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

Report of the Correspondence Group

Submitted by France

SUMMARY

Executive summary:	This document describes the work of the Correspondence Group on the general revision of the FAL Convention
Strategic direction:	8
High-level action:	8.0.1, 8.0.2, 8.0.3, 8.0.4
Planned output:	8.0.1.1, 8.0.1.2
Action to be taken:	Paragraph 7
Related documents:	FAL 35/17; FAL 36/17; FAL 37/17 and FAL 37/WP.5

Background

1 FAL 35 decided to initiate a comprehensive revision of the Convention with a view to ensuring that it adequately addresses the present and emerging needs of the shipping industry.

2 FAL 37 considered the draft amendments to the annex of the FAL Convention submitted by a Correspondences Group. The debate left substantial disagreements and a new Correspondences Group was mandated to make further progress on the general revision of the annex.

Work done by the Correspondence Group

3 During its work, the Correspondences Group received new proposals and deepened the arguments on the issues in contention. Although some misunderstandings were clarified, the positions on the key topics remain fundamentally at variance.

SUSTAINABLE DEVELOPMENT:
IMO'S CONTRIBUTION BEYOND RIO+20

4 Three essential issues may be identified as involving a single decision of principle governing the acceptation or rejection of amendments to several Standards and Recommended Practices.

Those three issues are:

.1 The treatment of the electronic exchanges of information in the FAL Convention – whether the FAL Convention should take greater account of the development and potential of electronic transmission, and whether it should be more binding in promoting their deployment.

.2 The desirability, concerning pre-arrival and pre-departure information, of harmonizing the FAL Convention with the WCO SAFE Framework of standards and to upgrade to Standards the relevant FAL Recommended Practice.

.3 The insertion of visa number, if appropriate, in the crew and passengers list and in the disembarkation card.

Annex 1 contains the propositions and arguments related to those topics that have been extracted from the text of the annex to the FAL Convention for a greater clarity.

6 Furthermore, all propositions are presented and commented along the text of the annex to the FAL Convention in annex 2 of this report. When contradictory positions have been expressed, they are encased in a frame following the Recommended Practice or Standard involved. The justifications for uncontested propositions are given in footnotes. In annex 3 of this report are the terms of reference for the Correspondence Group.

For a better understanding, underlining in grey indicates changes considered by FAL 37, and the underlining in yellow indicates changes proposed to FAL 38 by the Correspondence Group on the general revision of the FAL Convention.

Action requested of the Committee

7 The Committee is invited to:

.1 take note of the work of the correspondence group above;

.2 consider the proposed amendments to the Convention as set out in the annexes.

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ANNEX 1

- I -

Positions taken concerning electronic exchanges of information

Proposed amendments to Standards 1.1, 1.5, 1.8, 2.11, 2.12,2.16.1, 2.18, 2.19, to Recommended Practices 1.1.1, 1.3 , 1.8.1, 2.14, and to the introduction of section 2

A. Summary of the debate

Amendments to Standard 1.1, 1.5, 1.8, 2.11, 2.12, 2.16.1, 2.18, 2.19, to Recommended Practice 1.1.1, 1.3, 1.8.1, 2.14 and to the introduction of section 2 have been proposed to reflect the development of electronic systems for the transmission of information.

Currently, the FAL Convention entails that the public authorities may, after consultation, establish electronic means of exchanges, but have to accept paper submission and may not discriminate against them.

Three different approaches were advocated:

1. To maintain the current set up of the Convention regarding electronic exchanges of information, while possibly acknowledging more widely the possibility of using electronic exchanges.

2. To allow public authorities to make the use of electronic transmission mandatory.

3. To make mandatory (or to strongly recommend) that public authorities implement electronic system for information exchange and make exclusive use of them. The pre-eminence of electronic exchanges would be reflected in all RPs and standards dealing with information exchange.

1 The arguments in favour of approach 1 were exposed by **Australia**, **Brazil**, **Japan**, and the **Marshall Islands**. They may be summarized as such:

- Establishing electronic exchange of information is a complex and costly task that may be difficult for some countries to implement. There are still some Parties that have not reached the technological development for use of such systems.

- To impose electronic exchange may run counter to the autonomy of port management bodies and local governments.

- Electronic exchange may not be cost efficient in the numerous small ports.

- Electronic information would not be accepted in court in some jurisdictions.

In relation with the amendment proposed in the introduction to section 2, evoking electronic exchange of certificate, it was noted that this amendment impose something that has not been decided yet by FAL, MSC and MEPC.

The conclusion is that the flexibility of the current FAL in respect of the deployment of electronic exchange should be retained.

2 The argument in favour of approach 2 are contained in the footnote number 5 of the report FAL 37/WP.5. **France** was its proponent in the preceding working group. The argument may be summarized as such:
Systems for electronic exchanges of information reach their potential for efficient exploitation and facilitation when all relevant data are received in electronic form. Hence public authorities should be able to request that all data be submitted in electronic form.

3 The argument in favour of option 3 were exposed by **the World Shipping Council**, supported by the **International Chamber of Shipping** and generally supported by **Denmark**. They may be summarized as such:

The usage of paper declarations is anachronistic, impractical, prone to mistakes or misuse, and should only be used when provision of required data electronically is not possible because of systems failure. To be efficient, the measures and procedures referred to in the FAL Convention must use electronic information exchange technology. This principle is also set out in the WCO's "SAFE Framework of Standards" regarding advance security information for Customs screening.

The deployment of electronic information exchange fosters the use of single windows and the non-duplication of transmission; it would also ensure more efficient and effective screening and usage by public authorities of the information received; and it would be more cost-effective and reliable for all parties while preserving the integrity of the information provided.

B. Amendments considered

Amendments that would be acceptable in approach 1
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 electronic information exchange 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. [The amendment to RP 1.3 would be acceptable in approach 1 if the word 'where possible' were retained] **1.8.1 Recommended Practice] [~~Standard~~].** Contracting Governments [should encourage] [~~shall require~~] 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 ("Single window") [in approach 1, the wording of 1.8.1 as a Recommended Practice should be reiterated, so as to retain the flexibility of the current FAL for the deployment of electronic exchange.]
Amendments proposed to implement approach 2
1.8 **Standard.** Public authorities, when introducing systems for the electronic exchange of information to assist clearance processes, shall ~~encourage their use by~~ provide maritime operators and other parties concerned ~~but shall not reduce levels of service available to operators who do not use such systems.~~ with the necessary information about the systems requirements and give an adequate period of transition before the use of the systems are made mandatory
Amendments proposed to implement approach 3
1.1 **Standard.** Public authorities shall in all cases require only essential information to be furnished, and shall keep the number of items to a minimum. Electronic exchange of information should be used. Paper submissions should be reserved for when electronic data systems are not functioning and alternative electronic transmission methods are not available.
1.1.1 **Recommended Practice.** Public authorities should ~~take into account the facilitation implications which may result from the introduction of~~ operate systems for the electronic exchange of information~~, and should consider these in collaboration with shipowners and all other interested parties~~

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 electronic information exchange 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.

