

FACILITATION COMMITTEE
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**GENERAL REVIEW OF THE CONVENTION, INCLUDING HARMONIZATION WITH
OTHER INTERNATIONAL INSTRUMENTS**

Report of the Correspondence Group

Submitted by France

SUMMARY

<i>Executive summary:</i>	This document reports on the work of the Correspondence Group on the general revision of the FAL Convention
<i>Strategic direction:</i>	8
<i>High-level action:</i>	8.0.1, 8.0.2, 8.0.3, 8.0.4
<i>Planned output:</i>	8.0.1.1, 8.0.1.2
<i>Action to be taken:</i>	Paragraph 23
<i>Related documents:</i>	FAL 35/17; FAL 36/17; FAL 37/17, FAL 37/WP.5 and FAL 38/WP.4

BACKGROUND

1 FAL 35 decided to initiate a comprehensive revision of the FAL Convention. FAL 37 and FAL 38 considered the draft amendments to the annex to the FAL Convention submitted by a correspondence group. FAL 38 further decided to re-establish a correspondence group on the review of the Convention. Its terms of reference are in annex 1.

2 The following countries and organizations participated in the work of the correspondence group:

ARGENTINA
AUSTRALIA
BAHAMAS
BELGIUM
BRAZIL
BULGARIA
CHILE
CYPRUS
DENMARK
FRANCE

GERMANY
GUATEMALA
INDIA
ITALIA
JAPAN
LIBERIA
LITHUANIA
MARSHALL ISLANDS
NETHERLANDS
POLAND

REPUBLIC OF KOREA
RUSSIAN FEDERATION
SPAIN
SWEDEN

TURKEY
UNITED KINGDOM
UNITED STATES
VENEZUELA

observers from the following intergovernmental organization:

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

and observers from the following non-governmental organizations:

INTERNATIONAL CHAMBER OF COMMERCE (ICC)
BIMCO
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS
(INTERTANKO)
INTERNATIONAL GROUP OF PROTECTION AND INDEMNITY ASSOCIATIONS
(P & I CLUBS)
FEDERATION OF NATIONAL ASSOCIATIONS OF SHIP BROKERS AND AGENTS
(FONASBA)
WORLD SHIPPING COUNCIL (WSC)

WORK DONE BY THE CORRESPONDENCE GROUP

3 The correspondence group worked through 8 rounds of comments, following the item in its terms of reference, raising some new questions and discussing anew some that were thought settled.

4 All propositions are presented along the text of the annex to the FAL Convention, in annex 2 of this report, with explanatory footnotes, except for the most contested propositions that are discussed hereafter in this part of the report.

5 Annex 1 contains the terms of reference of the correspondence group and annex 3 a contribution of BIMCO, ICS and WSC on the benefit of electronic transmission.

PRESENTATION OF THE MORE CONTESTED ISSUE

Electronic transmission

6 This was an important part on the discussion of the correspondence group.

7 The group was specifically tasked with proposing the delay of implementation after the entry into force of the amendment making the use of electronic transmissions mandatory (Standard 1.3*bis*). A clear majority considered that an early implementation date was desirable and supported a delay of 3 years; nevertheless other voices insisted that further cost benefit analysis were needed before any decision could be taken. There was also some support for the notion that there should not be any date or timeframe in the text – this would have meant, in legal terms, an application from the day of entry into force of the amendment.

8 Regarding cost benefit analysis, the prevalent view of the correspondence group was that the group was tasked with providing a qualitative assessment, rather than a detailed quantitative study. BIMCO, ICS and WSC jointly provided a qualitative assessment which is in annex 3 of this report.

9 The correspondence group thus found a majority to make a proposal, but it may be expected that the matter will be raised again in the Committee and that further debates will occur.

10 The group further agreed to propose that the transitional period from the moment electronic transmission is introduced to the moment it becomes mandatory for the operators (Standard 1.3*ter*) be set at 12 months.

11 The group also proposes to complete Recommended Practice 1.3*quin* to the effect that consideration be given to the use of single windows for, beyond mere transmission, communications between the operators and authorities regarding matters covered by the FAL Convention.

12 Beside the main issues regarding electronic transmission, the annex to the FAL Convention needed to be adjusted in many small ways to the perspective of electronic transmission becoming a Standard, as it was basically designed with a view to the use of paper communication.

Visa number in passengers' list issue

13 There was majority support for the inclusion of the data "*visa number if appropriate*" in the passengers list. It was argued that the transmission of this data element would allow a faster crossing of frontiers for passengers when their admission is subject to visa, as checks may be carried out in advance. The context of heightened concerns for security issue was recalled. It was also argued that this requirement would encourage carrier to be mindful that all passengers hold the documents required by the State of destination, in conformity with standard 3.15.1 of the annex to the FAL Convention. This proposition harmonizes the format in the event this data is required. Electronic transmissions will make the formality easier.

14 There was nevertheless a substantial minority opposing the inclusion of "*visa number if appropriate*" in the passengers list. It was felt that it would represent a new administrative burden and involves cost to adapt transmission systems.

Reopening of issues

15 A striking feature of the debate of the correspondence group was the number of contributions made by the participants to reopen the provisional decisions of this Committee (the "grey text"). As the correspondence group has been instructed to take into account earlier discussions and the text as set out in FAL 38/WP.4, the coordinator intimated that only a large support, indicative of a change of mind, might justify that the group make proposition to the Committee that contradict its previous decision. None of the propositions made did satisfy that test. It is nevertheless to be expected that some of those issues will be raised again before the Committee.

16 In some case those propositions raised question as to whether all implications of the agreed amendments had been fully considered.

17 The most prominent of those reopened issues were:

- .1 The inclusion of a definition of cargo transport unit (CTU) and it's exclusion from the definition of cargo.

The Committee had decided to include a definition of the *cargo transport unit*. Its only use in the annex to the FAL Convention is actually in the definition of cargo, to exclude CTUs from the notion of cargo – the term cargo itself is widely used, but the annex to the FAL Convention never refers directly to CTU.

It was proposed to use the term *freight container* instead of CTU in the definition of cargo – as *containers* is the term used in the annex of the FAL Convention (on this occasion, it was deemed appropriate to include a definition of *freight container*).

The observation was made that the exclusion of CTU from the definition of cargo may not be warranted. For example, containers are typically manifested on the Cargo Declaration.

The debate did not produce the sort of clear cut support for an alternative that would have warranted that the group suggest it to the Committee. Nevertheless, some questions remain:

- Is a wholesale exclusion of CTU/container from the definition of cargo appropriate? Or are there some Standards and Recommended Practices for the implementation of which they should actually be considered as cargo?
- Would it be better to use the term CTU or the term of container? Container is a narrower term, but it is used in relevant Conventions such as the Customs Convention on Containers. Containers is the term used throughout the FAL Convention also – but perhaps, in some case at least, the use of the term CTU might provide a better scope.

.2 The inclusion of the data "*visa number if appropriate*" in the crew list.

A number of participants argued again in favor of the inclusion of the data "*visa number if appropriate*" in the crew list. This is the most debated issue of all and no majority supported this proposition. Nevertheless, the fact is that a substantial minority remain committed to this inclusion.

.3 The opportunity of the new Standard 3.44*bis*.

This draft Standard was contested by several participants for the reason that it would contradict their national law. The support expressed in previous debate for 3.44*bis* was not reiterated in this instance.

.4 The new Recommended Practice 5.3*bis*.

The new Recommended Practice 5.3*bis* was also contested. This RP states that Public authorities should require only a minimum of data necessary for the identification of the cargo that is to be placed in storage prior to release or re-export or importation, and should, whenever available, use the information contained in the pre-arrival declaration for this purpose. The debate could not conclude clearly on the point of fact of whether this drafting constrained the possibility to request the data needed for risk assessment purpose, or if the pre-arrival declaration had already provided the relevant data, and whether it allowed to request all the particulars needed for the declaration for temporary storage.

AMENDMENTS TO THE MANUAL OF THE FAL CONVENTION

18 Point 12 of the terms of reference directs the correspondence group to identify further guidelines that need to be included in the Explanatory Manual. Specific draftings are proposed under Standard 1.3*ter* and Standard 2.16.1. Beside, for such amendments as will be retained, the explanation provided in footnote can be considered for integration in the Manual.

CONCLUSIONS

19 This is the third report of the correspondence group on the general revision of the annex to the FAL Convention. The Committee may wish to consider if, after its own consideration of the issue, the amendments might be ready for approval. Some useful amendments have been brought forward, the scope for consensus seems largely explored.

20 It is true that there remains some vexing underlying difficulties. One of them is the articulation between the Customs requirements that are covered by the FAL Convention and those that are not, serving procedures such as import or transit that are as such outside the FAL scope but marginally covered by it. The trade, or Customs, single windows, and the FAL single windows are the two poles for port related formalities, whose underlying tension explain some of the confusing debates that occurs.

21 The entry summary declaration (ENS), for example, covers the same ground as the FAL Cargo Declaration (IMO FAL Form 2), and then more. The FAL Cargo Declaration can be used towards some Customs procedure, but also, some of the more complete customs requirements could substitute for the FAL Cargo Declaration in a single window context. The pre-arrival information as referred in the FAL Convention may be data from the FAL Form required before arrival, or it may be the ENS, which is by definition submitted before arrival.

22 But it does not feel from the debate in the correspondence group that there may be close at hand more definitive recommendations for the facilitation of data transmission in this environment.

ACTION REQUESTED OF THE COMMITTEE

23 The Committee is invited to:

- .1 take note of the work of the correspondence group above; and
- .2 consider the proposed amendment to the annex to the FAL Convention as set out in annex 2.

ANNEX 1

Terms of reference for the intersessional Correspondence Group

The ~~Committee~~Committee approved the following terms of reference for the intersessional Correspondence Group on the Comprehensive Review of the annex ~~to~~to the FAL Convention~~Convention~~, under the coordination of France*:

- 1 make further progress, taking into account earlier discussions and text as set out in FAL 38/WP.4, on the general revision of the annex to the FAL ~~Convention~~Convention;
- 2 advise on and provide proper justification for the date of application when the establishment of electronic exchange of information should become mandatory by amending ~~Standard~~Standard 1.3bis;
- 3 draft text, clearly distinguished in the report of the correspondence group from the text of the annex to the ~~Convention~~Convention, that can be used for the revision of the Explanatory Manual in order to provide further clarification and background information for the amendments made and, particularly, for:
 - .1 ~~Standard~~Standard 2.16.1 to provide justification for the inclusion of the word "residence" taking into account paragraphs 4.24 and 4.25 of FAL 38/WP.4; and
 - .2 ~~Standard~~Standard 2.23 in respect to shipowner's liability;
- 4 draft provisions regarding amendments to previously lodged information or documents;
- 5 advise on the outstanding issue regarding the inclusion of visa number, if appropriate, in the passenger list;
- 6 consider the inclusion of draught information to the data elements of the General Declaration (paragraphs 4.7 to 4.9 of FAL 38/WP.4);
- 7 consider the proposed amendment to ~~Standard~~Standard 3.44 in respect of "clear grounds" (paragraph 4.17 of FAL 38/WP.4);
- 8 identify outdated provisions in the current ~~Standard~~Standards and Recommended Practices, taking into account the incorporated requirements of other international ~~convention~~Conventions;
- 9 identify the changes needed to align the FAL forms with the proposed changes of ~~Standard~~Standards;
- 10 consider the remaining issues identified by MSC 88, which are:

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Coordinator:

Mr. Fabien Joret
Ministry of Ecology, Energy, Sustainable Development and the Sea. Directorate General for Infrastructure, Transport and the Sea. Maritime Affairs Directorate. Merchant Fleet Unit
Tel: 33 (0)1 40 81 73 28
Email: fabien.joret@developpement-durable.gouv.fr

- .1 augmenting information associated with the impact of stowaways on issues related to safety, and specifically the available capacity of life-saving appliances provided on board and the total number of persons permitted; and
 - .2 systematically reviewing the words "return" and "remove";
- 11 consider FAL.6/Circ.13 on Facilitation in avoiding safety threatening conditions;
- 12 take into account the identified areas for amendment of the Explanatory Manual as set out in paragraph 6 of document FAL 37/WP.5 and in the course of the review of the annex to the ~~Convention~~Convention, identify further guidelines that need to be included in the Explanatory Manual;
- 13 consider the inclusion of the trade recovery and contingency practices; and
- 14 submit its report in time for the next session of the ~~Committee~~Committee.

ANNEX 2

~~Annex of the FAL Convention~~Annex to the FAL Convention

~~Convention~~Convention on Facilitation of International Maritime Traffic, 1965, as amended

Explanation regarding annex ~~#~~2

Underlining in grey in the text of annex ~~#~~2 indicates the changes that have been provisionally approved by the FAL committee during its previous session, except where there remain brackets.

Underlining in yellow indicates changes proposed to the FAL 39 ~~Committee~~Committee by the Correspondence Group on the general revision of the FAL ~~e~~ConventionConvention.

The same underlining is used in the footnotes.

ANNEX

Section 1 – Definitions and general provisions

A. Definitions

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

Attempted stowaway. A person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the master or any other responsible person, and who is detected on board the ship before it has departed from the port.

