taken to encourage the further acceptances required to bring the amendments into force. The Council requested the Secretary-General to continue urging those Member States, which had not already done so, to consider accepting the 1991 amendments at the earliest possible opportunity, and to report to the ninety-third session of the Council accordingly.

16.4 The Committee was informed by the Secretariat that since the date of issuance of document FAL 31/16 (8 March 2004), more acceptances had been received from: Mauritius, Venezuela, Hungary and Portugal, thus, as of 20 July 2004, a total number of 83 Member Governments had accepted the 1991 amendment out of a required total of 110. Although this represents a significant increase of acceptances since the thirtieth session of the Committee, 27 more acceptances were required to bring the 1991 amendments into force 12 months after the last requisite acceptance has been received.

16.5 The Committee, recalling also the Secretary-General's opening remarks on this matter, expressed its appreciation for the steps he had taken to encourage the further acceptances required to bring the amendments into force.

16.6 The Committee urged Member Governments to accept the 1991 amendments to the IMO Convention at their earliest convenience and stressed that these amendments have no financial implications for countries accepting them.

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

### **Work programme**

17.1 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 thirty-second session (FAL 31/WP.4, annex, as amended and set out in annex 9), and invited the Council to approve them.

17.2 In approving the work programme, the Committee agreed that any new subitem under agenda item "Ship/port interface" should be submitted in accordance with the Guidelines on the organization and methods of work of the Committee.

### **Meeting weeks for the biennium 2006-2007**

17.3 The Committee, noting that the plan of meeting weeks for the Committee scheduled to be convened in the biennium 2006-2007 will have to be approved by the Council at its June 2005 session (C 94), based on the relevant budgetary proposals of the Secretary-General, and further noting that FAL 32 was tentatively scheduled in July 2005, after C 94, considered the required meeting weeks for the biennium 2006-2007 at this session.

17.4 The delegation of the United Kingdom, supported by some other delegations, expressed the view that the Committee had completed much important work to facilitate world shipping and its agenda for FAL 32 indicated that there was still a significant amount of work for it to do. However, despite the best efforts of the Chairman and the Secretariat to encourage the Committee to make progress, the last and current sessions of the Committee had not been very busy, the majority of the papers considered at these sessions had been submitted by the Secretariat and the agenda for FAL 32, as approved, did not look very different from those of previous sessions, perhaps because issues were being deferred from one session to the next without substantive progress being made.

For these reasons, it may be difficult for the Committee to provide a sound justification to the Council in support of a request for two meeting weeks for the next biennium (2006-2007), without Member Governments committing themselves to participate more actively in the Committee's work in the future.

17.5 The observer from ICS requested the Committee not to be so reticent and tentative in its attitude to the importance of its future work. In his opinion, the FAL Committee would be going nowhere if the FAL Convention was only limited to reflecting existing national or community legislation, or other IMO instruments.

In its first version, published in 1965, the FAL Convention had been an inspirational document with the facilitation of international trade as its ultimate goal. Since then, with the exceptions of such developments as the stowaways provisions and the EDI work, ICS's impression was that those original inspirations had either been met or removed.

According to ICS, IMO was built on three legs: safe, clean and efficient shipping. Legislation existed for both safe and clean shipping in SOLAS, and its supporting conventions, and MARPOL, the appropriate mandatory instruments for the pursuit of these aims.

The FAL Convention was different with its standards and less demanding recommended practices. In respect of either of these, there were opt-out provisions for Member Governments, therefore, the FAL provisions were optional. This could be both, a potential strength and a weakness. A weakness, in as much as Governments did not have to apply the provision, but a strength in that it was both aspirational and inspirational – the Convention could set targets, independent of national laws and instruments, for example the treatment of persons rescued at sea, and it had also the capacity to develop progressive thoughts and ideas.

The FAL Committee was a forum at which the input from non-governmental organizations could be fully utilized – often seeing things first hand and being able to present those findings with a view to improvement. From this point of view it was essential for the industry to present its opinions, aiming at improving international trade.

Furthermore, the implementation of MARPOL and SOLAS had financial implications, in most instances justifiably so. The FAL Committee provided trade with an opportunity to save money through expedient measures. The contribution of the FAL Committee in reducing costs and obstructions to the free flow of international trade could only be viewed as a positive development, and as such allowed for mutual prosperity through trade. These developments were of fundamental importance to the growth and prosperity of the world economy. However, addressing these issues was dependant on input from Governments – it was all too easy for Member Governments to object to developments and recommendations simply based on their own national legislation.

The FAL Convention was vital in terms of its impact on international trade and through this, its impact on the world economy, and its importance should not, therefore, be underestimated.

17.6 The delegation of the Netherlands was of the opinion that the FAL Convention was very important and much important work had been done up to now in the FAL Committee. For the future there was still more necessary work to be done, namely to abolish the discrepancies between the provisions of the Convention and reality. In the Netherlands, the FAL Convention was highly respected by the industry and all initiatives on single window and electronic data exchange took into account the FAL forms. Even guidance from the FAL Committee was sometimes expected on how to proceed on certain issues.