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

1.8.1~~ **Recommended Practice]**~~ **[Standard].** Contracting Governments [~~should encourage~~] [shall require] 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 ("Single window").

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, via electronic information exchange systems, for inspection by the appropriate authorities of certificates and other ~~papers carried~~ documents made available by the ship pertaining to its registry, measurement, safety, manning and other related matters.**

2.11 **Standard.** Except as provided in Standard 2.1.4, and only in exceptional cases where the information cannot be submitted using electronic information exchange systems or alternative electronic transmission methods, in ~~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 declaration
- [1 copy of the Advanced Notification Form For Waste Delivery to Port Reception Facilities] when informed of the availability in GISIS[1].

2.12 **Standard**. Except as provided in Standard 2.1.4, and only in exceptional cases where the information cannot be submitted using electronic information exchange systems or alternative electronic transmission methods, in ~~In~~ respect of a ship's departure from port, public authorities shall not require more than:

- 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.

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, as well as the principle that shipowners should only be obligated to submit required information once to the public authorities of a State ("Single Window"), 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~~ limited to confirming the ship's routing

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 is intended to facilitate the electronic submission of the information by the parties concerned irrespective of their residence

* See FAL.2/Circ.87, MEPC/Circ.426 and MSC/Circ.1151.

1 This specific addition was proposed by Brazil and is actually independent of option 3.

2.18 **Standard.** Public authorities shall, without delaying the ship, allow correction of errors in the data transmitted as ~~a document~~ provided for in Appendix 1 of this annex or in exceptional circumstances, a document ~~the corresponding data~~ not transmitted in electronic form, in accordance with applicable laws and regulations ~~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 **Standard.** 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~~, 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.

- II -

Positions taken concerning the treatment of the pre-arrival or pre-departure information and the articulation of the FAL Convention with the SAFE framework of standards

Proposed amendments to Recommended Practices 2.1.2, 2.1.3, 2.1.4, 2.1.5 and 5.10.1

A. Context

The FAL Convention contains Recommended Practices related to pre-arrival and pre-departure information. The pre-arrival and pre-departure information is understood, as regard cargo, to relate not only to the FAL data set, but also to the advance transmission of security information, such as considered in the SAFE framework of standards or analogous requirements (See manual of the FAL Convention under 2.1.3).

In respect of such pre-arrival and pre-departure information, the FAL Convention currently recommends public authorities to re-use such information for the subsequent release/clearance of cargo and persons, and to not require this information before the ship has left the country of departure.

B. What is at stake

The debate bears on whether it is desirable:

- to harmonize the FAL Convention with the SAFE framework regarding the time line for transmission of the pre-arrival and pre-departure information, and

- to upgrade the relevant Recommended Practice to Standard, so as to give greater weight to the harmonization with the SAFE framework and greater authority to the recommendations related to the re-use of the pre-arrival and pre-departure information.

The harmonization involves adopting – for deep sea containerized shipments – the 24 hours before loading transmission requirement of the SAFE framework, against the current FAL position of not before the departure of the ship.

Besides, it was suggested to strengthen RP 5.10, urging the introduction of simplified procedure for authorized persons, a matter which is substantially dealt with in the SAFE framework.

C. Summary of the debate

Arguments in favour of harmonization with the SAFE framework and upgrage of the relevant RP

The footnotes of the report FAL 37/WP.5 provided arguments in support of the amendments related to the SAFE framework. The secretariat of the **World Customs Organisation** endorsed and complemented those proposals.

It was stated that 166 WCO Members had signed the letter of intention to apply the SAFE Framework of standards, it is so a very widely recognized reference which the FAL Convention should take into account, as did the Revised Kyoto Convention. The reporting formalities related to the security of cargoes arriving and/or departing by sea, would thus be harmoniously reflected in the FAL Convention.

The **World Shipping Council**, with the support of the **International Chamber of Shipping,** stressed that it is essential that procedures be developed and promulgated for the lodgement of pre-arrival and pre-departure security information so that shipowners can have assurance, transparency and predictability regarding what is required of them regarding the submission of such data, and regarding how such submissions shall be made. To this effect, the revised FAL Convention should reflect and support trade facilitating measures adopted in the WCO framework. It was further stated that the harmonization with the WCO framework would ensure that the maritime mode would not be disadvantaged in relation with competing mode of transport.

The upgrade to standard from the RP dealing with the pre-arrival and pre-departure information has the effect to strengthen the recommendation to re-use this information. In this regard, **World Shipping Council,** supported by the **International Chamber of Shipping,** argues that requiring shipowners to again provide the same information that they have already made available to public authorities is redundant and goes against the very objective and purpose of the FAL Convention. The elimination of such redundancy and duplication should be a standard, not merely a recommended practice.

Regarding the amendment to introduce stronger language in RP 5.10, the **World Shipping Council** argued that multiple jurisdictions have introduced measures in follow-up to the Authorized Economic Operator (AEO) recommendations in the SAFE work of Standards and in the Kyoto Convention. The revised FAL Convention should reflect and support such trade facilitating measures.

Arguments against the harmonization with the SAFE framework and the upgrade of the relevant RP

Brazil and the **Marshall Islands** opposed those modifications on the ground that the current text of the Convention provides governments with flexibility and allows them to impose legislation to suit their specific rules. It was feared that the proposed amendments could actually result in reducing facilitation.

Australia could accept some degree of harmonization with the SAFE framework, but felt that to reduce pre-departure and pre-arrival information to security information would limits the scope of the relevant dispositions, and that to upgrade those dispositions to standard would remove needed flexibility.

Regarding the delay for transmission of pre-arrival and pre-departure information in RP 2.1.3, Australia supported the version 1, proposed in FAL 37/WP.5, as simpler than the current text while still allowing flexibility, but not the version proposed by the World Shipping Council in the current Correspondence Group.

Australia noted that the inclusion of the word "security" in 2.1.4 would narrow considerably its scope. Instead of covering pre-departure and pre-arrival information to facilitate general cargo release and clearance, 2.1.4 would specifically refers to "security" information. This arguably would excludes the achievement of broader border management objectives from this section as information required for advance screening for security purposes is often more limited than information required by other public authorities to facilitate general cargo clearance (e.g. Customs and Border Protection and DAFF-Biosecurity (Quarantine) authorities). Also, the WSC proposed to add this reference to "security" only in 2.1.4. Australia thus prefers not to add the word "security" in 2.1.4 so as to retain greater flexibility as well as consistency across 2.1.2-2.1.5.