Cargo. Any goods, wares, merchandise, and articles of every kind whatsoever carried on a ship, other than mail, ship's stores, ship's spare parts, ship's equipment, cargo transport units¹; not carried under a contract of carriage with a shipper,² crew's effects and passengers' accompanied baggage.

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

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

Cargo transport unit (CTU). A freight container, swap-body, vehicle, railway wagon or any other similar unit.³

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

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

~~*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.~~

Clearance. Accomplishment of customs and/or other formalities necessary to:

- (a) Permit goods to enter home use, to be exported or to be placed under another Customs procedure (so called Customs clearance),

¹ Those words are added for the reason that under the terms of the Customs Container Convention~~Convention~~ and the Istanbul Convention~~Convention~~, a container is not deemed to be "cargo", as evidenced by those Convention~~Conventions~~' provisions regarding temporary admission of containers. The use of the broader term CTUs is preferred. [source : World Shipping Council]

² This insertion was made for clarification, proposed by the Word Shipping Council to address a concern of the United Kindom that Containers Transport Units (CTU) may at time be carried as cargo. A debate also took place on the merit of using the term CTU versus 'freight container', and on whether it was actually justified to exclude CTU or containers from the definition of cargo. See § 8. in the report.

³ The definition is taken from the IMO/ILO/UNECE *Guidelines for packing of CTUs*, and is added in relation with the addition of CTU to the definition of cargo. (source : World Shipping Council)

(b) Permit persons to enter the territory of a State, or

(c) Permit a ship to enter or depart a port within the territory of a State.⁴

Customs Release.⁵ Action taken by Customs authorities to permit goods undergoing clearance to be placed at the disposal of the persons concerned.

Document. Information presenting data by electronic means or by non-electronic means.

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 a specific location in the port area, where port regulations apply.

Freight container. An article of transport equipment that is of a permanent character and accordingly strong enough to be suitable for repeated use; specially designed to facilitate the transport of goods, by one or other modes of transport, without intermediate reloading; designed to be secured and/or readily handled, having fittings for these purposes, and approved in accordance with the International **Convention** for Safe Containers (CSC), 1972, as amended. The term "freight container" includes neither vehicle nor packaging; however a freight container that is carried on a chassis is included.⁶

ISPS Code. The "International Ship and Port Facility Security (ISPS) Code" adopted on 12 December 2002 by resolution 2 of the Conference of Contracting Governments to the International **Convention** for the Safety of Life at Sea, 1974 (SOLAS), as may be amended by the Organization⁷.

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

Master. The person having command of a ship⁸.

Passenger in transit. A passenger who arrives by ship from a foreign country for the purpose of continuing his/**her**⁹ journey by ship or some other means of transport to a foreign country.

⁴ The amendment comes from concerns expressed by Sweden and a proposition by the WSC, based on fact that the annex to the **convention** uses the term clearance in cases other than customs clearance. It is also used to refer to the clearance of persons and ships, which the definition now reflects.

⁵ The terms *customs* has been deleted before *release* as Sweden observed that it was not actually used in the annex in conjunction with the term *release*. The use of *customs* before *release* in the definition while not in the annex raised the question whether all mentions of *release* in the annex actually referred to *customs release*. It was found that the definition and the **convention** referred only to *customs release* and that the ambiguity was removed with the deletion of *customs*.

⁶ The Word Shipping Council proposed the inclusion of a definition of *freight container* to address the concern that currently only *Cargo Transport Units* (CTUs) are defined whereas the term "*container*" is not, while used throughout the annex, unlike CTUs. "*Freight*" is accordingly added to "*container*" in the annex. The proposed definition is taken from the draft "IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units" (document MSC 93/9/1). It was considered whether the term freight container should not actually replace the term CTUs; see report, § 8.

⁷ Term for use with Recommended Practices 4.3.1.2 and 4.3.2.2.

⁸ Definition provided as the term "shipmaster" is being replaced by the term "master" to **standard** terms throughout the **Convention**.

⁹ The change originates from a proposition by Sweden. It was considered that it may be outdated to refer to only the male gender and that it should be changed to read "his/her".

Passengers' accompanied baggage. Property, which may include currency, carried for a passenger on the same ship as the passenger, whether in his/her¹⁰ personal possession or not, so long as it is not carried under a contract of carriage of goods or other similar agreement.

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

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.

Public authorities. The agencies or officials in a State responsible for the application and enforcement of the laws and regulations of that State which relate to any aspect of the ~~Standard~~Standards and Recommended Practices contained in this annex.

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

Ship Agent: The party representing the ship's owner and/or charterer (the Principal) in port. If so instructed, the agent is responsible to the Principal for arranging, together with the port, a berth, all relevant port and husbandry services, tending to the requirements of the Master and crew, clearing the vessel with the port and other authorities (including preparation and submission of appropriate documentation) along with releasing or receiving cargo on behalf of the Principal.¹¹

Single Window. A facility that allows submission of ~~standard~~Standardized information covered by the ~~Convention~~Convention to a single entry point.¹²

Shipowner. One who owns or operates a ship, whether a person, a corporation or other legal entity, and any person ~~other than the ship agent acting~~¹³ on behalf of the owner or operator.

Ship's documents. Certificates and other documents which must be made available by a ship's master in order to demonstrate the vessel's compliance with international or national regulations.

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

¹⁰ See comment under the definition of passenger in transit.

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

¹¹ Definition originating from a proposition of FONASBA.

¹² The inclusion of a definition of single window is derived from the definition of the UN/CEFACT Recommendation 33 is a outcome of the debate about 1.3quin. It would be completed by the following note:

* Reference is made to the UN/CEFACT Recommendation 33 on single windows.

¹³ Addition originating from a proposition of FONASBA, for consistency in relation with the inclusion of a definition dedicated to the ship agent.

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

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

Shipper. The party named on the bill of lading or waybill as shipper and/or who concludes a contract of carriage (or in whose name or on whose behalf a contract of carriage has been concluded) with a carrier. Also known as the sender.¹⁴

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

Stowaway. A person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the master or any other responsible person and who is detected on board the ship after it has departed from a port, or in the cargo while unloading it in the port of arrival, and is reported as a stowaway by the master to the appropriate authorities.

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

Time of arrival. Time when a ship first comes to rest, whether at anchor or at a dock, in a port.

Transport document. Information evidencing a contract of carriage between a shipowner and a ~~consignor~~ shipper¹⁵, such as a sea waybill, a bill of lading or a multi-modal transport document.

B. General provisions

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

1.1 ~~Standard~~ [Standard](#). Public authorities shall in all cases require only essential information to be furnished, and shall keep the number of items to a minimum.

1.1.1 **Recommended Practice.** ~~Public authorities should take into account the facilitation implications which may result from the introduction of systems for the electronic exchange of~~

¹⁴ From a observation of the Word Shipping Council, it was deemed useful to define the term shipper, which is used in the annex The proposed definition of "shipper" is taken from the draft "IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units (CTUs)" (document MSC 93/9/1).

¹⁵ As mentioned above under the proposed definition of "shipper", the contract of carriage is between the shipper and the carrier. The shipper may or may not be the consignor.(from the WSC)

~~information], and should consider these in collaboration with shipowners and all other interested parties.~~

~~Existing information requirements and control procedures should be simplified, and attention should be given to the desirability of obtaining compatibility with other relevant information systems.~~

1.2 **Recommended Practice.** Notwithstanding the fact that documents for certain purposes may be separately prescribed and required in this annex, public authorities, bearing in mind the interests of those who are required to complete the documents as well as the purposes for which they are to be used, should provide for any two or more such documents that are to be submitted by the same party¹⁶ to be combined into one in any case in which this is practicable and in which an appreciable degree of facilitation would result.

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.

C. Systems for the electronic exchange of information

1.3bis **StandardStandard.** Public authorities shall take all necessary measures for the establishment of systems for the electronic exchange of information by [Date of Adoption + 3 years].¹⁷

1.3ter **StandardStandard.** Public authorities, when introducing systems for the electronic exchange of information to assist clearance processes, shall provide shipowners and other parties concerned with the necessary information about the systems requirements and give an adequate period of transition before the use of the systems are made mandatory. A period of no less than 12 months for transition to the mandatory use of the systems shall be provided from the date of the introduction of such systems.¹⁸

1.3quart **Recommended Practice.** Public authorities should, for a transitional period, allow for the submission of required information for clearance processes in both electronic and paper form.

1.3quin **Recommended Practice.** Contracting Governments should encourage public authorities to introduce arrangements to enable trade and transport operators including ships to submit the submission of¹⁹ all the information required by public authorities in connection

¹⁶ Words added for editorial clarification (Source, World Shipping Council).

¹⁷ A majority was in favor of a delay of 3 years, although this remained subject to conflicting views – see report, §4.

¹⁸ Originating from a proposition of Denmark, it was deemed relevant to determine the length of the period of transition. 12 months were accepted to be an appropriate time for regulated parties to develop, test and implement IT systems for usage in submitting required information. This time period is counted from when all the functional and technical specifications and supporting material (e.g. message implementing guidance, and test scenarios) have been developed, tested internally, and then made available to the regulated parties.

This explanation may be further elaborated and reflected in the **Explanatory Manual**

¹⁹ The WSC made the observation that the term "trade and transport operators" was not defined. Although this is a agreed text, it is proposed to delete this term, which leave intact the meaning of 1.3 quin and suppress any question of definition of this term.

with the arrival, stay and departure of ships, persons and cargo, avoiding duplication, ~~to a single entry point ("Single window")~~²⁰.

Consideration should also be given to such a single windows serving as the mechanism through which the public authorities communicate decisions and other information covered by the FAL ~~convention~~Convention.²¹

1.4 ~~Standard~~Standard. When introducing systems for the electronic exchange of information required by public authorities for the arrival, stay and departure of the ship, persons and cargo to facilitate clearance processes, Contracting Governments shall encourage public authorities and other parties concerned (shipowners, handling companies, seaports, and/or cargo agents, etc.) to exchange data in conformity with the relevant UN ~~standard~~Standards, including UN Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT) ~~standard~~Standards, or the XML ~~standard~~Standards.

1.5 ~~Standard~~Standard. Public authorities shall accept any of the documents required for clearance processes in paper form, when produced by data processing techniques on plain paper, provided that they are legible, conform to the layout of the documents in the FAL ~~Convention~~Convention and contain the required information.

1.6 ~~Standard~~Standard. Public authorities, when introducing systems for the electronic exchange of information for clearance processes, shall limit the information they require from shipowners and other parties concerned to that required by the FAL ~~Convention~~Convention.

1.6bis ~~Standard~~Standard. When introducing systems for the electronic exchange of information required by public authorities for the arrival, stay and departure of the ship, persons and cargo to facilitate clearance processes, Contracting Governments shall encourage public authorities and other parties concerned (shipowners, handling companies, seaports, and/or cargo agents, etc.) to exchange data in conformity with the relevant UN ~~standard~~Standards, including UN Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT) ~~standare~~Standards, or other internationally agreed ~~standard~~Standards, such as the XML ~~standard~~Standard.

1.6ter **Recommended Practice.** When introducing new electronic message formats, public authorities should continue to allow for the usage of existing electronic message formats in agreement with the parties concerned.²²

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

- (a) afford all interested parties, from the outset, the opportunity for consultation;
- (b) evaluate existing procedures and eliminate those which are unnecessary;

²⁰ It was considered more adequate to refer directly to the term "single windows, which is now defined.

²¹ Originating from a proposition from the WSC, it is proposed to include in the recommended ambit of the single windows, not only the original transmission of data, but the communications between authorities and operators. The debate has clarified that this communication role is meant to comprise only such information as are covered by the FAL ~~convention~~Convention.

²² Originating from a proposition of the WSC. Public authorities, shipowners and other parties in the supply chain have made significant investments in their information systems. The introduction of new systems and formats should as far as possible allow or for the continuing use of legacy systems, and thus be compatible with their existing formats. It was nevertheless argued that the acceptance of legacy formats could not be guaranteed in all case or indefinitely, thus 1.6ter is only proposed as a recommended practice.

- (c) determine those procedures which are to be computerized;
- (d) use United Nations (UN) Recommendations, WCO Information Packages,²³ and relevant ISO StandardStandards to the maximum extent practicable;
- (e) adapt these systems for multimodal applications; and
- (f) take appropriate steps to minimize the cost of implementing these systems to operators and other private parties; and
- (g) give attention to the desirability of obtaining compatibility with other relevant information systems.

1.7.1 **Recommended Practice.** Contracting Governments should encourage public authorities and other parties concerned to cooperate or participate directly in the development of electronic systems using internationally agreed standardStandards 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 **StandardStandard.** Public authorities, when introducing systems for the electronic exchange of information to assist clearance processes, shall encourage their use by maritime operators and other parties concerned but shall not reduce levels of service available to operators who do not use such systems.~~

~~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

1.9 **Recommended Practice.** Public authorities should seek to establish cooperation arrangements with shipowners and other parties concerned to improve their ability to combat drug smuggling, while providing enhanced facilitation. Such arrangements could be based on the Customs Cooperation Council* Memoranda of Understanding and the associated guidelines.

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

²³ The WCO has pointed out that the WCO Data Model contains information required from a multi-authority perspective and undergoes a regular and careful process of maintenance through contributions from multiple stakeholders. The Information Packages Data Model can be used to report IMO FAL information as well as for Maritime Single Window, and is being relied-upon by users. Considering that the FAL Forms are used to a large extent by Customs, it was accepted to include a reference to the WCO Data Model in the RP.