The work that had to be done by the FAL Committee in future was that:



- .1 forms should be adapted according to the needs of the industry;
- .2 parts of the text of the Convention should be reviewed in addition to the work done so far in the relevant working group;
- .3 the manual, as guidance to the Convention should be completed, which was very important for the parties concerned; and
- .4 ways to change the structure of the Convention should be considered. At FAL 29, the Netherlands had suggested to make parts of the convention more binding.

All in all there was enough important work to be done. Two weeks meeting time for the Committee in the next biennium was therefore fully justified. The participation and the commitment of countries was very important in these activities.

17.7 The majority of the delegations supported the views of ICS and the Netherlands and stressed the importance of the work of the Committee and that Member Governments and international organizations should participate more actively in the Committee's work and should submit as many substantial proposals as possible to the Committee in future.

17.8 The Committee agreed that, for the purpose of the Secretary-General's relevant budget proposals, it should be tentatively allocated two meeting weeks for the biennium 2006-2007. The proposed plan of meeting weeks will be further reviewed at FAL 32 in order to take into consideration the short-term workload and the long-term work plan.

17.9 The Committee recalled that resolution A.944(23) on the Strategic Plan for the Organization (for the six-year period 2004 to 2010) recognises that today's globalized world is characterized by freer movement of people, goods and information and that the mission of the Organization as a United Nations specialized agency is to promote safe, secure, environmentally sound, efficient and sustainable shipping through co-operation. In this context, the challenge for the Organization is to be proactive in identifying trends and developments affecting shipping; to adopt a comprehensive and inclusive approach to shipping matters; and to provide an effective and efficient response to shipping trends, developments and incidents and, in doing so, stave off regional or unilateral tendencies which conflict with the Organization's regulatory framework.

17.10 The Committee acknowledged the fact that the adoption by the Organization of the special measures to enhance maritime security, which entered into force on 1 July 2004, has created new responsibilities for the Organization in the context of the delivery of its Strategic Plan and, although the Maritime Safety Committee would be, henceforth, the regulatory body for maritime security, this work would need to be complemented from a facilitation point of view and thus enabling the Organization to fulfill its mission. In this respect, the Committee also recalled the remarks of the Secretary-General, during the opening session, on the need to ensure that an appropriate balance is maintained between measures to enhance maritime security and measures to facilitate international maritime traffic.

17.11 The Committee also acknowledged that there was an urgent need to stimulate interest and participation in its work.

17.12 As a result, the Committee agreed that there was need for the Committee to discuss the work of the Committee in detail at its next session with a view of redefining and refining, as necessary, its role, mission, strategic direction and work. This would enable the Committee to

report to the next Assembly on how the Committee would contribute, in co-operation with the other Committees, towards the achievement of the objectives of the Strategic Plan of the Organization and thus, providing the expected service to Member Governments and the industry. In this respect the Committee agreed that Member Governments and non-governmental organizations with consultative status should submit, to the next session of the Committee, their ideas and proposals on the matter.

17.13 The Committee also agreed, in view of the fact that the process for institutionalization of the Committee had not yet been completed, to bring this development to the attention of the Council for its consideration.

### **Long-term work plan**

17.14 The Committee noted the requests for the specific actions (FAL 31/17, paragraph 2) contained in resolution A.943(23) – *Long-term work programme of the Organization (up to 2010)*:

- .1 to keep the respective list of subjects under review in the light of developments in the work of the Organization, while continuing to bear in mind the directives contained in resolution A.500(XII), resolution A.777(18) and resolution A.900(21) and to report or recommend, as necessary, to the Assembly at its twenty-fourth regular session;
- .2 when considering proposals for future work, to ensure that the subjects proposed are those on which significant work could reasonably be envisaged in the foreseeable future;
- .3 to take into account that all proposed items, and especially those involving amendments to existing conventions, particularly those which have been in force for a short period, should be evaluated by reference to the directives in resolution A.500(XII), and that due attention should be given to the requirement that a well-documented “compelling need” must be demonstrated for new or revised standards; and
- .4 when reviewing the long-term work plan and in making recommendations for the work programme for subsequent periods, to bear in mind the desirability of scheduling not more than one conference in each year, save in exceptional circumstances.

17.15 The Committee noted that the Council, at its ninety-second session, decided to instruct the Working Group on the Organization’s Strategic Plan to review the Organization’s plan in the context of the development of high level action plans and the privatisation of areas of work and that, therefore, the outcome of the working group might result in a change in the format and content of the long-term work plan.

17.16 The Committee, recognizing that, in view of the ongoing work of the Working Group on the Organization’s Strategic Plan, it would not be appropriate at this session to consider and approve its long-term work plan, therefore agreed that the long-term work plan for the next biennium had to be prepared at FAL 32, based on the result of the working group and as approved by the Council at its June 2005 session. The long-term work plan of the Committee

should then be referred for the approval of the Council at its extraordinary session in November 2005.