Regarding the treatment of Authorized Economic Operators in 5.10.1, **Australia** could accept the stronger text formulation proposed by the WSC if 5.10.1 remained a Recommended Practice. Otherwise, Australia prefers the use of the words "should consider the introduction of...", and is reluctant to agree to new requirements of facilitation. Australia observed that it does not have an AEO program and is not considering implementing one, as significant work and research undertaken by the Australian Customs and Border Protection Service has found that the current value proposition of an Australian AEO program is limited. Many of the facilitation benefits provided to AEOs in other countries are already accessible to the majority of traders in Australia as a result of border process reform and automation over the last decade. Industry have indicated that participation would be low given these current levels of facilitation and the limited tangible benefits that could be offered as part of membership of an Australian AEO program.

D. Amendments considered

2.1.2 ~~**Recommended practice.**~~ **Standard.** 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 or cargo and persons.
Version 1 (proposed in FAL 37/WP.5) 2.1.3 [**Recommended Practice] [Standard].** Public authorities ~~National legislation~~ [should] [shall] 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] [shall]not normally be set ~~before~~ more than 24 hours before the moment ~~the ship has left~~ the cargo is loaded in the country of departure. ~~However, national legislation could, in addition to the basic rule, also specify the exceptions if the time required for the voyage is shorter than the basic rule.~~

Version 2 (proposed by the WSC)

2.1.3 [~~**Recommended Practice**~~] **[Standard].** Public authorities ~~National legislation~~ [~~should~~] shall, upon consultation with shipowners and other parties concerned, specify the conditions for the lodgement of pre-arrival and pre-departure security information, including which party is responsible for providing which information. ~~With regard to the point in time of~~ The deadline for transmission of the pre-arrival security information ~~it [should~~] shall, for deep sea maritime containerized shipments, not ~~normally~~ be ~~set~~ ~~before~~ more than 24 hours before commencement of loading in each foreign load port. For other types of maritime shipments, including short sea containerized shipments, the information shall be provided prior to arrival within a time line that shall ensure that maritime traffic is not disadvantaged compared to other competing modes of transport. ~~the moment the ship has left the cargo is loaded in the country of departure~~. ~~However, national legislation could, in addition to the basic rule, also specify the exceptions if the time required for the voyage is shorter than the basic rule.~~

2.1.4 ~~**Recommended Practice**~~**. Standard.** Public authorities ~~should~~ shall 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 security information or in the ship's manifest.

2.1.5 [~~**Recommended Practice**~~] **[Standard].** Public authorities ~~should~~ 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.

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

- 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;
- clearance of the goods at the declarants premises or another place authorized by the relevant public authority; and
- 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.

- III -

Positions taken concerning the addition of visa number to crew and passengers lists and to disembarkation card

Proposed amendments to Standards 2.6.1, 2.7.3 and Recommended Practice 3.6

A. Context

A proposal was made by France, during the first Correspondence Group on the revision of the annex, to add a visa number item in the crew list and in the passenger list as well as in the disembarkation card. No agreement could be found in the FAL 37 Committee on this topic. The issue was referred to the second Correspondence Group where the debate clarified some misunderstanding but did not produce a consensus.

B. Summary of the debate

Arguments in favour

The proposal was supported by **France**, **Denmark** and the **European Commission** with the following points:

It was clarified that the proposal to add a visa data item in the crew list is not meant to challenge the principle of visa exemption for shore leave, but to facilitate the transmission of visa information, when such transmission is required by port state law, for crew members who intend to go beyond the geographical limits of shore leave and are required to have a visa in this situation. The visas concerned are valid entry visas, which the crew members concerned have obtained in the consular services of the countries of destination before the arrival of the ship.

A similar justification was invoked for the amendments to the passenger list and to the disembarkation card.
The explanation could be reproduced in the Explanatory Manual or clarified in the annex itself.

Such an amendment would allow the competent authorities to have advance information on visa numbers, so they can be fed in the risk analyses performed before the arrival of ships. This will facilitate the control of persons crossing the border, and thus facilitate the border crossing, in a context of heightened concern about security and immigration.

Work being currently carried out in the European Union as part of the review of the Schengen Borders Code is moving towards the inclusion of a visa number item in the lists of passengers and crew. Amending the FAL Forms to include the possibility of including a visa number would ensure that all the information required by the Schengen Borders Code would be covered.

As regards passengers, the Explanatory Manual to the FAL Convention, elaborating on standard 2.7.3, states that in some countries a visa may be required for admission and that where it is required to transmit the type and number of visa, the procedure would be facilitated if this information were included in the list of passengers. The proposed amendment is aimed at encouraging shipowners to ensure that passengers are in possession of any control documents prescribed by transit or destination States, in accordance with standard 3.15.1.

As regard the increase in administrative burden that the inclusion of a visa item may lead to, it must be pointed that to leave out reference to the visa does not mean that the master would be exempt from taking all measures to ensure that crew and passengers satisfy entry requirements.

Visa requirements are a matter of fact in some situations. The FAL Convention should reflect the overall increasing focus on security and immigration in a way that allow to deal with security requirements in the least burdensome way.

Arguments against

This proposal was opposed by the **International Chamber of Shipping**, **Intertanko**, the **Marshall Islands** and **Australia** with the following arguments:

It was observed that the inclusion of visa number in the crew list would have the effect to facilitate and legitimize the requirement of visa for shore leave, undermining the standard established by the FAL Convention in this regard. The burden that represents visa requirements for shore leave was emphasized.

The masters or agents would face increased workload and responsibilities for drawing up crew and passenger lists and for checking that all required visa information have been submitted. They would be at risk of being penalized in case of mistake or omission.

It is not the role of the FAL Convention, ratified by 115 countries, to take into account the needs of specific local regulations, especially if they are detrimental to the objective of facilitating maritime traffic and potentially harmful to the fundamental principle of shore leave.

No compelling need has been demonstrated to justify the change, contrary to the principle expressed in the report of the FAL 37 Committee at paragraph 4.37, that any changes to the Convention needed to be fully justified.

It was also pointed that as Countries move to electronic means of reporting, the need for excessive and detailed information including visa type will not be required. Accurate reporting of bio-data information will ensure clearance processes for crew and passengers as systems will match details against visa's automatically.

D. Amendments considered

2.6.1 **Standard.** 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
- gender[2]
- date and place of birth
- nature and number of identity document
- issuing State for identity document
- expiry date of identity document[3]
- **[visa number, if appropriate]**
- port and date of arrival
- last port of call.