* Since 1994 known as the World Customs Organization.

E. Control techniques

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

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

thereby facilitating the legitimate circulation of persons and goods.

Section 2 – Arrival, stay and departure of the ship

This section contains the provisions concerning the formalities required of shipowners by the public authorities on the arrival, stay and departure of the ship and shall not be read so as to preclude a requirement for the presentation for inspection by the appropriate authorities of certificates and other papers carried documents made available²⁴ by the ship pertaining to its registry, measurement, safety, manning and other related matters.**

A. General

2.1 **StandardStandard.** Public authorities shall not require for their retention, on arrival or departure of ships to which the **ConventionConvention** applies, any documents other than those covered by the present section.

The documents in question are:

- General Declaration
- Cargo Declaration
- Ship's Stores Declaration
- Crew's Effects Declaration
- Crew List
- Passenger List
- Dangerous Goods Manifest
- The document required under the Universal Postal **ConventionConvention** for mail
- Maritime Declaration of Health
- Security-related information as required under SOLAS regulation XI-2/9.2.2
- Advance Electronic Cargo Information for customs risk assessment purposes
- Advanced Notification Form For Waste Delivery to Port Reception Facilities, when communicated to the Organization.²⁵

²⁴ Usage of "papers" is impractical and anachronistic. This also applies to certificates and other documents that a shipowner is required, upon request, to make available to public authorities. Requiring such certificates to be carried by the ship and made available in original is cumbersome and unnecessary, also when considering the existence of internationally accepted methods for authentication of documents made available to public authorities (Source : World Shipping Council).

** See FAL.2/Circ.123-MEPC.1/Circ.769-MS.C.1/Circ.1409 FAL.2/Circ.87-MEPC/Circ.426-MS.C.1/Circ.1151.

²⁵ Regarding the prior request to discharge garbage it was deemed acceptable if the port or terminal has this facility available and has informed on this availability on the GISIS. Hence the proposed insertion of the following words: "when communicated to the organisation." [Source : Brazil]

Note:

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

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

2.1.1 **StandardStandard.** Contracting Governments shall not require consular formalities, charges or fees in connection with **the electronic transmission of**²⁶ documents for the clearance of ships.

2.1.2 **Recommended practice. StandardStandard.** Public authorities ~~should~~ **shall** develop procedures for the lodgement of ~~to use~~ pre-arrival and pre-departure information in order to facilitate the processing of such information ~~required by public authorities~~ for the expedited subsequent **release/clearance of cargo and persons release/clearance of cargo and clearance of persons.**²⁷

2.1.3 **Recommended Practice.** National legislation should specify the conditions for the lodgement 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**²⁸ 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 shorter than the basic rule from this principle where required, e.g., for voyages of short duration.**²⁹

2.1.3**is** **Recommended Practice.** Public authorities should, for the submission of Advance Electronic Cargo information for customs risk assessment purposes, take into account the time limits specified in the WCO SAFE Framework of **StandardStandards.**

2.1.4 **Recommended Practice.** Public authorities should not require the lodgement of a separate General Declaration, Cargo Declaration, Crew List and Passenger List **and Dangerous Goods Manifest** if the data elements contained in these documents are included in the pre-arrival or pre-departure information **or in the ship's manifest.**

²⁶ This amendment evolved from a proposition from the WSC, meant to ensure that shipowners are not charged for transmitting the information they are legally required to submit for the purpose of clearance of ships. The proposed amendment is intended to ensure that shipping companies should always be able to submit mandatorily required information directly to public authorities, and not be forced to use 3rd party systems that impose charges for the usage of their systems.

²⁷ It has been observed in relation with the debate on the definition of *release* that while there would be release of cargo and clearance of cargo, there would not be, in the meaning of the FAL ~~convention~~**Convention**, release of person, only clearance ; hence, this amendment.

²⁸ Proposition originating with the WSC. It was noted that the time-line for submission of advance cargo risk information is addressed in 2.1.3**is**. Other than this case, there would seem to be no reason why required pre-arrival and pre-departure information would have to be lodged before the ship is laden and has departed. The term *substantially* was also felt too subjective.

²⁹ Proposition originating with the WSC. The sentence was felt to be incomplete. The drafting proposed is deemed sufficient.

2.1.5 **Recommended Practice ~~Standard~~Standard.** Public authorities shall:

- a) ~~develop systems for the electronic transmission of data for the lodgement of pre-arrival and pre-departure information; and~~
- b) ~~[consider the] reuse [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, where such data is required.~~³⁰

B. Contents and purpose of documents

2.2 **StandardStandard.** The General Declaration shall be the basic document on arrival and departure providing data required by public authorities relating to the ship.

2.2.1 **Recommended Practice.** The same form of General Declaration should be accepted for both the arrival and the departure of the ship.

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

- name, type and IMO number of ship
- call sign
- flag State of ship
- voyage number
- particulars regarding registry
- particulars regarding tonnage
- name of master
- name and contact details of ship's agent
- brief description of the cargo
- number of crew
- number of passengers
- brief particulars of voyage
- date and time of arrival, or date of departure
- port of arrival or departure
- ~~[estimated draught on arrival and departure]~~³¹
- ~~position of the ship in the port~~³²
- the ship's requirements in terms of waste and residue reception facilities
- last port of call/next port of call

2.2.3 **StandardStandard.** Public authorities shall accept that the General Declaration is either dated and signed by the master, the ship's agent or some other person duly authorized by the master, or authenticated in a manner acceptable to the public authority concerned.

³⁰ The scope of application of this provision has been questioned by Japan, whether it applied only to electronic transmissions and if its proper scope was not the transmissions referred to in 2.1.4. Sweden also felt that the text was too narrow since the information already gathered only should be reused for customs release and customs clearance. It is thus proposed to give to 2.1.5 a scope that can cover all transmissions referred to in 2.1.4.

³¹ The view supported by a wide majority was that vessel draft information is a operational matter to be exchanged between the ship and the harbor master, and should not be included in a document to be submitted to public authorities for the clearance of the ship. A debate on whether it it would have been preferable to use the term 'actual draft' instead of 'estimated draft', or to use just plain draft, did not alter this basic opposition.

³² The WSC proposed this deletion which was supported, on the basis that this data element did not need to be in the General Declaration for the purpose of clearance of the ship. Also, the 'position of ship in the port may not be known prior to arrival.

2.3 **StandardStandard.** The Cargo Declaration shall be the basic document on arrival and departure providing data required by public authorities relating to the cargo. However, particulars of any dangerous cargo may also be required to be furnished separately.

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

(a) on arrival

- name and IMO number of ship
- flag State of ship
- name of master
- **call sign**³³
- voyage number
- port of loading
- port where report is made
- **freight**³⁴ container identification, where appropriate; marks and numbers; number and kind of packages; quantity and description of the goods or, if available, the HS Code*
- transport document numbers for cargo to be discharged at the port in question
- ports at which cargo remaining on board will be discharged
- original ports of shipment in respect of goods shipped under multimodal transport documents or through bills of lading.

(b) on departure

- name and IMO number of ship
- flag State of ship
- name of master
- **call sign**³⁵
- voyage number
- port of discharge

³³ The WSC proposed the deletion of "name of master" and "call sign" from the cargo declaration considering that (1) they are already provided in the general declaration, and (2) may not be available to the party lodging the cargo declaration, i.e. the bill of lading issuing carrier (see also 2.3.3 below), whereas they are available to the party lodging the general declaration, i.e. the vessel operator. This remark also apply to the data for departure.

In all cases involving vessel sharing agreements (VSA) which are pervasive in the liner shipping industry -- in VSA or similar arrangements the general declaration will be lodged by the vessel operator, whereas the cargo declaration will be lodged by each carrier having cargo "riding" the ship. The latter will not know -- and have no need to know -- the name of the master and the call number. As this information has already been provided in the General Declaration there the WSC felt there was no need to provide it again in the Cargo Declaration.

Nevertheless, the deletion of the name of the master encountered US opposition and only the 'call sign' is proposed for deletion.

³⁴ **Consequential amendment to the introduction of a definition of "freight containers"**

ConventionConvention on the Harmonized Commodity Description and Coding System: also known as the "Harmonized system" (HS). This international **ConventionConvention** 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 **Explanation in previous note.**

- in respect of goods loaded at the port in question: freight³⁶ container identification, where appropriate; marks and numbers; number and kind of packages; quantity and description of the goods or, if available, the HS Code³⁷
- transport document numbers for cargo loaded at the port in question.

Note: For the purposes of adequately describing the number and kind of packages on the cargo declaration, shipowners and other concerned parties should ensure that the external packaging unit of the goods will be used. If the goods are on pallets, the number and kind of packages on the pallet(s) should be stated. If the goods on the pallet are not packaged, the quantity and description of goods on the pallet should be used.

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.

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

2.3.3 **StandardStandard.** Public authorities shall accept that the Cargo Declaration is either dated and signed by the master, the shipowner issuing the transport document,³⁸ the ship's agent or some other person duly authorized by the master, or authenticated in a manner acceptable to the public authority concerned.

2.3.4 **StandardStandard.** Public authorities shall accept in place of the Cargo Declaration a copy of the ship's manifest provided it contains at least the information required in accordance with Recommended Practice 2.3.1 and **StandardStandard** 2.3.2 and is signed or authenticated, and dated, in accordance with **StandardStandard** 2.3.3.

2.3.4.1 **Recommended Practice.** As an alternative to **StandardStandard** 2.3.4, public authorities may accept a copy of the transport document signed or authenticated in accordance with **StandardStandard** 2.3.3, or certified as a true copy, if the nature and quantity of cargo make this practicable and provided that any data required and identified in accordance with Recommended Practice 2.3.1 and **StandardStandard** 2.3.2 which does not appear in such documents is also furnished elsewhere and duly certified.

2.3.5 **StandardStandard.** Public authorities shall allow unmanifested parcels in possession of the master to be omitted from the Cargo Declaration provided that particulars of these parcels are furnished separately.

Note: Particulars of unmanifested parcels should be furnished on a separate form and should include relevant parts of the information normally shown in the Cargo Declaration. The IMO Cargo Declaration form could be used, with the title amended, e.g. to read: "Unmanifested Parcels List".

³⁶ Consequential amendment to the introduction of a definition of "freight containers"

³⁷ The WSC noted that the possibility of providing HS codes instead of a plain language cargo description is not provided for the cargo declaration at departure. This was deemed to be an oversight that should be corrected.

³⁸ Two or more shipping companies, in particular in the liner shipping industry, may be having cargo carried on a vessel subject to a vessel sharing (VSA) or similar types of arrangement. Certain of the data elements in the Cargo Declaration will, for shipments it is having carried aboard a vessel subject to a VSA, be known to the bill of lading issuing carrier, not to the vessel operator. The amendment clarifies this so as to appropriately reflect existing industry practice. [Source : World Shipping Council]

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

2.4.1 **StandardStandard.** Public authorities shall accept that the Ship's Stores Declaration is either dated and signed by the master or by some other ship's officer duly authorized by the master and having personal knowledge of the facts regarding the ship's stores, or authenticated in a manner acceptable to the public authority concerned.

2.5 **StandardStandard.** The Crew's Effects Declaration shall be the basic document providing information required by public authorities relating to crew's effects. It shall not be required on departure.

2.5.1 **StandardStandard.** Public authorities shall accept that the Crew's Effects Declaration is either dated and signed by the master or by some other ship's officer duly authorized by the master, or authenticated in a manner acceptable to the public authority concerned. ~~The public authorities may also require each crew member to place his signature, or, if he or she is unable to do so, his mark, against the declaration relating to his effects.~~ For the purpose of onboard verification, the public authorities may also require each crew member to sign or verify in a manner acceptable to the public authorities the declaration relating to his/her personal effects³⁹

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

2.6 **StandardStandard.** The Crew List shall be the basic document required by public authorities containing data relating to the number and composition of the crew on the arrival and departure of a ship.

2.6.1 **StandardStandard.** In the Crew List, public authorities shall not require more than the following data:

- name and IMO number of ship
- flag State of ship
- call sign
- voyage number
- family name
- given names
- nationality
- rank or rating
- gender⁴⁰
- date and place of birth
- nature and number of identity document
- issuing State for identity document
- expiry date of identity document⁴¹

³⁹ The WSC wondered how it would be possible to require individual signatures in an electronic data interchange environment. Sweden observed that signature would still be relevant for on board verification. The amendment proposed reflects this.

⁴⁰ [All biographical data from passport to be included for harmonization with the requirements of International Civil Aviation Organization's Document 9303.]

⁴¹ [Data displayed on FAL Form 5.]

- ~~[visa number, if appropriate][visa number, if required for purposes other than shore leave]~~⁴²
- port and date of arrival
- last port of call.

2.6.2 **StandardStandard.** Public authorities shall accept that the Crew List is either dated and signed by the master or by some other ship's officer duly authorized by the master, or authenticated in a manner acceptable to the public authority concerned.

2.6.3 Not in use.

2.6.4 **Recommended Practice.** In cases where a ship, serving in a scheduled programme, calls again at the same port at least once within 14 days and where minor changes in the crew have taken place, public authorities should not normally require a new, full Crew List to be submitted but should accept the existing Crew List with the changes indicated.