### **Date of next session**

17.17 The Committee noted that its thirty-second session had tentatively been scheduled to take place from 4 to 8 July 2005.

## **18 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2005**

18.1 The Committee unanimously re-elected Mr. C. Abela (Malta) as Chairman and elected Captain A.E. Hill (Liberia) as Vice-Chairman for 2005.

## **19 ANY OTHER BUSINESS**

### **International Health Regulations**

19.1 The Committee noted the information provided by WHO and the Secretariat (FAL 31/19) that the WHO Global Working Group in November 2004 would consider the second draft and finalize the text of the International Health Regulations (IHRs) for adoption at the World Health Assembly (WHA) in May 2005. The revised text of the IHRs would be available for circulation at MSC 80 and FAL 32 in 2005.

19.2 The Committee instructed the Secretariat to keep it updated on the developments in WHO.

### **Expression of appreciation**

19.3 The Committee expressed appreciation to Captain M. A. de Almeida (Brazil), outgoing Vice-Chairman of the Committee on his return home, for his excellent contribution to the work of the Committee and wished him every success in his future career.

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

- Mr. Hyung-Taek Jung (Republic of Korea) (on return home);
- Captain Benito Pulido Fernandez (Venezuela) (on return home);
- Captain Juan Carlos Oti Paituvi (Venezuela) (on return home); and
- Mr. Ahmed Saidani (Algeria)(on return home).

## **20 REPORT TO THE COUNCIL**

20.1 The Council is invited to:

- .1 note the Committee's approval, for adoption at FAL 32, of draft amendments to the Annex to the FAL Convention, introducing risk management for efficient boarder control measures; systems to allow pre-arrival and pre-departure information to facilitate the processing of information required by public

- authorities and to transmit such information to a single point (Single Window) (paragraph 4.8 and annex 2);
- .2 note action taken by the Committee on the issue of electronic means for the clearance of ships (paragraphs 5.6 to 5.8);
  - .3 note the approval by the Committee of the amendments to the Committee's Rules of Procedure regarding the opening of the Committee's meetings to news media (paragraphs 6.2 and 6.3);
  - .4 note the approval of the rearranged Committee's Guidelines to make them more user-friendly (paragraph 6.8);
  - .5 endorse the action taken by the Committee on the development of an explanatory Manual on the FAL Convention (paragraphs 7.24.1 to 7.24.3 and annexes 3 and 4);
  - .6 note the Committee's decision on the revision of 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))(paragraphs 7.41 to 7.49);
  - .7 note the Committee's action on facilitation-related maritime security issues (paragraphs 8.31 to 8.36);
  - .8 note the Committee's approval, for adoption at FAL 32, of draft amendments to the Annex to the FAL Convention to facilitate the arrival and departure of ships engaged in the rescue of persons at sea (paragraph 9.16 and annex 7);
  - .9 note the Committee's action on the issue of stowaways (paragraphs 11.2, 11.5 and 11.12);
  - .10 note the Committee's outcome relating to shipments of class 7 radioactive materials (paragraphs 12.23 to 12.28);
  - .11 note the Committee's decisions regarding the work of the Working Group on Ship/Port Interface (SPI Working Group) (paragraphs 12.40 and 12.41);
  - .12 note that the Committee updated, subject to concurrent decision of the MSC and MEPC, the List of certificates and documents required to be carried on board ships (paragraphs 13.4 to 13.6 and annex 8);
  - .13 note the action taken by the Committee on expediting its institutionalization (paragraphs 16.4 to 16.6);
  - .14 approve the list of substantive items to be included in the agenda for the Committee's thirty-second session (paragraph 17.1 and annex 9);
  - .15 note the Committee's recommendation that it be tentatively allocated two meeting weeks in the biennium 2006 –2007 (paragraphs 17.3 to 17.8);

- .16 consider the outcome of the Committee's discussion on the work of the Committee and take appropriate action (paragraphs 17.9 to 17.13);
- .17 endorse the Committee's action relating to the long-term work plan for the biennium 2006-2007 (paragraphs 17.15 and 17.16); and
- .18 approve the report in general.

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## ANNEX 1

**AGENDA FOR THE THIRTY-FIRST SESSION INCLUDING  
LIST OF DOCUMENTS**

**1 Adoption of the agenda**

Circular letter No.2489	Secretariat
FAL 31/1	Secretariat
FAL 31/1/1	Secretariat
FAL 31/1/2	Secretariat

**2 Decisions of other IMO bodies**

FAL 31/2	Secretariat
FAL 31/2/1	Secretariat
FAL 31/2/2	Secretariat
FAL 31/2/3	Secretariat

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

FAL 31/3	Secretariat
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**4 Consideration and adoption of proposed amendments to the Annex to the Convention**

FAL 31/4 and Corr.1	France
FAL 31/4/1 and Corr.1	Netherlands

**5 Electronic means for the clearance of ships**

FAL 31/5	Secretariat
FAL 31/INF.2	Secretariat
FAL 31/INF.3	Republic of Korea
FAL 31/INF.6	United States