2.7.3 ~~**Recommended Practice**~~ **Standard.** 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

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

[3] Data displayed on FAL Form 5.

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

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.]**

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ANNEX 2

FAL Convention

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

Convention on Facilitation of International Maritime Traffic

THE CONTRACTING GOVERNMENTS:

DESIRING to facilitate maritime traffic by simplifying and reducing to a minimum the formalities, documentary requirements and procedures on the arrival, stay and departure of ships engaged in international voyages;

HAVE AGREED as follows:

Article I

The Contracting Governments undertake to adopt, in accordance with the provisions of the present Convention and its annex, all appropriate measures to facilitate and expedite international maritime traffic and to prevent unnecessary delays to ships and to persons and property on board.

Article II

(1) The Contracting Governments undertake to cooperate, in accordance with the provisions of the present Convention, in the formulation and application of measures for the facilitation of the arrival, stay and departure of ships. Such measures shall be, to the fullest extent practicable, not less favourable than measures applied in respect of other means of international transport; however, these measures may differ according to particular requirements.

(2) The measures for the facilitation of international maritime traffic provided for under the present Convention and its annex apply equally to the ships of coastal and non-coastal States the Governments of which are Parties to the present Convention.

(3) The provisions of the present Convention do not apply to warships or pleasure yachts.

Article III

The Contracting Governments undertake to cooperate in securing the highest practicable degree of uniformity in formalities, documentary requirements and procedures in all matters in which such uniformity will facilitate and improve international maritime traffic and keep to a minimum any alterations in formalities, documentary requirements and procedures necessary to meet special requirements of a domestic nature.

Article IV

With a view to achieving the ends set forth in the preceding articles of the present Convention, the Contracting Governments undertake to cooperate with each other or through the Inter-governmental Maritime Consultative Organization* (hereinafter called the "Organization") in matters relating to formalities, documentary requirements and procedures, as well as their application to international maritime traffic.

* The name of the Organization was changed to "International Maritime Organization" by virtue of amendments to the Organization's Convention which entered into force on 22 May 1982.

Article V

(1) Nothing in the present Convention or its annex shall be interpreted as preventing the application of any wider facilities which a Contracting Government grants or may grant in future in respect of international maritime traffic under its national laws or the provisions of any other international agreement.

(2) Nothing in the present Convention or its annex shall be interpreted as precluding a Contracting Government from applying temporary measures considered by that Government to be necessary to preserve public morality, order and security or to prevent the introduction or spread of diseases or pests affecting public health, animals or plants.

(3) All matters that are not expressly provided for in the present Convention remain subject to the legislation of the Contracting Governments.

Article VI

For the purposes of the present Convention and its annex:

(a) *Standards* are those measures the uniform application of which by Contracting Governments in accordance with the Convention is necessary and practicable in order to facilitate international maritime traffic;

(b) *Recommended Practices* are those measures the application of which by Contracting Government is desirable in order to facilitate international maritime traffic.

Article VII

(1) The annex to the present Convention may be amended by the Contracting Governments, either at the proposal of one of them or by a Conference convened for that purpose.

(2) Any Contracting Government may propose an amendment to the annex by forwarding a draft amendment to the Secretary-General of the Organization (hereinafter called the "Secretary-General"):

(a) Any amendment proposed in accordance with this paragraph shall be considered by the Facilitation Committee of the Organization, provided that it has been circulated at least three months prior to the meeting of this Committee. If adopted by two thirds of the Contracting Governments present and voting in the Committee, the amendment shall be communicated to all Contracting Governments by the Secretary-General.

(b) Any amendment to the annex under this paragraph shall enter into force 15 months after communication of the proposal to all Contracting Governments by the Secretary-General unless within 12 months after the communication at least one third of Contracting Governments have notified the Secretary-General in writing that they do not accept the proposal.

(c) The Secretary-General shall inform all Contracting Governments of any notification received under subparagraph (b) and of the date of entry into force.

(d) Contracting Governments, which do not accept an amendment, are not bound by that amendment but shall follow the procedure laid down in article VIII of the present Convention.

(3) A conference of the Contracting Governments to consider amendments to the annex shall be convened by the Secretary-General upon the request of at least one third of these Governments. Every amendment adopted by such conference by a two-thirds majority of the Contracting Governments present and voting shall enter into force six months after the date on which the Secretary-General notifies the Contracting Governments of the amendment adopted.

(4) The Secretary-General shall notify promptly all signatory Governments of the adoption and entry into force of any amendment under this article.

Article VIII

(1) Any Contracting Government that finds it impracticable to comply with any Standard by bringing its own formalities, documentary requirements or procedures into full accord with it or which deems it necessary for special reasons to adopt formalities, documentary requirements or procedures differing from that Standard, shall so inform the Secretary-General and notify him of the differences between its own practice and such Standard. Such notification shall be made as soon as possible after entry into force of the present Convention for the Government concerned, or after the adoption of such differing formalities, documentary requirements or procedures.

(2) Notification by a Contracting Government of any such difference in the case of an amendment to a Standard or of a newly adopted Standard shall be made to the Secretary-General as soon as possible after the entry into force of such amended or newly adopted Standard, or after the adoption of such differing formalities, documentary requirements or procedures and may include an indication of the action proposed to bring the formalities, documentary requirements or procedures into full accord with the amended or newly adopted Standard.

(3) Contracting Governments are urged to bring their formalities, documentary requirements and procedures into accord with the Recommended Practices in so far as practicable. As soon as any Contracting Government brings its own formalities, documentary requirements and procedures into accord with any Recommended Practice, it shall notify the Secretary-General thereof.

(4) The Secretary-General shall inform the Contracting Governments of any notification made to him in accordance with the preceding paragraphs of this article.

Article IX

The Secretary-General shall convene a conference of the Contracting Governments for revision or amendment of the present Convention at the request of not less than one third of the Contracting Governments. Any revision or amendments shall be adopted by a two-thirds majority vote of the Conference and then certified and communicated by the Secretary-General to all Contracting Governments for their acceptance. One year after the acceptance of the revision or amendments by two thirds of the Contracting Governments, each revision or amendment shall enter into force for all Contracting Governments except those, which, before its entry into force, make a declaration that they do not accept the revision or amendment. The Conference may by a two-thirds majority vote determine at the time of its adoption that a revision or amendment is of such a nature that any Contracting Government which has made such a declaration and which does not accept the revision or

amendment within a period of one year after the revision or amendment enters into force shall, upon the expiration of this period, cease to be a Party to the Convention.