2.7 **StandardStandard.** The Passenger List shall be the basic document required by public authorities containing the data relating to passengers on the arrival and departure of a ship.

2.7.1 Not in use.

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

2.7.3 ~~Recommended Practice~~ **StandardStandard.** In the Passenger List, public authorities ~~shall~~ not require more than the following data:

- name and IMO number of ship
- call sign
- flag State of ship
- voyage number
- family name
- given names
- nationality
- date of birth
- place of birth
- gender
- type of identity or travel document supplied by the passenger and issuing State
- serial number of identity or travel document and expiry date
- port of embarkation

⁴² See report on the debate that this issue raised again, but which did not lead to a new amendment being retained by this report.

- [visa number , if appropriate]⁴³
- port of disembarkation
- port and date of arrival of the ship
- transit passenger or not.

2.7.4 **Recommended Practice.** A list compiled by the shipowners for their own use should be accepted in place of the Passenger List, provided it contains at least the information required in accordance with [StandardStandard](#) 2.7.3 and is dated and signed or authenticated in accordance with [StandardStandard](#) 2.7.5.

2.7.5 **StandardStandard.** Public authorities shall accept that the Passenger List is either dated and signed by the master, the ship's agent or some other person duly authorized by the master, or authenticated in a manner acceptable to the public authority concerned.

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

⁴⁴ [2.8.1 **StandardStandard.** In the Dangerous Goods Manifest public authorities shall not require more than the following information:

- Name of ship
- Call sign
- IMO number
- flag State of ship
- Master's name
- Voyage number
- Port of loading
- Port of discharge
- Shipping agent
- [Booking/reference number transport document numbers for dangerous goods to be discharged at the port in question]⁴⁵
- Marks and numbers

43 Brackets deleted. The proposition originated with France, and supported with the following observation :

This aims is to allow a faster crossing of frontiers for passengers in countries where their admission is subject to visa requirements, as checks may thus been carried out before the crossing.

The proposition aims to encourage carrier to be mindful, when passengers are embarking, that all of them hold the documents required by the State of destination or transit, in conformity with [standardStandard](#) 3.15.1 of the FAL [conventionConvention](#). This proposition has the advantage to harmonise the format of this data item, in the event it is required by public authorities. Electronic transmissions will make this formality easier to accomplish.

The EU COMmission, the United Kingdom and the Netherland were supportive. Denmark, observed also that the inclusion of the visa number, can be seen in the context of the overall increased focus on security and immigration in many states which the maritime sector also has to deal with and adjust to.

ICS, Japan, Liberia and the Marshall Islands expressed concern about the potential administrative burden that might be caused by this amendment and the system modification It might requires.

The retention of *visa number, if appropriate* is thus supported by a majority, but not consensual.

⁴⁴ (Awaiting advice from DSC after consideration of document FAL 38/4/1)

⁴⁵ The booking number may be the bill of lading number, but it may not be. If it is not, then the bill of lading number is the number that governs the shipment, and for that reason it would be more logical and informative for public authorities to require this number instead of the booking number. Also, the change creates consistency with the data elements to be included in the Cargo Declaration. [Source : World Shipping Council]

- freight⁴⁶ container ID No(s).
- vehicle Reg. No(s).
- Number and kind of packages
- Proper shipping name
- Class
- UN Number
- Packing group
- Subsidiary risk(s)
- Flashpoint (in oC, c.c.)
- Marine Pollutant
- Mass (kg) – gross/net
- EmS
- Stowage position on board
- Additional information

2.9 **StandardStandard.** 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 **ConventionConvention**, 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.

2.10 **StandardStandard.** The Maritime Declaration of Health shall be the basic document containing the data required by port health authorities relating to the state of health on board a ship during the voyage and on arrival at a port.

C. Documents on arrival

2.11 **StandardStandard.** ~~In respect of a ship's arrival in port, taking into account StandardStandard 1.3bis and Recommended Practice 1.3quart, public authorities shall not require more than:~~

Till the expiration of the transitional period referred to in **StandardStandard** 1.3ter, public authorities shall in respect of a ship's arrival in port not require more than :⁴⁷

~~In respect of a ship's arrival in port, public authorities shall not require more than:~~

- 5 copies of the General Declaration
- 4 copies of the Cargo Declaration
- 4 copies of the Ship's Stores Declaration
- 2 copies of the Crew's Effects Declaration
- 4 copies of the Crew List
- 4 copies of the Passenger List
- 1 copy of the Dangerous Goods Manifest
- 1 copy of the Maritime Declaration of Health
- 1 copy of the Security-related information as required under SOLAS regulation XI-2/9.2.2

⁴⁶ Consequential amendment to the introduction of a definition of "freight containers".

⁴⁷ This amendment is consequential to the decision to make electronic transmission a **standardStandard**. As noted by Sweden, All the paper copies mentioned in **standardStandard** 2.11 imply that only paper documents are used and not electronically documents, so it can be relevant only as far as paper communication are used.

- 1 copy of the Advanced Notification Form For Waste Delivery to Port Reception Facilities when communicated to the Organization.]⁴⁸

Upon expiration of the transitional period referred to in [StandardStandard 1.3ter](#), paper copies shall not be required except in case of force majeure where means of electronic transmission are unavailable.⁴⁹

D. Documents on departure

2.12 [StandardStandard](#). [~~In respect of a ship's departure from port, taking into account [StandardStandard 1.3bis](#) and Recommended Practice 1.3quart, public authorities shall not require more than:~~ In respect of a ship's departure from port, public authorities shall not require more than:

Till the expiration of the transitional period referred to in [StandardStandard 1.3ter](#), public authorities shall in respect of a ship's departure from port not require more than :⁵⁰

- 5 copies of the General Declaration
- 4 copies of the Cargo Declaration
- 3 copies of the Ship's Stores Declaration
- 2 copies of the Crew List
- 2 copies of the Passenger List
- 1 copy of the Dangerous Goods Manifest.

Upon expiration of the transitional period, paper copies shall not be required except in case of force majeure where means of electronic transmission are unavailable".⁵¹

2.12.1 [StandardStandard](#). A new Cargo Declaration shall not be required on departure from a port in respect of cargo which has been the subject of a declaration on arrival in that port and which has remained on board.

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

2.12.3 [StandardStandard](#). 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 **or authenticated in a manner acceptable to the public authority concerned**,⁵² 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.

⁴⁸ Regarding the prior request to discharge garbage, the amendment is deemed acceptable if the port or terminal has this facility available and informed on this availability on the GISIS. Hence the proposed insertion of the following words: "when communicated to the Organization." [Source : Brazil]

⁴⁹ Consequential amendment to the decision to make electronic transmission a [standardStandard](#).

⁵⁰ See comment under 2.11.

⁵¹ See previous comment under 2.11.

⁵² Proposition originating with the World Shipping Council, considering that this [StandardStandard](#) needs to be updated to reflect electronic transmission of the Crew List where signatures are not feasible.

2.13 ~~Not in use~~⁵³

E. Consecutive calls at two or more ports in the same State

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

F. Completion of documents

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

2.16 **Standard**. If public authorities require documents in paper form they shall accept documents conveyed by any legible and understandable medium, including documents handwritten in ink or indelible pencil or produced by the use of information technology.

2.16.1 **Standard**. Public authorities shall accept a signature, when required, in handwriting, in facsimile, perforated, stamped, in symbols, or made by any other mechanical or electronic means, if such acceptance is not inconsistent with national laws. The authentication of information submitted on non-paper media shall be in a manner that is acceptable to the public authority concerned and which facilitates the electronic submission of the information by the parties concerned irrespective of their residence.^{54 55}

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

* ~~Numbers in the 2.13 series are reserved for future use.~~

⁵³ Editorial amendment. [source : Secretariat.]

⁵⁴ The same requirements thus apply to all shipowners irrespective of their country of residence. It reflects factual experience that certain jurisdictions have tried to impose residency requirements as a condition for shipowners being allowed to use electronic signatures and/or electronic filing systems. [Source : World Shipping Council]

⁵⁵ The World Shipping Council, proposed, and the group supported, in view of the request in paragraph 4.25 in FAL 38/WP.4, the following language **for inclusion in the Explanatory Manual:**

"Electronic transmission of required information can be done from any location as long as the submitter has been certified and authenticated pursuant to applicable regulations and requirements. Such regulations and requirements may not require that the submitter is domiciled in the jurisdiction to which the information is to be submitted. Nor may they require the usage of a service provider or IT systems, e.g., a server, located in that jurisdiction. Information regarding certification and authentication requirements should be publicly and electronically available, and should in addition to any local languages be furnished in one of the official languages of the Organization".

G. Errors ~~and amendments~~⁵⁶ in documentation and penalties therefore

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

2.19 **StandardStandard.** ~~If errors are found [in data transmitted as] documents provided for in Appendix 1 of this annex or, in [exceptional circumstances, a the] corresponding [data] [document] [transmitted in electronic form],~~⁵⁷ ~~If errors are found in the data transmitted as provided for in Appendix 1 of this annex,~~⁵⁸ which have been signed by or on behalf of a shipowner or master, or otherwise authenticated, no penalties shall be imposed until an opportunity has been given to satisfy the public authorities that the errors were inadvertent, not of a serious nature, not due to recurrent carelessness and not made with intent to violate the laws or regulations of the port State.

~~2.189bis~~ **StandardStandard.** Public authorities shall allow for amendments to information already submitted in accordance with applicable laws and regulation ...{see footnote 23}}⁵⁹

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

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

2.21 **StandardStandard.** Public authorities shall, ~~by radio whenever possible, but in any case~~⁶⁰ by the fastest channels available, inform the master, before the arrival of the ship, of the documentation and the procedures necessary to put the sick or injured persons ashore expeditiously and to clear the ship without delay.

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

2.23 **StandardStandard.** With regard to ships calling at ports for this purpose and intending to leave again immediately, public authorities shall not ~~normally~~ require the

⁵⁶ [To be further developed by the CG est. After FAL 38 and taking into account the new proposal 2.18bis (amendments)]

Brackets deleted. The new proposal 2.18bis, now 2.19 bis, was actually deemed adequate and retained as drafted. See below under 2.19 bis.

⁵⁷ For coherence with **standardStandard** 2.18. [source : World Shipping Council]

⁵⁸ The turn of phrase is made compatible with electronic transmission. (Source World Shipping Council).

⁵⁹ Brackets deleted. The group agreed that this **standardStandard** is actually clear and self-sufficient as drafted and did not call for further development. It has also been renumbered from 2.18bis to 2.19bis, as it appeared more logical than 2.19 remains directly after 2.18

⁶⁰ The phrase "by radio whenever possible" is redundant. [Source : Australia]

documents mentioned in **StandardStandard** 2.1 with the exception of the Maritime Declaration of Health, and, if it is indispensable, the General Declaration. **Public authorities shall in such situations waive the time limits for the submission of the documents.**

2.24 **StandardStandard.** Where public authorities require the General Declaration, this document shall not contain more data than those mentioned in Recommended Practice 2.2.2 and, wherever possible, shall contain less.

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

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

2.27 **StandardStandard.** Emergency medical treatment and measures for the protection of public health shall take precedence over any control measures which public authorities may apply to sick or injured persons being put ashore.

Section 3 – Arrival and departure of persons

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

A. Arrival and departure requirements and procedures

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

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

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

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

3.3.1 **StandardStandard.** Each Contracting Government shall ensure that the public authorities seize fraudulent, falsified or counterfeit travel documents of inadmissible persons. Such documents shall be removed from circulation and returned to the appropriate

authorities when practicable. In place of a seized document, a covering letter* shall be issued by the removing State and attached to it will be a photocopy of the forged travel documents, if available, as well as any important information. The covering letter and its attachment shall be handed over to the operator responsible for the removal of the inadmissible person. It will serve to give information to the authorities at the transit and/or the original point of embarkation.

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

3.3.2 ~~Standard~~Standard. Contracting Governments shall accept for examination a person being returned from his/~~her~~ point of disembarkation after having been found inadmissible if this person had embarked in their territory. Contracting Governments shall not return such a person to the country where he ~~or she~~ was earlier found to be inadmissible.⁶¹

Note 1: This provision is not intended to prevent public authorities from further examining a returned inadmissible person to determine his eventual acceptability in the State or make arrangements for his transfer, removal or deportation to a State of which he is a national or where he is otherwise acceptable. Where a person who has been found to be inadmissible has lost or destroyed his travel document, a Contracting Government will accept instead a document attesting to the circumstances of embarkation and arrival issued by the public authorities of the Contracting Government where the person was found to be inadmissible.

Note 2: Nothing in this ~~Standard~~Standard or in Note 1 is to be construed as contradicting the provisions of the United Nations ~~Convention~~Convention Relating to the Status of Refugees of 28 July 1951 and the United Nations Protocol Relating to the Status of Refugees of 31 January 1967, which concern the prohibition of the expulsion or return of a refugee.

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

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

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

3.3.6 ~~Standard~~Standard. Where a person is found to be inadmissible, the public authorities shall, without unreasonable delay, inform the shipowner and consult the

* A possible format for a covering letter is given in appendix 2.