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

FAL 31/6	Secretariat
FAL 31/6/1	Chairman
FAL 31/6/2	Secretariat

**7 General review of the Convention including harmonization with other international instruments**

FAL 31/7	Secretariat
FAL 31/7/1	Secretariat
FAL 31/7/1/Add.1	Secretariat
FAL 31/7/1/Add.2	Secretariat
FAL 31/7/1/Add.3	Secretariat
FAL 31/7/1/Add.4	Secretariat
FAL 31/7/2	Netherlands
FAL 31/WP.1 and Add.1	Working Group
FAL 31/WP.3	SPI Working Group

**8 Measures to enhance maritime security: Facilitation aspects**

FAL 31/8	Colombia
FAL 31/8/1	Secretariat
FAL 31/8/2	Colombia
FAL 31/INF.5	Secretariat
FAL 31/INF.7	Secretariat
FAL 31/INF.8	Secretariat
FAL 31/WP.3	SPI Working Group

**9 Measures and procedures for the treatment of persons rescued at sea: Facilitation aspects**

FAL 31/9	Secretariat	
	FAL 31/9/Add.1	Secretariat
FAL 31/WP.2	Drafting Group	

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

FAL 31/10	Secretariat
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**11 Formalities connected with the arrival, stay and departure of persons - Stowaways**

FAL 31/11	Secretariat
FAL 31/INF.4	Secretariat

**12 Ship/port interface**

FAL 31/12	Secretariat
FAL 31/12/1	Canada
FAL 31/12/2	Chairmen of MSC, MEPC and FAL
FAL 31/12/3	Germany
FAL 31/WP.3	SPI Working Group



**13 Facilitation aspects of other IMO forms and certificates**

FAL 31/13	Secretariat
FAL 31/WP.6	Secretariat

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

FAL 31/14	Secretariat
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**15 Relations with other organizations**

No document issued under this agenda item.

**16 Institutionalization of the FAL Committee**

FAL 31/16	Secretariat
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**17 Work programme and date of next session**

FAL 31/17	Secretariat
FAL 31/WP.4	Chairman

**18 Election of Chairman and Vice-Chairman for 2005**

No document issued under this agenda item.

**19 Any other business**

FAL 31/19	Secretariat
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**20 Report to the Council**

FAL 31/WP.5 and Add.1 to Add.3	Committee
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**Information papers**

FAL 31/INF.1	-	List of participants
FAL 31/INF.9	-	List of documents

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**ANNEX 2**

**DRAFT AMENDMENTS TO THE ANNEX TO THE FAL CONVENTION**

**DRAFT RESOLUTION FAL.[..(32)]**

**Adopted on [.. July 2005]**

**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 [thirty-second] 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 January 2007] unless, prior to [1 October 2006] 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

**DRAFT AMENDMENTS TO THE ANNEX TO THE FAL CONVENTION**

**Section 1 - Definitions and general provisions**

**A. Definitions**

1 The following new definitions ‘Customs clearance’ and ‘Customs release’ are added after the existing definition ‘Cruise Ship’:

*“Customs clearance.* Accomplishment of the customs formalities necessary to permit goods to enter home use, to be exported or to be placed under another Customs procedure.

*Customs release.* Action taken by Customs authorities to permit goods undergoing clearance to be placed at the disposal of the persons concerned.”

2 The existing definition ‘Data carrier’ is deleted.

3 In the existing definition ‘Document’, the existing text is replaced by the following new text:

*“Document.* Information presenting data by electronic means or by non-electronic means.”

4 The following new definition ‘Estimated time of arrival’ is added after the definition ‘Document’:

*“[Estimated time of arrival (ETA).* Time when a ship estimates it will arrive at the pilot station serving a port or, when it expects to enter the port area, where port regulations apply].”

5 The existing definition ‘Mail’ is deleted.

6 The following new definition ‘Manifest’ is added after the new definition ‘Estimated time of arrival (ETA)’:

*“Manifest.* Document recapitulating the various data from bills of lading and other transport documents issued for the carriage of goods on board ships.”

7 In the existing definition ‘Passengers’ accompanied baggage’, the words ‘of goods’ are added after ‘...contract of carriage’.

8 The following new definition ‘Postal items’ is added after the existing definition ‘Port’:

*“Postal items.* Correspondence and other objects tendered to be carried by a ship for carriage by postal administrations and intended for delivery to postal administrations in the ship’s ports of call.”

9 In the existing definition ‘Security measures’, the existing text is replaced by the following new text.

*“Security measures.* Measures developed and implemented in accordance with international agreements to improve security on board ships, in port areas, facilities and of goods moving in the international supply chain to prevent and detect unlawful acts\*.”

10 The following new definition ‘Ship’s documents’ is added after the existing definition ‘Shipowner’:

*“Ship’s documents.* Certificates and other documents which must be presented by a ship’s master in order to demonstrate the vessel’s compliance with international or national regulations.”