Article X

(1) The present Convention shall remain open for signature for six months from this day's date and shall thereafter remain open for accession.

(2) The Governments of States Members of the United Nations, or of any of the specialized agencies, or the International Atomic Energy Agency, or Parties to the Statute of the International Court of Justice may become Parties to the present Convention by:

(a) signature without reservation as to acceptance;

(b) signature with reservation as to acceptance followed by acceptance; or

(c) accession.

Acceptance or accession shall be effected by the deposit of an instrument with the Secretary-General.

(3) The Government of any State not entitled to become a Party under paragraph 2 of this article may apply through the Secretary-General to become a Party and shall be admitted as a Party in accordance with paragraph 2, provided that its application has been approved by two thirds of the Members of the Organization other than Associate Members.

Article XI

The present Convention shall enter into force 60 days after the date upon which the Governments of at least 10 States have either signed it without reservation as to acceptance or have deposited instruments of acceptance or accession. It shall enter into force for a Government, which subsequently accepts it or accedes to it 60 days after the deposit of the instrument of acceptance or accession.

Article XII

Three years after entry into force of the present Convention with respect to a Contracting Government, such Government may denounce it by notification in writing addressed to the Secretary-General, who shall notify all Contracting Governments of the content and date of receipt of any such notification. Such denunciation shall take effect one year, or such longer period as may be specified in the notification, after its receipt by the Secretary-General.

Article XIII

(1) (a) The United Nations, in cases where they are the administering authority for a territory, or any Contracting Government responsible for the international relations of a territory, shall as soon as possible consult with such territory in an endeavour to extend the present Convention to that territory, and may at any time by notification in writing given to the Secretary-General declare that the Convention shall extend to such territory.

(b) The present Convention shall from the date of the receipt of the notification or from such other date as may be specified in the notification extend to the territory named therein.

(c) The provisions of article VIII of the present Convention shall apply to any territory to which the Convention is extended in accordance with the present article; for this purpose, the expression "its own formalities, documentary requirements or procedures" shall include those in force in that territory.

(d) The present Convention shall cease to extend to any territory one year after the receipt by the Secretary-General of a notification to this effect, or on such later date as may be specified therein.

(2) The Secretary-General shall inform all the Contracting Governments of the extension of the present Convention to any territory under paragraph 1 of this article, stating in each case the date from which the Convention has been so extended.

Article XIV

The Secretary-General shall inform all signatory Governments, all Contracting Governments and all Members of the Organization of:

(a) the signatures affixed to the present Convention and the dates thereof;

(b) the deposit of instruments of acceptance and accession together with the dates of their deposit;

(c) the date on which the Convention enters into force in accordance with article XI;

(d) any notification received in accordance with articles XII and XIII and the date thereof;

(e) the convening of any conference under articles VII or IX.

Article XV

The present Convention and its annex shall be deposited with the Secretary-General, who shall transmit certified copies thereof to signatory Governments and to acceding Governments. As soon as the present Convention enters into force, it shall be registered by the Secretary-General in accordance with Article 102 of the Charter of the United Nations.

Article XVI

The present Convention and its annex shall be established in the English and French languages, both texts being equally authentic. Official translations shall be prepared in the Russian and Spanish languages and shall be deposited with signed originals.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed the present Convention.*

DONE at London this ninth day of April 1965.

* Signatures omitted.

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 units,[4] 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.[5]

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.

Customs release. 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.

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4 The **World Shipping Council** proposes, and the **International Chamber of Shipping** supports, to add those words for the reason that under the terms of the Customs Container Convention and the Istanbul Convention, a container is not deemed to be "cargo" as already evidenced by those Conventions' provisions regarding temporary admission of containers. The WSC prefers to use the broader term CTUs, but could agree to instead use the term "freight container" (or "freight containers") – which, if agreed, probably would require the insertion of a definition of "freight container".

5 The definition is taken from the IMO/ILO/UNECE Guidelines for packing of CTUs and is proposed by the **World Shipping Council** in relation with the addition of CTU to the definition of cargo. The **International Chamber of Shipping** supports this addition.

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.

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 Organization[6].

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 ship[7].

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

Passengers' accompanied baggage. Property, which may include currency, carried for a passenger on the same ship as the passenger, whether in his 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 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[*].

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

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.

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6 Term proposed for use with Recommended Practices 4.3.1.2 and 4.3.2.2.

7 Definition provided as the term "shipmaster" is being replaced by the term "master" to standardize terms throughout the Convention.

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

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.

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, 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, 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.** Public authorities shall in all cases require only essential information to be furnished, and shall keep the number of items to a minimum. Electronic exchange of information should be used. Paper submissions should be reserved for when electronic data systems are not functioning and alternative electronic transmission methods are not available. [8]

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

[8] (Part of the debate on electronic exchange under item I of annex 1.) The **World Shipping Council** propose this addition, considering that the usage of paper declarations is anachronistic and impractical, and should only be used when provision of required data electronically is not possible.

exchange of information~~, and should consider these in collaboration with shipowners and all other interested parties~~.[9]

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 party [10] 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 electronic information exchange[11] 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

1.4 **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 standards, including UN Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT) standards, ~~or the XML standards~~. or other standards, such as XML standard. [12]

1.5 **Standard.** ~~Public authorities shall accept any of the documents required.~~ If Public authorities, in exceptional circumstances, [13] require documents for clearance processes in paper form, these shall be accepted[14] 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 and contain the required information.

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9 (Part of the debate on electronic exchange under item I of annex 1.) The **World Shipping Council** considers that the current formulation is too vague and does not effectively arrange for the introduction and usage of electronic exchange of information.

10 The **World Shipping Council** proposes this addition for editorial clarification.

11 (Part of the debate on electronic exchange under item I of annex 1.) The **World Shipping Council,** proposing this amendment, considers that to be "efficient", the measures and procedures referred to necessarily must use electronic information exchange technology. This principle is also very clearly – regarding advance security information for Customs screening – set out in the WCO's "SAFE Framework of Standards".

12 **Brazil** proposed that instead of the words "or the XML standards," the words "or other standards, such as XML standard", be inserted. It was recognized that XML is widely used, however in order to reach a consensus and to keep the Convention updated in relation to other language that could be developped, it was suggested to refer to XML as an example only, leaving opportunity for new languages that could emerge. (The addition of a reference to the XML standards reflects the conclusions of the Correspondence Group on Electronic Means for the Clearance of Ships (see document FAL 36/5).)

13 (Part of the debate on electronic exchange under item I of annex 1.)The **World Shipping Council**: usage of paper declarations is anachronistic and impractical, and should only be used when provision of required data electronically is not possible because of systems failure.