⁶¹ Change originating from a proposition by Sweden. It was considered that it may be outdated to refer to only the male gender and that it should be changed to read "his/her".

shipowner regarding the arrangements for removal. The shipowner is responsible for the costs of stay and removal of an inadmissible person and, in the case where the person is transferred back to the custody of the shipowner, the shipowner shall be responsible for effecting his/her prompt removal to:

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

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

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

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

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

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

3.7 **StandardStandard.** In cases where evidence of protection against yellow fever is required from persons on board a ship, public authorities shall accept the International Certificate of Vaccination or Re-Vaccination in the forms provided for in the International Health Regulations.

3.8 **Recommended Practice.** Medical examination of persons on board or of persons disembarking from ships should normally be limited to those persons arriving from an area infected with quarantinable diseases within the incubation period of the disease concerned (as stated in the International Health Regulations). Additional medical examination may, however, be required in accordance with the International Health Regulations.

3.9 **Recommended Practice.** Public authorities should normally perform customs inspections of inbound passengers' accompanied baggage on a sampling or selective basis.

Written declarations in respect of passengers' accompanied baggage should be dispensed with as far as possible.

3.9.1 Recommended Practice. Public authorities should, wherever possible, waive inspections of accompanied baggage of departing passengers, with due regard to the possible need to impose appropriate security measures preferably by automated means to facilitate review⁶².

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

3.10 StandardStandard. A passport or an identity document issued in accordance with relevant ILO ~~Convention~~Conventions, or else a valid and duly recognized seafarer's identity document, shall be the basic document providing public authorities with information relating to the individual member of the crew on arrival or departure of a ship.

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

- family name
- given names
- gender⁶³
- date and place of birth
- nationality
- physical characteristics
- photograph (authenticated)
- signature
- date of expiry (if any)
- issuing public authority.

3.10.2 StandardStandard. When it is necessary for a seafarer to enter or leave a country as a passenger by any means of transportation for the purpose of:

- (a) joining his/her⁶⁴ ship or transferring to another ship,
- (b) passing in transit to join his/her ship in another country, or for repatriation, or for any other purpose approved by the authorities of the country concerned,

public authorities shall accept from that seafarer in place of a passport the valid seafarer's identity document, when this document guarantees the readmission of the bearer to the country which issued the document.

3.10.3 Recommended Practice. Public authorities should not normally require presentation of individual identity documents or of information supplementing the seafarer's identity document in respect of members of the crew other than that given in the Crew List.

⁶² Japan expressed doubts on the clarity of "automated means", but no proposition was agreed.

⁶³ The gender may be required in the seafarer's identity document, as article 3.7 of the ILO Seafarers' Identity Documents ~~Convention~~Convention, 2003 (C185), lists it among the particulars that must be included in the seafarer's identity document.

⁶⁴ The change originates from a proposition by Sweden. It was considered that it may be outdated to refer to only the male gender and that it should be changed to read "his/her".

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

3.11 **Recommended Practice.** Public authorities should, with the cooperation of shipowners and port authorities, and/or port administration⁶⁵ take appropriate measures to the end that satisfactory port traffic flow arrangements may be provided so that passengers, crew and baggage can be cleared rapidly, should provide adequate personnel, and should ensure that adequate installations are provided, particular attention being paid to baggage loading, unloading and conveyance arrangements (including the use of mechanized systems) and to points where passenger delays are frequently found to occur. Arrangements should be made, when necessary, for passage under shelter between the ship and the point where the passenger and crew check is to be made. Such arrangements and installations should be flexible and capable of expansion to meet increased security measures during higher threat situations security levels⁶⁶.

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

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

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

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

- (a) furnishing public authorities concerned with an advance message giving the best estimated time of arrival, followed by information as to any change in

⁶⁵ [Source : Venezuela.]

⁶⁶ Align terminology with SOLAS regulation XI-2/1.14.

* Reference is made to Recommended Practice 11 and appendix II of Annex F3 of the Kyoto ConventionConvention.

time, and stating the itinerary of the voyage where this may affect inspection requirements;

- (b) having ship's documents ready for prompt review;
- (c) providing for ladders or other means of boarding to be rigged while the ship is en route to berth or anchorage; and
- (d) providing for prompt, orderly assembling and presentation of persons on board, with necessary documents, for inspection, with attention to arrangements for relieving crew members for this purpose from essential duties in engine-rooms and elsewhere.

3.13 Recommended Practice. The practice of entering names on passenger and crew documents should be to put the family name or names first. Where both paternal and maternal family names are used, the paternal family name should be placed first. Where for married women both the husband's and wife's paternal family names are used, the husband's paternal family name should be placed first.

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

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

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

3.15.2 StandardStandard. When a person is found to be inadmissible and is removed from the territory of the State, the shipowner shall not be precluded from recovering, from such a person, any costs arising from his/her inadmissibility.⁶⁷

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

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

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

3.17 Recommended Practice. For elderly and disabled passengers being set down or picked up at a terminal building, reserved points should be located as close as possible to

⁶⁷ The change originates from a proposition by Sweden. It was considered that it may be outdated to refer to only the male gender and that it should be changed to read "his/her".

main entrances. These should be clearly marked with appropriate signs. Access routes should be free of obstacles.

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

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

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

3.20 **StandardStandard.** Public authorities shall authorize granting of pratique by ~~radio~~ electronic means⁶⁸ to a cruise ship when, on the basis of information received from it prior to its arrival, the health authority for the intended port of arrival is of the opinion that its arrival will not result in the introduction or spread of a quarantinable disease.

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

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

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

3.24 **Recommended Practice.** If a cruise ship stays at ~~a any~~ port ~~within the Contracting Government's territory~~ for less than 72 hours, it should not be necessary for cruise passengers to have visas, except in special circumstances determined by the public authorities concerned ~~[or as domestic law requires]~~.⁶⁹

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

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

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

⁶⁸ The term "by radio" is amended to cover current method of operating.

⁶⁹ This proposition was made by the United States with the intent to add a new exception to the scope of the RP. I was supported by France, opposed by the Marshalls Island and ICS. In the final condition of the debate, it was difficult either to dismiss the amendment or to consider it supported. The ~~committee~~Committee may consider the matter.

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

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

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

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

3.31 **StandardStandard.** Duty-free ship's stores shall be allowed aboard ship for cruise passengers during the ship's stay in port.

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

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

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

3.35 Not in use.

E. Special measures of facilitation for passengers in transit

3.36 **StandardStandard.** A passenger in transit who remains on board the ship on which he or she⁷⁰ arrived and departs with it shall not normally be subjected to routine control by public authorities except for security purposes or in extraordinary circumstances determined by the public authorities concerned.

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

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

3.39 **Recommended Practice.** A passenger in transit who is continuing his journey from the same port in the same ship should normally be granted temporary permission to go ashore during the ship's stay in port if he so wishes subject to the public authorities' admissibility and visa requirements⁷¹.

⁷⁰ The change originates from a proposition by Sweden. It was considered that it may be outdated to refer to only the male gender and that it should be changed to read "his/her".

⁷¹ Provides for greater clarity as regards the reasons permission to go ashore may be refused.

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

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

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

F. Measures of facilitation for ships engaged in scientific services

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

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

3.44 **StandardStandard.** [All] Foreign Crew⁷² members shall be allowed ashore by the public authorities while the ship on which they arrive is in port, provided that the formalities on arrival of the ship have been fulfilled and the public authorities have no [clear grounds reason reason]⁷³ to refuse permission to come ashore for reasons of public health, public safety or public order. Shore leave shall be allowed in a manner which excludes discrimination such as on the grounds of nationality, race, colour, sex, religion, political opinion, or social origin and irrespective of the flag State of the ship on which they are employed, engaged or work.

3.44bis **StandardStandard.** In any case where permission for shore leave has been refused, the relevant public authorities shall communicate their reasons for shore leave denial to the seafarer concerned and the master. If requested by the seafarer concerned or the master, such reasons shall be provided in writing.⁷⁴

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

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

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

⁷² A simple reference to crew member was supported (source WSC)

⁷³ The choice of wording originates from a proposition of France, considering that the wording "clear grounds" is subjective and open to different legal interpretations. The alternative wording using "reason" was preferred.

⁷⁴ Although a agreed text, 3.44bis elicited significant reticence during the work of the correspondence group. See report, §10.

3.48 **Recommended Practice.** If crew members are required to carry documents of identity with them when they are on shore leave, these documents should be limited to those mentioned in ~~Standard~~Standard 3.10.

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

Section 4 – Stowaways

A. General Principles

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

4.2 ~~Standard~~Standard. Public authorities, port authorities, shipowners ~~and their representatives~~⁷⁵ and ~~shipmasters~~⁷⁶ shall cooperate to the fullest extent possible in order to prevent stowaway incidents and to resolve stowaway cases expeditiously and secure that an early return or repatriation of the stowaway will take place. All appropriate measures shall be taken in order to avoid situations where stowaways must stay on board ships ~~indefinitely~~ for an unreasonable amount of time.

B. Preventive measures

4.3 Ship/Port preventive measures

4.3.1 Port/terminal authorities

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

4.3.1.2 **Recommended Practice.** Operational arrangements and/or ~~port facility~~ security plans should, at least be equivalent to those contained in relevant text of section B/16 of the ~~ISPS Code~~⁷⁷ ~~inter alia, address the following issues where appropriate:~~

(a) ~~regular patrolling of port areas;~~

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

⁷⁵ ~~The shipowners representatives are included in shipowners definition.~~

⁷⁶ ~~Having two terms to describe the same entity causes confusion.~~

⁷⁷ ~~As all the provisions listed are included in the ISPS Code, reference is changed to the paragraph of part B that contains the guidance.~~

- ~~(b) — establishment of special storage facilities for cargo subject to high risk of access of stowaways, and continuous monitoring of both persons and cargo entering these areas;~~
- ~~(c) — inspection of warehouses and cargo storage areas;~~
- ~~(d) — search of cargo itself, when presence of stowaways is clearly indicated;~~
- ~~(e) — cooperation between public authorities, shipowners, masters and relevant shoreside entities in developing operational arrangements;~~
- ~~(f) — cooperation between port authorities and other relevant authorities (e.g. police, customs, immigration) in order to prevent smuggling of humans;~~
- ~~(g) — developing and implementing agreements with stevedores and other shoreside entities operating in national ports to ensure that only personnel authorized by these entities participate in the stowing/unstowing or loading/ unloading of ships or other functions related to the ships stay in port;~~
- ~~(h) — developing and implementing agreements with stevedores and other shoreside entities to ensure that their personnel having access to the ship is easily identifiable, and a list of names of persons likely to need to board the ship in the course of their duties is provided; and~~
- ~~(i) — encouragement of stevedores and other persons working in the port area to report to the port authorities, the presence of any persons apparently not authorized to be in the port area.~~

4.3.2 Shipowner/~~Shipmaster~~ Master

4.3.2.1 **Standard**~~Standard~~. Contracting Governments shall require that shipowners, and their representatives⁷⁸ in the port, the masters as well as other responsible persons⁷⁹ have security arrangements in place which, as far as practicable, will prevent intending stowaways from getting aboard the ship, and, if this fails, as far as practicable, will detect them before the ship leaves port.

4.3.2.2 **Recommended Practice**. When calling at ports and during stay in ports, where there is risk of stowaway embarkation, ~~security~~ operational arrangements and/or ship security plans should at least contain the following preventive measures: be equivalent to those contained in the relevant text of section B/9 of the ISPS Code.⁸⁰

~~all doors, hatches and means of access to holds or stores, which are not used during the ships stay in port should be locked;~~

~~access points to the ship should be kept to a minimum and be adequately secured;~~

~~the ships stay in port should be locked;~~

~~access points to the ship should be kept to a minimum and be adequately secured;~~

~~areas seaward of the ship should be adequately secured;~~

⁷⁸ The shipowners representatives included in the shipowner definition.

⁷⁹ Representatives in the port, the masters as well as other responsible persons not required as included in definition of shipowners.

⁸⁰ As all the provisions listed are included in the ISPS Code, reference is changed to the paragraph of part B that contains the guidance.

adequate deck watch should be kept;

boardings and disembarkations should, where possible, be tallied by the ships crew or, after agreement with the shipmaster, by others;

adequate means of communication should be maintained; and

at night, adequate lighting should be maintained both inside and along the hull.

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

4.3.2.4 **StandardStandard**. Contracting Governments shall require that fumigation or sealing of ships entitled to fly their flag may not be carried out until a search which is as thorough as possible practicable of the areas to be fumigated or sealed has taken place in order to ensure that no stowaways are present in those areas.

4.3.3 National Sanctions

4.3.3.1 **StandardStandard**. Where appropriate, Contracting Governments shall, according incorporate into their national legislation, prosecute stowaways legal grounds to allow prosecution of stowaways, attempted stowaways and any individual or company aiding a stowaway or an attempted stowaway with the intention to facilitate access to the port area, any ship, cargo or freight⁸¹ containers.⁸²

C. Treatment of the stowaway while on board

4.4 General principles – Humane treatment

4.4.1 **StandardStandard**. Stowaway incidents shall be dealt with consistent with humanitarian principles, including those mentioned in StandardStandard 4.1. Due consideration must always be given to the operational safety of the ship and the safety and wellbeing of the stowaway.