11 The following new definition ‘Temporary admission’ is added after the existing definition ‘Stowaway’:

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

12 In the existing definition ‘Transport document’, the word ‘Document’ after the title is replaced by the word ‘Information’.

## ***B. General provisions***

13 In the existing Standard 1.1, the following sentence is deleted:

“Where a specific list of particulars is set out in this annex, public authorities shall not require to be furnished such of those particulars as they consider not essential.”

14 The existing Recommended Practice 1.3 is amended to read as follows:

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

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\* Reference is made to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (SUA Convention), the International Ship & Port Facility Security Code (ISPS Code) and the International Convention for the Safety of Life at Sea, 1974 (SOLAS), Chapter XI-2.

### ***C. Electronic data-processing techniques***

15 In the existing Standard 1.4, the words ‘electronic data interchange (EDI) techniques’ are deleted and replaced by the words ‘systems for the electronic transmission of information required by public authorities for the arrival, stay and departure of the ship, persons and cargo’.

16 The following new Recommended Practices 1.7.1 and 1.8.1 are added after the existing Recommended Practices 1.7 and 1.8 respectively:

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

1.8.1 **Recommended Practice.** Contracting Governments should encourage public authorities to introduce arrangements to enable trade and transport operators including ships to submit all the information required by public authorities in connection with the arrival, stay and departure of ships, persons and cargo, avoiding duplication, to a single entry point.”

### ***D. Illicit drug trafficking***

17 The existing Recommended Practice 1.11 is deleted:

18 The following new section ‘E - Control techniques’ is added after the existing section ‘D – Illicit drug trafficking’:

#### ***“E. Control techniques***

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

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

thereby facilitating the legitimate circulation of persons and goods.”

## **Section 2 – Arrival, stay and departure of the ship**

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

19 In the existing Standard 2.1, the new document ‘Dangerous Goods Manifest’ is added after the existing document ‘Passenger List’.

20 The following new Recommended Practices, 2.1.2, 2.1.3, 2.1.4 and 2.1.5 are added after the existing Standard 2.1.1:

“2.1.2 **Recommended Practice.** Public authorities should develop procedures to use pre-arrival and pre-departure information in order to facilitate the processing of information required by public authorities for the expedited subsequent release/clearance of cargo and persons.

2.1.3 **Recommended Practice.** National legislation should specify the conditions for the lodgment of pre-arrival and pre departure information. With regard to the point in time of transmission of the pre-arrival information, it should not normally be set substantially before the moment the ship has left the country of departure. However, national legislation could, in addition to the basic rule, also specify the exceptions if the time required for the voyage is shorter than the basic rule.

2.1.4 **Recommended Practice.** Public authorities should not require the lodgment of a separate General declaration and Cargo manifest if the data elements contained in these documents are included in the pre-arrival information.

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

- develop systems for the electronic transmission of data for the lodgment of pre-arrival and pre-departure information;
- consider the re-use or subsequent use of the pre-arrival and pre-departure information in subsequent procedures as part of all the information required for the release/clearance of passengers and cargo.”

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

21 In the existing Standard 2.2, the word ‘information’ is replaced by the word ‘data’.

22 In the existing Recommended Practice 2.2.1, the word ‘a’ after the words ‘the departure of’ is replaced by the word ‘the’.

23 In the existing Recommended Practice 2.2.2, the word ‘information’ is replaced by the word ‘data’ and a new bullet ‘[• the ship’s requirements in terms of waste and residue reception facilities]’ is added after the existing bullet ‘• position of the ship in the port’.

24 In the existing Standard 2.2.3, the word ‘a’ after the words ‘shall accept’ is replaced by the words ‘that the’ and the word ‘is’ is added after the words ‘General Declaration’.

25 In the existing Standard 2.3, the word ‘information’ is replaced by the word ‘data’.

26 In the existing Recommended Practice 2.3.1, the word ‘data’ is added after the word ‘following’ and the words ‘or, if possible, the HS code number<sup>\*</sup>’ are added at the end of the bullet

‘• container identification’, where appropriate; marks and numbers and kind of packages; quantity and description of the goods. A new ‘Note’ is added after the existing ‘Note’ as follows:

“*Note:* To facilitate the processing of information required by public authorities, all parties involved should use an appropriate description of the goods and refrain from using generic terms, such as “general cargo”, “parts” etc.”

27 In the existing Standard 2.3.3, the word ‘a’ after ‘shall accept’ is replaced by the words ‘that the’ and the word ‘is’ is added after the words ‘Cargo Declaration’.

28 In the existing Recommended Practice 2.3.4.1, the word ‘information’ is replaced by the words ‘data required and identified’.

29 In the existing Standard 2.6, the word ‘providing’ is replaced by the words ‘required by’ and the words ‘with information’ are replaced by the words ‘containing data’.

30 In the existing Standard 2.6.1, the word ‘data’ is added after the word ‘following’ and the bullet ‘• arriving from port’ is replaced with a bullet ‘• port arrived from’.