14 The FAL Convention should not entail a requirement to accept documents in paper form, so as to allow a transition towards electronic clearance of ships.

1.6 **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.

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;

(c) determine those procedures which are to be computerized;

(d) use United Nations (UN) Recommendations and relevant ISO Standards 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.

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 standards with a view to enhancing the exchange of information relating to the arrival, stay and departure of ships, persons and cargo and assuring inter-operability between the systems of public authorities and other parties concerned.

1.8 **Standard.** Public authorities, when introducing systems for the electronic exchange of information to assist clearance processes, shall ~~encourage their use by~~ provide maritime operators and other parties concerned ~~but shall not reduce levels of service available to operators who do not use such systems.~~ with the necessary information about the systems requirements and give an adequate period of transition before the use of the systems are made mandatory[15].

1.8.1 **[Recommended Practice] [Standard].** Contracting Governments [should encourage] [shall require] 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 ("Single window").

[15] (Part of the debate on electronic exchange under item I of annex 1.) Systems for electronic exchanges of information reach their potential for efficiency and facilitation only if all relevant data are received in electronic form. Hence public authorities should be able to request that the data or documents required for clearance processes be submitted in electronic form. The proposed change aims to ensure a smooth transition towards electronic clearance of ships.

Positions taken concerning
the proposed amendments to recommended practice 1.8.1
(Part of the debate on electronic exchange under item I of annex 1.)

Comments providing justification for the proposed amendment

Footnote of the report FAL 37/WP.5: This Recommended Practice is upgraded into a Standard as this would be a significant ease on the administrative requirements.

Denmark support making RP 1.8.1 a standard, in consideration of the heavy workload entailed for operators by the submission of information to public authorities for the arrival, stay and departure of ships.

The **World Customs Organisation** secretariat observed that the wording of paragraph 5.3, page 32, of SAFE 2012 was broadly in line with the FAL 1.8.1: "*Governments should develop cooperative arrangements, nationally and internationally, between Customs and other Government agencies involved in international trade in order to facilitate the seamless transfer of international trade data (Single Window environment) and to exchange risk intelligence*."

The **World Shipping Council** supports the upgrade of RP1.8.1 to a standard and suggest the addition of the word "single windows". The WSC contends that the introduction of national "single windows" would benefit shipowners and public authorities alike, would provide real and tangible facilitation, and is possible and practical and realistic whenever electronic exchange of information is used.

Australia agree with the upgrade from Recommended Practice to Standard but not with the drafting change (see below).

Comments opposing the amendment

Australia agree with the change from Recommended Practice to Standard, however agree with Brazil that the term 'shall require' is too strong given electronic systems for reporting are time consuming to develop and legislation and courts may not recognize the legitimacy of electronic information, the term should encourage should remain.

Brazil: This should keep as "Recommended Practice" with the use of the words "Should Encourage". Impose the use of electronic means to provide the information is very complex and depend on the IT knowledge of each country. This obligation would interfer with the internal legislation of the countries that could not accept the electronic information for court purposes.

Japan: Japan proposes to keep 1.8.1 "Recommended Practice" and use the words "should encourage". The reasons are as follows:

- In Japan, port management bodies, which are local governments, are one of the receiving offices for applications as for port-related procedures. The detailed port-related procedures are specified by the ordinance of each local government and the ordinance should be observed. If this provision changes into "Standard," each local government will have to amend its ordinance. However, it is very difficult for the Japanese government to impose that on the local governments, because the Japanese law including the Port and Harbor Act prescribe that the ordinance of the local government should be paid respect in line with the principle of local autonomy. In addition, the number of Japanese ports is too large to impose upon (There are 936 ports in Japan).
- The expense of introducing electronic system has to be paid by the local governments in Japan. As the budgets of most of local governments are decreasing under the recent recession, it is difficult for some local governments to set aside budgets for that even if obligated to.
- Also, the number of processed arrival notices or departure notices is small depending on the port. In that case, it is not necessary for the local governments to introduce the electronic system for the port-related procedures. Considering the benefit and cost, it is difficult to force all local governments to introduce the electronic system for the port-related procedures.

The **Marshall Islands** supports keeping 1.8.1 as a "Recommended Practice" and utilizing the words "should encourage", as this terminology allows for flexibility for implementation within each Contracting Government.

The U.S. prefers to keep 1.8.1 a Recommended Practice, due to its domestic practices.

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 **Standard**. 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.

E. Control techniques

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

- the release/clearance of cargo;
- security requirements; 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, via electronic information exchange systems, for inspection by the appropriate authorities of certificates and other ~~papers carried~~ documents made available[16] by the ship pertaining to its registry, measurement, safety, manning and other related matters.**

* Since 1994 known as the World Customs Organization.

16 The **World Shipping Council**: 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.

** See FAL.2/Circ.87-MEPC/Circ.426-MSC/Circ.1151.

A. General

2.1 **Standard.** Public authorities shall not require for their retention, on arrival or departure of ships to which the Convention 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 Convention for mail
- Maritime Declaration of Health
- Security-related pre-arrival and pre-departure [17]information declaration
- [Advanced Notification Form For Waste Delivery to Port Reception Facilities]. when informed of the availability in GISIS. [18]

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 **Standard.** Contracting Governments shall not require consular formalities, charges or fees in connection with documents for the clearance of ships.

2.1.2 ~~**Recommended practice.**~~ **Standard.** 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~~[19] for the expedited subsequent release/clearance or cargo and persons.

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17 Proposed by the **World Shipping Council** as editorial clarification.

18 **Brazil** observed that information relating to security is always complex because some countries consider that they are sensitive information that could not be sent openly. Brazil can nevertheless accept this insertion. Regarding the prior request to discharge garbage it seems 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 informed of the availability in GISIS."

19 See debate on pre-arrival information under item II of annex 1.

Propositions regarding Recommended Practice 2.1.3
(Part of the debate on pre-arrival information under item II of annex 1)

Version 1 (proposed in FAL 37/WP.5)

2.1.3 [**Recommended Practice] [Standard].** Public authorities ~~National legislation~~ [should] [shall] 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] [shall]not normally be set ~~before~~ more than 24 hours before the moment ~~the ship has left~~ the cargo is loaded in the country of departure. ~~However, national legislation could, in addition to the basic rule, also specify the exceptions if the time required for the voyage is shorter than the basic rule.~~

Version 2 (proposed by the WSC)

2.1.3 [~~**Recommended Practice**~~**] [Standard].** Public authorities ~~National legislation~~ [~~should~~] [shall] , upon consultation with shipowners and other parties concerned, specify the conditions for the lodgement of pre-arrival and pre-departure security information, including which party is responsible for providing which information. ~~With regard to the point in time of~~ The deadline for transmission of the pre-arrival security information, ~~it~~ [~~should~~] [shall]not ~~normally~~ be ~~set~~ ~~before~~ more than 24 hours before commencement of loading in each foreign load port. For other types of maritime shipments, including short sea containerized shipments, the information shall be provided prior to arrival within a time line that shall ensure that maritime traffic is not disadvantaged compared to other competing modes of transport. ~~the moment the ship has left the cargo is loaded in the country of departure~~. ~~However, national legislation could, in addition to the basic rule, also specify the exceptions if the time required for the voyage is shorter than the basic rule.~~[20]

2.1.4 ~~**Recommended Practice**~~**. Standard.** Public authorities ~~should~~ shall 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 security information or in the ship's manifest.[21]

2.1.5 [**Recommended Practice~~]~~ [Standard].** Public authorities should [shall][22]:

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.