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

⁸¹ Consequential amendment to the introduction of a definition of the "Freight container"

⁸² This clause provides that Contracting Governments shall take action to prosecute anyone who attempts to stowaway according to their national legislation. Such action is therefore dependant on the national legislation being in place, but does not suggest that States should have such legislation in place to allow them to prosecute. The amendments put the onus on States to have such legislation in their national law. For example, whilst the original wording is a good preventative measure, there seems to be little occurrence of countries who prosecute stowaways. Generally it is the shipowner that is penalized or sanctioned and not the stowaway. [Source : World shipping Council]

4.5 Work on board

4.5.1 ~~Standard~~**Standard**. Stowaways shall not be required ~~permitted~~ to work on board the ship, except in emergency situations or in relation to the stowaway's accommodation and provisioning⁸³ on board.

4.6 Questioning and notification by the ~~shipmaster~~ **master**

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

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

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

4.7 Notification of ~~to~~ the International Maritime Organization

4.7.1 ~~Recommended Practice~~ **Standard**~~Standard~~. Public authorities ~~shall~~ **should** report all stowaway incidents of which they become aware to the Secretary-General of the International Maritime Organization.

D. Deviation from the planned route

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

permission to disembark the stowaway has been granted by the public authorities of the State to whose port the ship deviates; or

repatriation has been arranged elsewhere with sufficient documentation and permission for disembarkation; or

⁸³ S 4.4.2 introduces provisioning as a criterion. Ship's crew should not be expected to wash plates, etc., for stowaways. The amended ~~Standard~~**Standard** states that the stowaway should not be permitted to work. If a stowaway works, he/she will feel naturally entitled to pay, not realizing that they would have to work for many months on board in order to make up for the costs and expenses a shipowner will incur because of him (her), and that particular issue could become an added problem. If a stowaway did work then this would also cause difficulties for the shipowner from the seafarers' unions, and there would also be an increased risk of the stowaway suffering injury due to their lack of training and experience of working on board a vessel.

there are extenuating **safety**⁸⁴, security, health or compassionate reasons; or

attempts to disembark in other ports on the planned voyage have failed and deviation is necessary in order to avoid that the stowaway remain on board for a significant period of time.

E. Disembarkation and return of a stowaway

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

4.9.1 **StandardStandard**. Public authorities in the country of the ship's first scheduled port of call after discovery of a stowaway shall decide in accordance with national legislation whether the stowaway is admissible to that State and will do their utmost to cooperate with the parties involved in resolving the issue.⁸⁵

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

4.9.3 **StandardStandard**. ~~Where appropriate and in accordance with national legislation, public~~ **Public**⁸⁶ authorities in the country of the ship's first scheduled port of call after discovery of a stowaway shall allow disembarkation of the stowaway when the public authorities are satisfied that they or the shipowner will obtain valid travel documents, make timely arrangements for repatriation of the stowaway, and fulfil all the requisites for transit. Public authorities shall, further, favourably consider allowing disembarkation of the stowaway, when it is impracticable to remove the stowaway on the ship of arrival for the stowaway to remain on the ship or other factors exist which would preclude removal the stowaway remaining⁸⁷ on the ship. Such factors may include, but are not limited to when:

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

4.10 Subsequent ports of call

4.10.1 **StandardStandard**. When disembarkation of a stowaway has failed in the first scheduled port of call after discovery of the stowaway, public authorities of the⁸⁸ subsequent ports of call shall examine the stowaway as for disembarkation in accordance with **StandardStandards** 4.9.1, 4.9.2 and 4.9.3.

⁸⁴ The current economic migration driver for stowaways coupled with organized criminals organizing transport means that there can be large numbers of stowaways on the ship. This can mean that the ship's lifesaving capacity is exceeded, thus raising questions about safety (raised at MSC 88).

⁸⁵ Experience would suggest that there needs to be a greater onus on the State of the ship's first scheduled port of call after discovery of a stowaway to cooperate in resolving the issue.

⁸⁶ The **standardStandard** covers only cases where the authorities are satisfied that they or the shipowner will obtain valid travel documents, make timely arrangements for repatriation of the stowaway and fulfil all requisites for transit.

⁸⁷ The phrases "remove the stowaway on the ship of arrival" and "removal" caused immense difficulty amongst delegations to MSC 88, maritime security working group, especially to those whose first language was not English. The revised text states simply what is being considered.

⁸⁸ See reasons discussed under 4.6.1. [WSC]

4.11 State of Nationality or Right of Residence

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

4.11.2 **StandardStandard**. Public authorities shall, when possible, assist in determining the identity and nationality/citizenship of stowaways claiming to be a national or having a right of residence in their State. Where possible, the local embassy, consulate or other diplomatic representation of the country of the stowaway's nationality will be required to assist in verifying the stowaway's nationality and providing emergency travel documentation.⁸⁹

4.12 State of Embarkation

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

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

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

4.13 The flag State

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

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

⁸⁹ There should be an obligation on the State of the stowaway's nationality to assist in verifying their nationality and providing them with the necessary travel documentation. The local embassy would be the appropriate means of providing such assistance.

4.14 Return of stowaways

4.14.1 **Recommended Practice.** When a stowaway has inadequate documents, public authorities should, whenever practicable and to an extent compatible with national legislation and security requirements, issue a covering letter with a photograph of the stowaway and any other important information, or alternatively, a suitable travel document accepted by the public authorities involved. The covering letter, authorizing the return of the stowaway either to his/her country of origin or to the point where the stowaway commenced his/her journey, as appropriate, by any means of transportation and specifying any other conditions imposed by the authorities, should be handed over to the operator affecting the removal of the stowaway. This letter will include information required by the authorities at transit points and/or the point of disembarkation.

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

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

4.15 Cost of return and maintenance of stowaways

4.15.1 **Recommended Practice.** The public authorities of the State where a stowaway has been disembarked should generally inform the shipowner, on whose ship the stowaway was found as far as practicable, of the level of cost of detention and return and any additional costs for the documentation of the⁹⁰ stowaway, if the shipowner is to cover these costs. In addition, public authorities should cooperate with the shipowner to keep such costs to a minimum as far as practicable and according to national legislation, if they are to be covered by the shipowner.⁹¹

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

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

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

⁹⁰ There are additional costs that the State of disembarkation should inform the shipowner of, the amendments tries to cover. [WSC]

⁹¹ The words "as far as practicable and according to national legislation, if they are to be covered by the shipowner" were deleted by mistake at the working group that met during the FAL CommitteeCommittee meeting in September 2011. Those words are reinserted.

Section 5 – Arrival, stay and departure of cargo and other articles

This section contains the provisions concerning the formalities required by public authorities from the shipowner, his/her⁹² agent or the master of the ship.

A. General

5.1 **Recommended Practice.** Public authorities should, with the cooperation of shipowners, ~~and~~ port authorities, ~~and port facilities and terminals~~, take appropriate measures to ~~the end~~ ensure⁹³ that port time may be kept to a minimum, should provide satisfactory port traffic flow arrangements, and should frequently review all procedures in connection with the arrival and departure of ships, including arrangements for embarkation and disembarkation, loading and unloading, servicing and the like and the security measures associated therewith. They should also make arrangements whereby cargo ships and their loads can be entered and cleared, in so far as may be practicable, at the ship working area.

5.2 **Recommended Practice.** Public authorities should, with the cooperation of shipowners, ~~and~~ port authorities, ~~and port facilities and terminals~~, take appropriate measures to ~~the end~~ ensure that satisfactory port traffic flow arrangements are provided so that handling and clearance procedures for cargo will be smooth and uncomplicated. These arrangements should cover all phases from the time the ship arrives at the dock for unloading and public authority clearance and for free zones, storage facilities, warehousing and ~~onward movement~~ ~~re-forwarding~~⁹⁴ of cargo if required. There should be convenient and direct access between the free zone, storage facilities and⁹⁵ cargo warehouse and the public authority clearance area, which should be located close to the dock area, ~~and mechanical conveyance should be available, where possible~~ with, whenever possible, easy access and transfer capabilities and infrastructure⁹⁶.

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

⁹² **Outdated" expression that should read "his/her".**

⁹³ Many ports around the world are essentially landowners who lease acreage to terminals that stevedore the ships calling that particular port. [Source : World Shipping Council]

⁹⁴ ["re-forwarding" was deemed to be unclear. [Source : World Shipping Council]

⁹⁵ Free zones and storage facilities for e.g. transhipped goods are essential components of international maritime containerized supply chains and it is essential for the uninterrupted flow of maritime containerized shipments that such facilities are available and provide efficient and effective services that reflect the 24/7/365 nature of international liner shipping. [Source : World Shipping Council]

⁹⁶ "Mechanical conveyance" was deemed a unclear term. [Source : World Shipping Council]

5.3**bis** **Recommended Practice.** Public authorities should require only a minimum of data necessary for the identification of the cargo that is to be placed in storage prior to release or re-export or importation, and should, whenever available, use the information contained in the pre-arrival declaration for this purpose.⁹⁷

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

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 inspections are carried out simultaneously at one place and with a minimum of delay and, whenever possible, carried out upon prior coordination with the party having custody of the consignment.⁹⁸

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

B. Clearance of cargo

5.7 **StandardStandard.** 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.

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.

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

5.9 Reserved.

⁹⁷ Goods declared for temporary storage will have been included in the pre-arrival declaration and/or the arrival manifest so information about such goods are already available to the public authorities and will have been screened by them. If such goods are to be re-exported, the main interest of public authorities will be to ensure that the goods released for re-export are the same that were declared for temporary storage. If such goods, however, are to be imported, they will only be released upon the filing of a separate import Customs declaration to ensure, inter alia, that national prohibitions and restrictions are complied with and that the goods to be released are the same as those declared for temporary storage. In order to provide for such confirmation of similarity of the goods declared for temporary storage and the goods released, only few data elements about the identity of the goods are required when the goods are first declared for temporary storage. This principle is embedded in e.g. existing EU and EU Member State Customs legislation. [Source : World Shipping Council]

Although a agreed text, the US, the UK and the Word Customs Organisation expressed reluctance about that text. The WSC argued of the adequacy of that text. No amendment was supported in a manner fit to address a agreed text. See report § 11.

⁹⁸ A meaningful and tangible facilitation to maritime trade will be – just like national "Single Windows" – the joint inspection by multiple national government agencies of the same shipment. Also, the party having custody of the consignment, and thus potentially liable for any damages to it during an inspection, should, whenever possible, be informed about the impending inspection and afforded the opportunity to be present during the inspection. [Source : World Shipping Council]

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

5.10.1 **Recommended Practice.** Public authorities should ~~consider the introduction of~~ introduce⁹⁹ simplified procedures for authorized persons allowing:

- a) release of the goods on the provision of the minimum information necessary to identify the goods, to accurately identify and assess risk as it relates to concerns such as health, safety and security, and permit the subsequent completion of the final goods declaration;
- b) clearance of the goods at the declarants premises or another place authorized by the relevant public authority; and
- 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.¹⁰⁰

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

5.12 **Recommended Practice.** ~~In so far as resources allow, p~~Public authorities should, on the basis of a valid request, conduct physical examinations of cargo, where necessary, at the point where it is loaded into its means of transport and while loading is in progress, either at the dockside or, in the case of unitized cargo, at the place where the freight container is packed¹⁰¹ loaded and sealed.

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

5.14 **Recommended Practice.** Public authorities should use systems for the electronic exchange of information for the purposes of obtaining information in order to accelerate and simplify storage, clearance and re-export¹⁰² processes.

5.14.1 **Recommended Practice.** Public authorities should ~~endeavour to~~ quickly clear terminate¹⁰³ the transit procedure covering goods from another State awaiting loading.

⁹⁹ Multiple jurisdictions have introduced measures similar to those enumerated in either the WCO's "SAFE Framework of ~~Standard~~Standards", including its AEO recommendations, and/or the WCO's Revised Kyoto ~~Convention~~Convention. The revised FAL ~~Convention~~Convention should reflect and support such trade facilitating measures. [Source : World Shipping Council]

¹⁰⁰ The WSC pointed that FAL 38/WP.4, paragraph 6.3. raises the possibility that the CG could further consider this Recommended Practice. WSC expressed the view that with the amendment made at FAL 38, the paragraph appropriately addresses the inclusion of trade facilitating measures, e.g., AEO, and that no further amendments are needed. This view was not contradicted.

¹⁰¹ The point of stuffing a container is the logical place to inspect a container, if warranted. Inspection of a container after it has been sealed and await vessel loading is burdensome and slows down trade. It should be noted that the qualifier "on the basis of a valid request" provides sufficient discretion to public authorities regarding whether to inspect a container. [Source : World Shipping Council]

¹⁰² The original text does not apply to the temporary storage functionality that is critically important to the liner shipping industry for goods that are to be transhipped. [Source : World Shipping Council]

¹⁰³ This amendment aims to provide specific guidance on how to terminate the transit procedure. It would not be reasonable to keep goods under the transit procedure preventing the goods from being loaded and exported, thus slowing down international trade. [Source : World Shipping Council]

C. Freight¹⁰⁴ containers and pallets

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

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

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

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

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

5.19 **StandardStandard.** Where any cargo listed on the Cargo Declaration is not discharged at the port of intended destination, public authorities shall permit amendment of the Cargo Declaration and shall not impose penalties if satisfied that the cargo was not in fact loaded on the ship, or, if loaded, was [~~or is to be~~¹⁰⁵] landed at another port.