31 In the existing Standard 2.6.2, the word ‘a’ after ‘shall accept’ is replaced by the words ‘that the’ and the word ‘is’ is added after the words ‘Crew List’.

32 In the existing Standard 2.7, the word ‘providing’ is replaced by the words ‘required by’ and the words ‘with information’ are replaced by the words ‘containing the data’.

33 In the existing Recommended Practice 2.7.3, the word ‘information’ in the first sentence is replaced by the word ‘data’: New bullets ‘[•type of identity document supplied by the passenger]’ and ‘[• serial number of identity document]’ are added after the existing bullet ‘• place of birth’; and a new bullet ‘[• transit passenger or not]’ is added after the existing bullet ‘• port and date of arrival of the ship’.

34 The existing Standard 2.9 is amended to read as follows:

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

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\* Convention on the Harmonized Commodity Description and Coding System: also known as the “Harmonized System” (HS). This international convention came into force on 1 January 1988; its objective is to establish a description and coding system for use by Customs administrations when designating commodities or commodity groups for the purposes of setting Customs tariffs and collecting statistics.



35 In the existing Standard 2.10, the words ‘providing information’ are replaced by the words ‘containing the data’.

#### ***D. Documents on departure***

36 In the existing Recommended Practice 2.12.2, the words ‘for the purpose’ are added before the words ‘in that port’.

37 The existing Standard 2.12.3 is amended to read as follows:

“2.12.3 **Standard** Where public authorities require information about the crew of a ship on its departure from the port, one of the copies of the Crew List presented on arrival at the port shall be accepted on departure, provided it is signed again by the master or an officer duly authorized by him, and endorsed to indicate any change in the number or composition of the crew at the time of the ship’s departure or to indicate that no such change has occurred during the ship’s stay in the port.”

#### ***F. Completion of documents***

38 In the existing Recommended Practice 2.15, the word ‘information’ is replaced by the word ‘data’.

39 In the existing Standard 2.16, the word ‘information’ is replaced by the word ‘documents’ and the words ‘automatic data processing techniques’ are replaced by the words ‘the use of information technology’.

#### ***G. Errors in documentation and penalties therefore***

40 In the existing Standard 2.19, the word ‘the’ is added between the words ‘violate’ and ‘laws’ and the words ‘of the port State’ are added at the end of the paragraph.

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

41 Add the words ‘persons rescued at sea’ to sub-section H to read as follows:

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

42 Add the words "persons rescued at sea" and delete the words “and status” from Standard 2.20, to read as follows:

**2.20 Standard.** Public authorities shall seek the co-operation of shipowners to ensure that, when ships intend to call at ports for the sole purpose of putting ashore sick or injured crew members, passengers, persons rescued at sea, or other persons for emergency medical treatment, the master shall give the public authorities as much notice

as possible of that intention, with the fullest possible details of the sickness or injury and of the identity of the persons."

43 In the existing Standard 2.24, the word 'information' is replaced by the word 'data' and the word 'that' is replaced by the word 'those'.

### **Section 5 - Arrival, stay and departure of cargo and other articles**

44 In the existing Recommended Practice 5.3, the word 'mail' is replaced by the words 'postal items' and the words 'or importation' are added between the words 'sea' and 'should'.

45 The existing Recommended Practice 5.5 is amended to read as follows:

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

### ***B. Clearance of cargo***

46 The existing Standard 5.7 is amended to read as follows:

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

47 The following new Recommended Practice 5.7.1 is added after the existing 5.7 Standard:

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

48 The existing Standard 5.9 is deleted.

49 In the existing Recommended Practice 5.10, the words 'the revised' are added to the words 'Kyoto Convention'.

50 The following new Recommended Practice 5.10.1 is added after the existing Recommended Practice 5.10:

**“5.10.1 Recommended Practice.** Public authorities should consider the introduction of simplified procedures for authorized persons allowing:

- (a) release of the goods on the provision of the minimum information necessary to identify the goods and permit the subsequent completion of the final goods declaration;
- (b) clearance of the goods at the declarants premises or another place authorized by the relevant public authority;
- (c) submission of a single goods declaration for all imports or exports in a given period where goods are imported or exported frequently by the same person."

51 In the existing Standard 5.11, the words 'by using risk assessment to target cargo for examination' are deleted at the end of the paragraph.

52 The following new Recommended Practice 5.14.1 is added after the existing Recommended Practice 5.14:

"5.14.1 **Recommended Practice.** Customs authorities should endeavour to quickly clear the transit procedure covering goods from another State awaiting loading."

### *C. Containers and pallets*

53 In the existing Standard 5.15, the word 'import' is replaced by the word 'admission'.

54 In the existing Standard 5.18, the word 'importation' is replaced by the word 'admission'

## **Section 7 – Miscellaneous provisions**

### *C. Emergency assistance*

55 The existing Standard 7.8 is amended to read as follows:

"7.8 **Standard.** Public authorities shall facilitate the arrival and departure of ships engaged in disaster relief work, the rescue of persons in distress at sea in order to provide a place of safety for such persons, the combating or prevention of marine pollution, or other emergency operations designated to enhance maritime safety, the safety of life at sea, the safety of the population or the protection of the marine environment."