[20] See debate on pre-arrival information under item II of annex 1. The U.S. indicated that it prefers to keep 2.1.3 a Recommended Practice, due to its domestic practices.

[21] See debate on pre-arrival information under item II of annex 1. The U.S. indicated that it prefers to keep 2.1.4 a Recommended Practice, due to its domestic practices.

[22] See debate on pre-arrival information under item II of annex 1. The U.S. indicated that it prefers to keep 2.1.5 a Recommended Practice, due to its domestic practices.

B. Contents and purpose of documents

2.2 **Standard.** Except as provided in Standard 2.1.4, ~~T~~the[23] 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] [Standard].** In the General Declaration, public authorities [should] [shall] 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
- position of the ship in the port
- the ship's requirements in terms of waste and residue reception facilities
- last port of call/next port of call
- Information regarding security level of the ship.

Positions taken concerning the proposed amendments to recommended practice 2.2.2
Comments on the upgrade to standard
Comments in favor of the upgrade to standard **Footnote of the report FAL 37/WP.5**: Data exchange between ship and public authorities relies on the IMO FAL forms. This means any section of the Convention referring to the data requirements should be a "standards" rather than a Recommended Practice to ensure compliance. **Australia** consider that by making the details of 2.2.2 a standard it ensures Countries receive this information as a minimum requirements, it does not impact on the sovereignty of a State, States can still require further information above the minimum Standards. This amendment should ensure that the items in 2.2.2 are the minimum standards but do not limit a States ability to require further information.

[23] Proposed by the **World Shipping Council**, coherence amendment with the change in 2.1.4. Opposed by Brazil as it opposes also the change in 2.1.4.

Comments against the upgrade to standard

Brazil does not see any reason to the amendment. The sovereignty of States allows them to require more than what is listed. All this information is prescribed in FAL FORMS, the General Declaration is compulsory information to be issued.

Japan proposes to keep 2.2.2 "Recommended Practice" and use the word "should." The reasons are as follows:
In Japan, port management bodies require "Name and address of ship's Operator" as for the general declaration additionally.
Port management bodies require the entering port fee from the ship. The ships operators pay the fee through the ship's agents in most cases. Especially, in the case that the ship's operator doesn't do port-related procedures through the ship's agent, port management bodies directly require the fee from the ship's operator. Therefore, it is necessary to keep "Name and address of ship's Operator" requirement.
Public authorities require the additional item to the items provided in 2.2.2 because of the practical work of public authorities in Japan. In this way, it is assumed that the required items are different in each country depending on its commercial practice. Therefore, Japan proposes to keep the present provision.

The U.S. prefers to keep 2.2.2 a Recommended Practice, due to its domestic practices.

Comments on the deletion of the item "particulars regarding registry"

Comments in favor of the deletion

The **World Shipping Council** made the proposition to delete the item "particulars regarding registry" and was supported by **Denmark**. The reason given is that there is no apparent need for providing such particulars, which a public authority interested in such information easily can obtained through other means, in the General Declaration.
The WSC further elaborated that the provision of the IMO ship number would allow a public authority to enquire and obtain information, where a need exists, about the ship's registry; requiring the ship's registry in addition to the IMO ship number to always be provided in the General Declaration therefore seems redundant. In this regard it should be recalled that the IMO ship identification number scheme was introduced in 1987 through adoption of resolution A.600(15), as a measure aimed at enhancing "maritime safety, and pollution prevention and to facilitate the prevention of maritime fraud". It aims at assigning a permanent number to each ship for identification purposes. That number remains unchanged upon transfer of the ship to other flag(s) and is to be inserted in the ship's certificates.
Furthermore, the WSC respectfully fail to see the relevance of the ship's registry for immigration control purposes at the borders; such controls supposedly pertain to persons, not to ships and their registry.

Comments against the deletion

France expressed a concern with regard to the proposed deletion of the terms « particulars regarding registry », as information on the certificate of registry (port, date, number) is required in the General Declaration. This information, useful to public authorities such as the ones responsible of immigration controls at the borders, does not appear to be otherwise required in the Cargo Declaration.

Comments on the introduction of the item "Information regarding security level of the ship".

Comments in favor of the introduction:

The introduction of the item "Information regarding security level of the ship" was proposed by Venezuela.

Comments against the introduction:

WSC registered its disagreement with the inclusion of this data element in the General Declaration for the following reasons:

SOLAS regulation XI-2/9.2.2 requires every ship to which SOLAS chapter XI-2 applies intending to enter the port of another Contracting Government to provide the information described in SOLAS regulation XI-2/9.2.1. Such required information is to be provided in a mandatory pre-arrival notification. One of the required data elements in the mandatory pre-arrival notfication is «current security level *(SOLAS regulation XI-2/9.2.1.2*) ».
Shipowners should not (viz. also WSC's comments regarding 2.1.4 and 2.1.5.) be required to submit the same information twice. Considering that the pre-arrival notification is mandatory pursuant to the ISPS Code, there would be no need for the public authorities to receive the same information in the General Declaration.

2.2.3 **Standard.** 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.

2.3 **Standard.** Except as provided in Standard 2.1.4, ~~T~~the[24] 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
- voyage number
- port of loading
- port where report is made
- 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.
- statement of special goods and information measures except for those with special handling. [25]

[24] Proposed by the **World Shipping Council** , coherence amendment. Opposed by Brazil as it opposes also the change in 2.1.4.

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

[25] See under note 33.