5.20 **StandardStandard.** When, by error or for another valid reason, any cargo is discharged at a port other than the port of intended destination, public authorities shall facilitate ~~re-loading or onward movement~~ ~~re-forwarding~~¹⁰⁶ to its intended destination. This provision does not apply to ~~dangerous~~, prohibited or restricted cargo.

¹⁰⁴ Consequential amendment to the introduction of a definition of the "Freight container"

¹⁰⁵ The **World Shipping Council**: the Cargo Declaration cannot and should not be interpreted as entailing a requirement to actually discharge the goods listed in a particular port. As mentioned earlier, containerized goods are oftentimes sold in transit with a resulting change of port of discharge, and supply-demand changes may lead a shipper customer to request that its containerized shipments are to be discharged in another port than originally scheduled. As long as the Cargo Declaration (if applicable) is appropriately amended to reflect such entirely legitimate business decisions, there should be no sanctions in the form of penalties or otherwise, imposed on the shipowner. ALSO: To be further developed by the CG established after FAL 38 and taking into account the new proposal 2.18bis (amendments)]

No support was expressed for this inclusion.

¹⁰⁶ Editorial clarification [Source : World Shipping Council].

E. Limitation of shipowner's responsibilities

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

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

5.23 **StandardStandard.** The shipowner shall be obliged to provide the information regarding the entry or exit of goods known to the shipowner at the time of lodging such data and as set out in the transport document that evidences the bill of lading. Thus, the shipowner can base the lodgement on data provided by the shipper customer, unless the shipowner has reason to believe that the data provided is untrue.¹⁰⁷

5.24 **Recommended Practice.** Public authorities should implement regulations pursuant to which the person, who initiates and contractually agrees with a party (e.g. a consolidator, a freight forwarder or a shipowner) for the carriage of a maritime cargo shipment to the territory of another State, must provide complete and accurate cargo shipment information to that party.¹⁰⁸

Section 6 – Public health and quarantine, including sanitary measures for animals and plants

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

6.2 **Recommended Practice.** Contracting Governments having certain interests in common owing to their health, geographical, social or economic conditions should conclude special arrangements pursuant to article 85 of the International Health Regulations when such arrangements will facilitate the application of those Regulations.

6.3 **Recommended Practice.** Where Sanitary Certificates or similar documents are required in respect of shipments of certain animals, plants or products thereof, such certificates and documents should be simple and widely publicized and Contracting Governments should cooperate with a view to **standardStandard**izing such requirements.

¹⁰⁷ For sealed, stuffed containers, the shipowner unavoidably needs to rely on the shipping instructions, including the cargo description, provided by the shipper customer for submitting the various cargo declarations required by public authorities. Ocean carriers cannot visually inspect or ascertain the contents of sealed CTUs.

A party, such as an ocean carrier, can provide to public authorities the information that is known to it as part of its ordinary way of doing business. In maritime traffic, "known" means as set out in the transport document that is or evidences the bill of lading.

The above principles have been recognized and embraced by multiple jurisdictions; the suggested new **StandardStandard** reflects, for example, the European Commission's publicly stated position. ("Guidelines on entry and summary in the context of Regulation (EC) No 648/2005" (pages 12-13) which can be accessed at: http://ec.europa.eu/ecip/documents/procedures/import_entry_guidelines_en.pdf) [Source : World Shipping Council]

¹⁰⁸ The proposed new Recommended Practice is a logical extension of the principle that an ocean carrier can only provide the information "known" to it as evidenced by the bill of lading which, in turn, is based on the shipping instructions. It is also in conformance with, e.g. the European Commission's publicly stated position (see reference in the comment immediately above). [Source : World Shipping Council]

6.4 **Recommended Practice.** Public authorities should ~~whenever practicable~~ authorize granting of pratique ~~by radio~~ by electronic means¹⁰⁹ to a ship when, on the basis of information received from it prior to its arrival, the health authority for the intended port of arrival is of the opinion that its arrival will not result in the introduction or spread of a quarantinable disease. Health authorities should as far as practicable be allowed to join a ship prior to entry of the ship into port.

6.4.1 **StandardStandard.** Public authorities shall seek the cooperation of shipowners to ensure compliance with any requirement that illness on a ship is to be reported promptly by ~~radio~~ electronic means¹¹⁰ to health authorities for the port for which the ship is destined, in order to facilitate provision for the presence of any special medical personnel and equipment necessary for health procedures on arrival.

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

6.6 **Recommended Practice.** Public authorities should provide facilities for the completion of International Certificates of Vaccination or Re-Vaccination as well as facilities for vaccination at as many ports as feasible.

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

6.8 **Recommended Practice.** ~~To ensure, inter alia, efficient maritime traffic~~¹¹¹ Public authorities should maintain at as many ports as feasible adequate facilities for the administration of public health, animal and agricultural quarantine measures.

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

6.10 **StandardStandard.** Except in the case of an emergency constituting a grave danger to public health, a ship which is not infected or suspected of being infected with a quarantinable disease shall not, on account of any other epidemic disease, be prevented by the health authorities for a port from discharging or loading cargo or stores or taking on fuel or water.

6.11 **Recommended Practice.** Shipments of animals, animal raw materials, crude animal products, animal foodstuffs and quarantinable plant products should be permitted in specified circumstances ~~when accompanied by a quarantine certificate in the form agreed by~~

¹⁰⁹ To ensure ~~standardStandard~~ization across the Annex, "granting of pratique by radio" should be changed to "pratique by electronic means", as in 3.20. [Source : Australia]

¹¹⁰ Editorial change, consequence of the amendment to 6.4. [Source : World Shipping Council]

¹¹¹ Editorial clarification to underline the facilitatory nature of the Recommended Practice. [Source : World Shipping Council]

the States concerned and when the certification requirements have been met at the time of discharge¹¹².

Section 7 – Miscellaneous provisions

A. Bonds and other forms of security

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

B. Services at ports

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

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

7.4 **StandardStandard.** No charge shall be made by a health authority for any medical examination, or any supplementary examination, whether bacteriological or otherwise, carried out at any time of the day or night, if such examination is required to ascertain the health of the person examined, nor for visit to and inspection of a ship for quarantine purposes except inspection of a ship for the issue of a ~~De-ratting or De-ratting exemption Certificate~~ Ship Sanitation Control Certificate or Ship Sanitation Control Exemption Certificate, nor shall a charge be made for any vaccination of a person arriving by ship nor for a certificate thereof. However, where measures other than these are necessary in respect of a ship or its passengers or crew and charges are made for them by a health authority, such charges shall be made in accordance with a single tariff which shall be uniform to the territory concerned and they shall be levied without distinction as to the nationality, domicile or residence of any person concerned or as to the nationality, flag, registry or ownership of the ship.

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

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

¹¹² The amendment derives from a proposition by United States to include language on utilizing safeguarding practices for agriculture and food products.

In addition, and upon a observation by the WSC, the reference to a quarantine certificate was deleted as this implies either a hard copy of or the original certificate.

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

C. *Emergency assistance*

7.8 **StandardStandard.** 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.

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

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

D. *National facilitation committeeCommittees*

7.11 **Recommended Practice.** Each Contracting Government should, ~~where it considers such action necessary and appropriate to establish, in close co-operation with the maritime industry,~~ a national maritime transport facilitation programme based on the facilitation requirements of this annex and ensure that the objective of its facilitation programme should be to adopt all practical measures to facilitate the movement of ships, cargo, crews, passengers, mail and stores, by removing unnecessary obstacles and delays.

7.12 **Recommended Practice.** Each Contracting Government should establish a national maritime transport facilitation ~~committeeCommittee~~ or a similar national coordinating body, for the encouragement of the adoption and implementation of facilitation measures, between governmental departments, agencies and other organizations concerned with, or responsible for, various aspects of international maritime traffic, as well as port authorities, ~~port facilities and terminals~~¹¹³ and shipowners.

Note: In establishing a national maritime transport facilitation ~~committeeCommittee~~ or a similar national coordinating body, Contracting Governments are invited to take into account the guidelines set out in FAL.5/Circ.2.

¹¹³ See discussion under 5.1 above. [Source : World Shipping Council]

"IMO GENERAL DECLARATION
(IMO FAL Form 1)

		<input type="checkbox"/>	Arrival	<input type="checkbox"/>	Departure
1.1 Name and type of ship			1.2 IMO number		
1.3 Call sign			1.4 Voyage number		
2. Port of arrival/departure			3. Date and time of arrival/departure		
4. Flag State of ship	5. Name of master		6. Last port of call/Next port of call		
7. Certificate of registry (Port; date; number)			8. Name and contact details of ship's agent		
9. Gross tonnage	10. Net tonnage				
11. Position of the ship in the port (berth or station)					
12. Voyage (previous and subsequent ports of call; underline where remaining cargo will be discharged)					
13. Brief description of the cargo					
14. Number of crew	Number of passengers		16. Remarks		
Attached documents (indicate number of copies)					
17. Cargo Declaration	Stores Declaration				
19. Crew List	20. Passenger List		The ship's requirements in terms of waste and residue reception facilities		
21. Waste Declaration (only on arrival)	22. Maritime Declaration of Health (only on arrival)				
24. Date and signature by master, authorized agent or officer					

		<input type="checkbox"/> Arrival	<input type="checkbox"/> Departure
<u>1.1 Name and type of ship</u>		<u>1.2 IMO number</u>	
<u>1.3 Call sign</u>		<u>1.4 Voyage number</u>	
<u>2. Port of arrival/departure</u>		<u>3. Date and time of arrival/departure</u>	
<u>4. Flag State of ship</u>	<u>5. Name of master</u>	<u>6. Last port of call/Next port of call</u>	
<u>7. Certificate of registry (Port; date; number)</u>		<u>8. Name and contact details of ship's agent</u>	
<u>9. Gross tonnage</u>	<u>10. Net tonnage</u>		
<u>11. Position of the ship in the port (berth or station)</u>			
<u>12. Brief particulars of voyage (previous and subsequent ports of call; underline where remaining cargo will be discharged)</u>			
<u>13. Brief description of the cargo</u>			
<u>14. Number of crew</u>	<u>15. Number of passengers</u>	<u>16. Remarks</u>	
<u>Attached documents</u> (indicate number of copies)			
<u>17. Cargo Declaration</u>	<u>18. Ship's Stores Declaration</u>		
<u>19. Crew List</u>	<u>20. Passenger List</u>	<u>21. The ship's requirements in terms of waste and residue reception facilities</u>	
<u>22. Crew's Effects Declaration (only on arrival)</u>	<u>23. Maritime Declaration of Health (only on arrival)</u>		
<u>24. Date and signature by master, authorized agent or officer</u>			

For official use

IMO CARGO DECLARATION
(IMO FAL Form 2)

		<u>Arrival</u>	<u>Departure</u>	<u>Page Number</u>
<u>1.1 Name of ship</u>		<u>1.2 IMO number</u>		
<u>1.3 Call sign</u>		<u>1.4 Voyage number</u>		
<u>2. Port where report is made</u>		<u>3. Flag State of ship</u>		
<u>4. Name of master</u>		<u>5. Port of loading/Port of discharge</u>		
<u>B/L No.*</u>	<u>6. Marks and Numbers</u>	<u>7. Number and kind of packages; description of goods, or, if available, the HS Code</u>	<u>8. Gross weight</u>	<u>9. Measurement</u>
<u>10. Date and signature by master, authorized agent or officer</u>				

* Transport document number. Also state original ports of shipment in respect to goods shipped on multimodal transport document or through bills of lading.

IMO PASSENGER LIST
(IMO FAL Form 6)

					Arrival				Departure	ber
Name of ship			IMO number				Call sign			
1.4 Voyage number		2. Port of arrival/departure		3. Date of arrival/departure		4. Flag State of ship				
5. Surname, given names	6. Nationality	Date and place of birth	Type of travel document	Type of travel document	Port of embarkation	number if appropriate	Port of disembarkation	Transit passenger or not		
					13. Date and signature by master, authorized agent or officer					

This version of FAL form 7 that appears on the next page was proposed by Japan. The proposition was accepted by the group, with the understanding that it would be referred for approval to the CCC and/or its E&T Group.

It should be noted that another proposition was made by Belgium, with the specific purpose of identifying the Consignee or Title Holder, in order to facilitate the future implementation of the HNS ~~convention~~ Convention. Those data are identified in the proposal by Japan also, which thus may serve a identical purpose in this respect.

Japan provided the following explanations:

Note 1 (Concerning #18 (Former #4)): Regarding item 3 (currently Port of loading), in case of this Dangerous Goods Manifest (DGM) on departure, the item 3 should be "Port of loading" and the item 4 should be "Port of discharge." However, in case of this DGM on arrival, the item 3 should be "Port of discharge" and the item 4 should be "Port of loading." In this case, if there are multiple dangerous goods to be discharged at port in question, "Port of discharge" will be the same while "port of loading" may not necessarily be the same for all of the goods, hence item 4 should be moved from the header part to detailed part. (Same thing applies for departure – same "Port of loading," separate "Port of discharge" for each goods).

Note 2 (Concerning #4(Belgium #17 and #18)): In the transport document (which is normally Bill of Lading), words of Shipper and Consignee (or Notify Party) are used for Sender and Receiver, so that such words will be used.