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**ANNEX 3****FRAMEWORK FOR THE DEVELOPMENT OF AN  
EXPLANATORY MANUAL ON THE FAL CONVENTION**

- I Introduction
  - Explanation and background of the provisions
  - Tool for implementation
  - Best Practices
  - Public Authorities
  
- II Essential features of the Convention
  - Body of the Convention
  - Standards
  - Recommended Practices
  - Amendments
  - Lodgement of differences
  
- III Purpose and scope of the Annex and provisions
  - Section 1
  - Section 2
  - Section 3
  - Section 4
  - Section 5
  - Section 6
  - Section 7
  - FAL forms
  - Resolutions
  - Additional information
  
- IV Other considerations
  - Management
    - o Costs
    - o Staff
    - o Facilities
  - Political
    - o Facilitation/Security/Enforcement
    - o Embargoes/International conflicts
    - o National priorities
  - Trade practices
  - Information needs
  
- V References to other relevant international instruments
  - Conventions
  - Manuals/Guidelines
  - MOU's

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## ANNEX 4

**TIME SCHEDULE FOR THE DEVELOPMENT OF  
AN EXPLANATORY MANUAL ON THE FAL CONVENTION**

No.	Event	Meeting	Year
1	Confirmation of the development of the Manual	FAL 31	2004
2	Confirmation of the framework of the Manual	FAL 31	2004
3	Establishment of the correspondence group	FAL 31	2004
4	Establishment of the terms of reference for the correspondence group	FAL 31	2004
5	Encouragement of the use of Internet by the participants to the correspondence group	FAL 31	2004
6	Report of the correspondence group	FAL 32	2005
7	Consideration and approval of the report of the correspondence group	FAL 32	2005
8	Re-establishment of the drafting group	FAL 32	2005
9	Revision, if necessary, of the terms of reference for the correspondence group	FAL 33	2006
10	Submission of the draft explanatory Manual to the FAL Convention by the correspondence group	FAL 33	2006
11	Adoption of the explanatory Manual to the FAL Convention	FAL 33	2006

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**ANNEX 5****TERMS OF REFERENCE FOR THE CORRESPONDENCE GROUP ON THE DEVELOPMENT OF AN EXPLANATORY MANUAL ON THE FAL CONVENTION**

- 1 Continue with the development of an explanatory Manual to the FAL Convention.
- 2 In the development of the Manual, take into consideration the following guiding principles. The Manual should:
  - .1 encourage and improve the implementation of the FAL Convention;
  - .2 include explanations of Standards and Recommended Practices of the FAL Convention with the view to facilitating their possible implementation by providing technical advice and highlighting best practices;
  - .3 lead to a better understanding of the underlying principles of the FAL Convention and thus promote its implementation;
  - .4 help Contracting Governments in the preparation of their national legislation and other regulatory instruments; and
  - .5 be non-binding to Contracting Governments and entail no legal obligations.
- 3 In the development of the Manual, take into consideration the relevant provisions of Annex 9 on Facilitation to the Convention on International Civil Aviation (Chicago, 1944), the Revised Kyoto Convention on Customs procedures, and other relevant UN/ECE Recommendations.
- 4 Report the progress made to FAL 32 (2005).

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## ANNEX 6

### DATA SET THAT SHIPS COULD EXPECT TO BE REQUIRED TO TRANSMIT PRIOR TO ENTRY INTO PORT

Name of ship

Distinctive Number or Letters (Call Sign)

Port of registry

Flag State

Type of ship

Gross tonnage

IMO Number

Port of arrival

Port facility of arrival

Expected time of arrival of the ship in port

Date, time and location of the ship at the time the report is made

Confirmation that the ship possesses a valid International Ship Security Certificate or a valid Interim International Ship Security Certificate and the name of its issuing authority<sup>1</sup> (regulation XI-2/9.2.1.1)

Security level at which the ship is currently operating (regulation XI 2/9.2.1.2)

Security level at which the ship operated in the previous ten<sup>2</sup> calls at port facilities (regulation XI-2/9.2.1.3)

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<sup>1</sup> Issuing authority means the Administration, the recognized security organization who acting on behalf of the Administration, or the Contracting Government who at the request of the Administration, has issued the certificate.

<sup>2</sup> The Maritime Safety Committee, at its seventy-eighth session, agreed that the requirements under regulation XI-2/9.2.1.3 to .5 to keep records of past calls at port facilities and ship-to-ship activities should commence on 1 July 2004 and only apply to calls made, or activities undertaken, on or after that date (MSC/Circ.1111).

Any special or additional security measures that were taken by the ship in any previous port where it has conducted a ship/port interface during the last ten calls at port facilities (regulation XI-2/9.2.1.4)

Confirmation that appropriate ship security procedures were maintained during any ship-to-ship activity during the period covered by its previous ten calls at port facilities (regulation XI-2/9.2.1.5)

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## ANNEX 7

## DRAFT AMENDMENTS TO THE ANNEX TO THE FAL CONVENTION, 1965

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

## Sub-section H

- 1 Add the words "persons rescued at sea" to sub-section H as follows:

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

- 2 Add the words "persons rescued at sea" to 2.20 **Standard**, as follows:

"~~2.19~~ **20 Standard**. Public authorities shall seek the co-operation of shipowners to ensure that, when ships intend to call at ports for the sole purpose of putting ashore sick or injured crew members, passengers, **persons rescued at sea**, or other persons for emergency medical treatment, the master shall give the public authorities as much notice as possible of that intention, with the fullest possible details of the sickness or injury and of the identity ~~and status~~ of the persons."

## Section 7 – Miscellaneous provisions

## Sub-section

C. *Emergency ~~a~~ Assistance*

- 3 The existing 7.8 **Standard** is replaced as follows:

"~~7~~ **6.8 Standard**. Public authorities shall facilitate the arrival and departure of ships engaged in disaster relief work, **the rescue of persons in distress at sea** **in order to provide a place of safety for such persons**, the combating or prevention of marine pollution, or other emergency operations ~~necessary to ensure~~ **designedated to enhance maritime safety, the safety of life at sea**, the safety of the population or the protection of the marine environment."

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## ANNEX 8

**AMENDMENTS TO THE DRAFT REVISED LIST OF CERTIFICATES AND DOCUMENTS REQUIRED TO BE CARRIED ON BOARD SHIPS (FAL 31/13\*, ANNEX)****Page 2**

1 “LL Exemption Certificate” – is replaced by “International Load Line Exemption Certificate”.

**Page 3**

2 Fire safety training manual – last sentence the word “shall” is replaced by “may”.

3 Fire safety operational booklet – the following sentence is added at the end of the paragraph:

“The information may be combined with the fire safety training manuals required in regulation II-2/15.2.3.”

**Page 6**

4 Valid International Ship Security Certificate (ISSC) or valid Interim International Ship Security Certificate

- the word “valid” from the title is deleted;
- on the first sentence the “ISSC” is replaced by “International Ship Security Certificate (ISSC)”;
- At the end of the paragraph the following sentence is added; and

“An interim ISSC may be issued under ISPS Code part A, section 19.4.”

5 Footnote \* at the bottom is deleted.

**Page 7**

6 Footnote \* at the bottom is deleted.

**Page 9**

7 Cargo Ship Safety Certificate – the following sentence is added at the end of the paragraph:

“A Record of Equipment for the Cargo Ship Safety Certificate (Form C) shall be permanently attached.”

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\* The same document has been issued as MSC 78/25 and MEPC 52/23/1.

**New insert**

8 New section 9 is added as follows:

“

<p><b>9</b></p>	<p><b>In addition to the certificates listed in section 1, and 2 or 3 and where applicable, any Nuclear Ship shall carry:</b></p>	
	<p><b>Nuclear Cargo Ship Safety Certificate or Nuclear Passenger Ship Safety Certificate, in place of the Cargo Ship Safety Certificate or Passenger Ship Safety Certificate, as appropriate.</b></p> <p>Nuclear powered ship shall be issued with the certificate required by SOLAS Chapter VIII.</p>	<p>AS 1974,          Regulation VIII/10</p>

”

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**ANNEX 9****SUBSTANTIVE ITEMS FOR INCLUSION IN THE AGENDA OF  
THE THIRTY-SECOND SESSION**

- 1 Convention on Facilitation of International Maritime Traffic
  - Status of the Convention
- 2 Consideration and adoption of proposed amendments to the Annex to the Convention
- 3 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
  - .3 Assistance to developing countries in accepting and implementing electronic means for the clearance of ships
  - .4 The use of the Single Window Concept
- 4 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 differences have been registered by Contracting Governments
  - .2 Development of an explanatory manual to the Convention
  - .3 Information submitted on implementation of individual provisions of the Annex to the Convention
- 5 Prevention and suppression of unlawful acts at sea or in port: Facilitation aspects
- 6 Prevention and control of illicit drug trafficking: Facilitation aspects
- 7 Measures to enhance maritime security: Facilitation aspects
- 8 Measures and procedures for the treatment of persons rescued at sea: Facilitation aspects
- 9 Formalities connected with the arrival, stay and departure of ship
  - Implementation of the Standardized IMO Model FAL Forms (1-7)
- 10 Formalities connected with the arrival, stay and departure of persons - Stowaways
- 11 Facilitation aspects of other IMO forms and certificates
  - List of certificates and documents required to be carried on board ships

- 12 Ship/port interface
    - Development of Guidelines on minimum training and education of shore-side mooring personnel
    - Difficulties encountered with shipments of the IMDG Code class 7 radioactive materials
  - 13 Technical co-operation subprogramme for facilitation
  - 14 Institutionalization of the FAL Committee
  - 15 Application of the Committee's guidelines
  - 16 Work programme
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