Note 3 (Use of abbreviation): Please refer to FAL Form 7 (DGM) which Japan proposed. Due to the limitation of the form size (its paper document is normally B4 landscape size), the format CG proposed may be insufficient to describe data contents in such a narrow column. If it is used, it becomes necessary to share one column by several sister data contents in paper document. So Japan will propose to share one column by several data contents by using a prefix (data item abbreviation, e.g. SH = Shipper, CO = Consignee) to designate the right data item.

Note 4: Additional information may be necessary.

Note 5 (Concerning #20 and #21): Signature of Master and Signature of Agent should be only for paper documents. To avoid any misunderstanding, the text of "Signature not needed for electronic message" is to be better placed.

DANGEROUS GOODS MANIFEST
(IMO FAL Form 7)

Page No. (e.g. 5 of 7)

(As required by SOLAS 74, Chapter VII, regulation 4.5 and 7-2.2, MARPOL 73/78, Annex III, regulation 4.3 and chapter 5.4, paragraph 5.4.3.1 of the IMDG Code)

1.1 Name of Ship: 1.2 IMO Number: 1.3 Call Sign : 1.4 Voyage Number:				2. Flag State of Ship:			18.1 Master's Name:			
				3. Port of Loading or Port of Discharge:			19.1 Shipping Agent:			
4. Transport Document No. (B/L#)	5. Shipper (SH), Consignee (CO), Title Holder (TH)	6. Marks & Numbers (MN), Container No(s) (CN), Vehicle Reg. No(s) (VN)	7. Number and Kind of Packages	8. Proper Shipping Name 9. UN No.	10. Packing Group	11. Class (CL), 12. Subsidiary Risk(s) (SR), 13. Flashpoint (in °C,c.c.) (FP), 14. EmS (ES)	15. Marine Pollutant	16. Mass (kg) Gross/Net	17. Stowage Position on board	18. Port of Discharge or Port of Loading
19. Additional information										
20.1 Master's Name & Master's Signature: (Signature not needed for electronic message)						21.1 Shipping Agent & Agent's Signature:(Signature not needed for electronic message)				
20.2 Place and Date (of Signature or Dispatch of electronic message)						21.2 Place and Date (of Signature or Dispatch of electronic message)				

***IMO FAL Form 7

ANNEX 3

July 23, 2013

Observations in Support of Making Electronic Data Exchange Mandatory in Maritime Traffic

Submitted by BIMCO, ICS ~~AND~~ and WSC

Introduction

FAL 38 extensively discussed the proposal by the FAL 38 working group ((FAL 38/WP.4) regarding the introduction of mandatory electronic exchange of information. During this discussion, the FAL 38 plenary supported the proposal that the new Correspondence Group on the Comprehensive Review of the Annex to the ~~Convention~~Convention should, as part of its consideration, elaborate on the benefits of electronic transmissions in its report to FAL 39.

It was agreed at FAL 38 that the correspondence group would not be expected to undertake a comprehensive, quantitative, cost-benefit analysis of a mandatory electronic data exchange requirement. Rather, the correspondence group should endeavor to undertake a qualitative description of the rationale for, and benefits resulting from, the introduction of such an electronic exchange requirement.

This outcome of the FAL 38 plenary discussion is reflected in the Terms of Reference for the correspondence group, which state that the correspondence group shall "advise on and provide proper justification for the date of application when the establishment of electronic exchange of information should become mandatory by amending ~~Standard~~Standard 1.3**bis**".¹¹⁴

The below observations are intended to assist the correspondence group in developing the qualitative description of the rationale for, and benefits resulting from, the introduction of an electronic data exchange requirement for inclusion in its report to FAL 39.

The current situation

In a presentation at FAL 38 organized by the Danish Maritime Authority, a ship's master for the world's largest container carrier noted that he must prepare 80 documents to call at six ports during a single voyage in the same geographic region (European Union), and estimates that he spends 30 minutes at each port call he makes just preparing paper documents.¹¹⁵ If that amount of time were applied to every one of the liner industry's 10,000 weekly port calls (worldwide), it would mean that some of the industry's most highly trained

¹¹⁴ The report of FAL 38 (document FAL 38/15) also notes in paragraph 4.4 that "The ~~Committee~~Committee agreed that, before a final decision on the date of the mandatory implementation of electronic exchange of information could be taken, an analysis of the costs and benefits of setting up the system would be required". The report, however, does not identify who, when and where such a cost-benefit analysis should be done. This, we believe, further substantiates that the Correspondence Group should provide to FAL 39 the qualitative description of the rationale for, and benefits resulting from, the introduction of an electronic data exchange requirement.

¹¹⁵

<http://www.soefartsstyrelsen.dk/SiteCollectionDocuments/Nyheder/2013/IMO%20Fal%20April%202013%20Official.pdf>

and specialized workers are wasting 5,000 hours every week completing paperwork that could be submitted electronically. At a time when a vessel masters' workloads are constantly increasing due to the application of numerous additional regulatory and record keeping requirements, this is a counterproductive and wasteful use of a master's time.

Furthermore, if the information presently filed in a paper format instead is submitted electronically it can be received by governments earlier than paper documents submitted upon vessel arrival, it can be analyzed far more quickly, effectively, and accurately with various electronic data search tools, and it can be much more easily shared amongst appropriate government authorities that may have responsibilities with respect to that country's import and export commerce.

Benefits to trade of electronic data exchange

The benefits of electronic data exchange to trade have been well documented and include: improved accuracy; lower transaction and storage costs; improved speed in administrative and operational functions (e.g. electronic vs. manual data handling); and tighter integration between trading partners.¹¹⁶ Businesses and governments have been converting paper processes to electronic data transmission for decades. In virtually every industry around the world, businesses have been eliminating paper. Initiatives to enable direct exchange of data between trading partners' computer systems and with governments have been underway for 20 years or more, for a consistent reason: it is more efficient and better use can be made of the information.

Research consistently shows that electronic data interchange (EDI) costs about one third as much as processing the same information via paper.¹¹⁷ EDI's direct impact is to reduce the amount of data capture and transcription. This generally results in a decreased incidence of errors, less time spent on exception-handling, and fewer data-caused delays in the business process.

Benefits to Governments of electronic data exchange

There are many benefits to governments that utilize electronic data transmission for maritime commerce.

1. With electronic data transmission, government authorities can receive the relevant data earlier than they can with the paper documents submitted by a ship's master. This earlier receipt of data facilitates improved electronic security assessments, Customs clearance, and other law enforcement functions.
2. Electronic data transmission enables government authorities to analyze the data they receive more quickly, in greater detail, with greater accuracy. A container ship's cargo manifest in paper format can easily exceed 1,000 pages. Manually reviewing such a document is a daunting task. When the same data is submitted electronically, government authorities can use various automated "search tools" to analyze the data. This vastly improves governments' ability to make effective use of the information provided.
3. With improved and more efficient data analysis, electronic data facilitates the handling and release of a country's import and export commerce.

¹¹⁶ "Electronic Commerce: Falling Barriers," Beverage World Magazine, January 2009. www.beverageworld.com

¹¹⁷ <http://www.edibasics.co.uk/benefits-of-edi/>

4. With electronic data transmission, the information received by authorities may be more accurate. Every time a master must convert data that is in a company's electronic data system to a paper filing, there is a risk of unintentional transcription errors.
5. With electronic data transmission, government authorities can much more easily and accurately compile statistical trade information for both national and port-specific uses.
6. Electronic data transmission is more efficient, allows authorities to do more with the information with fewer resources, and reduces their costs.
7. Electronic data allows government agencies to share data amongst relevant government offices faster and more easily. There may be multiple government agencies with law enforcement responsibilities for import and export regulation, and paper submissions impede, at best, and prevent, at worst, the timely sharing and analysis of such information across different agencies. A thousand page cargo manifest cannot be efficiently and effectively shared amongst multiple government personnel. Paper thus impairs timely and effective law enforcement.
8. Finally, every government requires paper filings to be stored for a number of years. The warehousing and custodial costs and responsibilities associated with paper filing and storage impose greater costs on governments than electronic data transmission and storage. The storage and disposal of paper documents also results in unnecessary environmental costs.

World Customs Organization

The above discussed benefits to both governments and trade of electronic data exchange have been recognized, not only by governments and every industry, but specifically in the present context by the World Customs Organization (WCO). These Customs-related benefits are of particular relevance for the review of the FAL ~~Convention~~[Convention](#) and the proposal to make electronic data exchange mandatory, considering the role that several FAL Forms and their equivalents (e.g. the arrival and cargo manifests) play for the Customs notification, presentation and clearance of goods in international commerce.

Following a survey of WCO member Customs administrations on "dematerialization" (i.e., digitization) of Customs-related information, –the WCO concluded that:

"The case for moving to paperless processes in international trade rests on the fact that it has the potential to reduce delays occurring at the time of release and ~~ec~~clearance of cargo. [...] Dematerialization of supporting documents not only supports a lean and efficient customs clearance process, it also creates a number of advantages for downstream business processes of Customs, especially in the area of post-clearance audit and enforcement and miscellaneous functions associated with the management of disputes. Customs officers performing audit and enforcement functions manage documentation in a very challenging setting. With the support of technology for document management, it would be far easier for these officers to collate, share and cross-verify information quickly and efficiently. In post clearance audit, desk-checking and onsite audit verification requires quick access to reports based on Customs declarations and supporting documents. Systematic

document management is an absolute necessity for a best-practice modern Customs administration. Where high volumes of documentation are involved, timely accessibility, accuracy and correctness are of essence especially for carrying out audit and enforcement functions".¹¹⁸

On the basis of these survey findings, the WCO in June 2012 adopted a Recommendation, addressed to Members of the WCO, and all Members of the United Nations Organization or its specialized agencies, and Customs or Economic Unions, on "the Dematerialization of Supporting Documents". The Recommendation calls, *inter alia*, for the discontinuation of the requirement to present supporting documents in hard copy, and for processing the release and clearance of cargo based only on electronic declarations and automated verification. (The WCO Recommendation is reproduced in the Appendix).

Conclusion

The electronic transmission, reception, processing and storage of trade documents facilitates international commerce, reduces costs for governments and traders, and improves governments' ability to analyze and make effective use of the information submitted. Paper filings governing maritime trade are an anachronism and should no longer exist in the 21st century. It is time for the FAL ~~Convention~~Convention to recognize this fact and require electronic data transmission, rather than paper.

¹¹⁸ WCO document PM0306E1a: "Dematerialization of Supporting Documents".

APPENDIX

RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL¹
ON THE DEMATERIALIZATION OF SUPPORTING DOCUMENTS
(June 2012)

THE CUSTOMS CO-OPERATION COUNCIL,

ACKNOWLEDGING that the Customs administrations by and large have introduced automated systems for cargo clearance and have committed to apply information technology to support Customs operations, where it is cost-effective and efficient for Customs and for the trade,

CONSIDERING that the use of paper-based documentation in international trade is expensive, time-consuming and prone to error and malpractice,

HAVING REGARD to provisions of Chapter 3 of the General Annex to the revised Kyoto ~~Convention~~Convention², with regard to electronic lodgement of the supporting documents with Customs,

RECOGNIZING the rapid development of cost-effective, secure and trusted solutions for electronic document management and repository services, and extensive adoption of these solutions by the industry and administrations,

RECOGNIZING that international organizations, government agencies, and industry associations are increasingly introducing ~~standard~~Standard formats for electronic documents such as licences, certificates, and permits, and are promoting their use in the entire course of the international trade transaction,

AIMING to promote paperless transactions for Customs clearance as an alternative to paper-based documentary requirements,

DESIRING to reduce the cost of trade and to simplify trade procedures by alleviating the burden of delivering, storing, and presenting original paper-based supporting documents during Customs procedures,

and

DESIRING to enhance Customs control through the effective use of automated verification and by adopting the principle of risk management,

RECOMMENDS that Members of the Council and all members of the United Nations Organization or its specialized agencies, and Customs or Economic Unions should as far as possible:-

1 Customs Co-operation Council is the official name of the World Customs Organization (WCO).

2 International ~~Convention~~Convention on Simplification and Harmonization of Customs Procedures (as amended).

- (1) _____-identify supporting documents that are normally required to accompany the cargo and goods declarations and examine the need for those documents for Customs clearance with a view to eliminating them;
- (2) _____-discontinue the requirement of presenting supporting documents in hard copy, if they have already been presented in electronic form;
- (3) _____-process the release and clearance of cargo based only on electronic declaration and automated verification;
- (4) _____-enable automated Customs clearance systems to automatically verify information contained in dematerialized supporting documents where such information is accessible electronically in :
 - (a) _____ ~~(a)~~ Other government agencies' databases
 - (b) Single Window environments (and Cargo Community Systems)
 - (c) Private repositories.

REQUESTS Members of the Council and members of the United Nations Organization or its specialized agencies, and Customs or Economic Unions which accept this Recommendation to notify the Secretary General of the Council of the date from which they will apply the Recommendation and of the conditions of its application. The Secretary General will transmit this information to the Customs administrations of all Members of the Council. He will also transmit it to the Customs administrations of the Members of the United Nations Organization or its specialized agencies and to Customs or Economic Unions which have accepted this Recommendation.