(b) on departure

- name and IMO number of ship
- flag State of ship
- name of master
- call sign
- voyage number
- port of discharge
- in respect of goods loaded at the port in question: container identification, where appropriate; marks and numbers; number and kind of packages; quantity and description of the goods
- transport document numbers for cargo loaded at the port in question.
- statement of special goods and information measures except for those with special handling. [26]

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 **Standard.** 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 **Standard.** Public authorities shall accept that the Cargo Declaration is either dated and signed by the master, the shipowner issuing the transport document,[27] 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 **Standard.** 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 Standard 2.3.2 and is signed or authenticated, and dated, in accordance with Standard 2.3.3.~~[28]

2.3.4.1 **Recommended Practice.** ~~As an alternative to Standard 2.3.4, p~~Public [29] authorities may accept a copy of the transport document signed or authenticated in accordance with Standard 2.3.3, or certified as a true copy, if the nature and quantity of cargo make this

[26] Proposed by **Venezuela. Brazil** and **Denmark** considers that more information is needed as to the reason the change has been proposed; its exact meaning and purpose are not obvious.
The **World Shipping Council** associated itself with the requests by Brazil and Denmark for more information as to the meaning and intent of the proposal by Venezuela. The WSC reserved its position pending such additional information.

[27] The **World Shipping Council**: in particular in the liner shipping industry, two or more shipping companies ("ocean carriers") 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 suggested amendment clarifies this so as to appropriately reflect existing industry practice.

[28] The **World Shipping Council** indicates that this Standard becomes superfluous under the amendment it has proposed to 2.1.4. **Brazil** is opposed to the deletion considering it is opposed to the changes in 2.1.4,

[29] Editorial change proposed by the **World Shipping Council** as a consequence of the suggested deletion of 2.3.4. **Brazil** is opposed to the amendment, considering it is opposed to the changes in 2.1.4.

practicable and provided that any data required and identified in accordance with Recommended Practice 2.3.1 and Standard 2.3.2 which does not appear in such documents is also furnished elsewhere and duly certified.

2.3.5 **Standard.** 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".

2.4 **Standard.** 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 **Standard.** 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 **Standard.** 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 **Standard.** 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 is unable to do so, his mark, against the declaration relating to his effects.

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 **Standard.** Except as provided in Standard 2.1.4,[30] ~~T~~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 **Standard.** In the Crew List, public authorities shall not require more than the following data:

- name and IMO number of ship
- ~~flag State of ship~~ [31]
- call sign
- voyage number
- family name

[30] Proposed by the **World Shipping Council**, coherence amendment. **Brazil** does not agree considering it opposed the change proposed to 2.1.4.

[31] The **World Shipping Council**, consistent with its proposal to delete registry information in the General declaration, proposes to delete this data element in the Crew List. As discussed under RP 2.2.2, provision of the IMO ship number should suffice.

- given names
- nationality
- rank or rating
- gender32
- date and place of birth
- nature and number of identity document
- issuing State for identity document
- expiry date of identity document33
- [visa number, if appropriate34]
- port and date of arrival
- last port of call.

2.6.2 **Standard.** 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 **Standard.** Except as provided in Standard 2.1.4, [35] ~~T~~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**~~ **Standard.**[36] 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~~ [37]
- voyage number
- family name

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

33 Data displayed on FAL Form 5.

34 See debate under item III of annex 1.

35 Proposed by the **World Shipping Council** , coherence amendment. **Brazil** does not agree considering it opposed the change proposed to 2.1.4.

36 The U.S. indicated that it prefers to keep 2.7.3 a Recommended Practice, due to its domestic practices.

37 The **World Shipping Council**, consistent with its previous proposals, proposes to delete this data element from the DG Manifest; provision of the IMO ship number should suffice.)

- 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
- [visa number , if appropriate[38]]
- 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 Standard 2.7.3 and is dated and signed or authenticated in accordance with Standard 2.7.5.

2.7.5 **Standard.** 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 **Standard.** Except as provided in Standard 2.1.4[39] ~~T~~the Dangerous Goods Manifest shall be the basic document providing public authorities with the information regarding dangerous goods.

2.8.1 **Standard.** 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~~[40]
- 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[41]
- Marks and numbers
- container ID No(s).

38 See debate under item III of annex 1.

39 Proposed by the **World Shipping Council**, coherence amendment. **Brazil** does not agree considering it opposed the change proposed to 2.1.4.

40 The **World Shipping Council**, consistent with its previous proposals proposes to delete this data element from the DG Manifest; provision of the IMO ship number should suffice.

41 Proposed by the **World Shipping Council** on the ground that the booking number may also 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 proposed change would create consistency with the data elements to be included in the Cargo Declaration. **Brazil** agreed with the proposed change.

- 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~~.[42]

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

2.10 **Standard.** 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 **Standard.** Except as provided in Standard 2.1.4, and only in exceptional cases where the information cannot be submitted using electronic information exchange systems or alternative electronic transmission methods, in ~~In~~ [43] 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 declaration

[42] The **World Shipping Council**: the current formulation results in a paradox viz. "not require more than the following information … additional information". If public authorities believe that more data elements than those currently listed should be included in the Dangerous Goods Manifest, they should identify such additional data elements and provide a rationale for their inclusion so that, upon agreement, they might be listed in an amended 2.8.1.

[43] (Part of the debate on electronic exchange under item I of annex 1.) The **World Shipping Council**: for clarification, the term 'alternative electronic transmission methods' refers to usage of e.g. flash drives, CDs, DVDs or other electronic storage devices that can be provided to public authorities when a shipowners electronic data system is not operating. **Brazil** does not agree with this amendment, considering it opposed the change proposed to 2.1.4.

- [1 copy of the Advanced Notification Form For Waste Delivery to Port Reception Facilities] when informed of the availability in GISIS.[44]

D. Documents on departure

2.12 **Standard**. Except as provided in Standard 2.1.4, and only in exceptional cases where the information cannot be submitted using electronic information exchange systems or alternative electronic transmission methods, in ~~In~~ [45] respect of a ship's departure from port, public authorities shall not require more than:

- 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.

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

2.13 Not in use [*46]

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44 **Brazil** observed, as under standard 2.1, that information relating to security is complex because some countries consider that they are sensitive information that could not be sent openly. Brazil can accept this insertion. Regarding the prior request to discharge garbage it seems 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 informed of the availability in GISIS."

45 (Part of the debate on electronic exchange under item I of annex 1.) As in 2.11, proposed by the **World Shipping Council** and opposed by **Brazil**.

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

46 Editorial amendment proposed by the secretariat and supported by the Correspondence Group.

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, as well as the principle that shipowners should only be obligated to submit required information once to the public authorities of a State ("Single Window"), 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~~ be limited to confirming the ship's routing.[47]

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, validated by the master or shipowner.[48]

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 is intended to facilitate the electronic submission of the information by the parties concerned irrespective of their residence.[49]

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.

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47 (Part of the debate on electronic exchange under item I of annex 1.) Proposed by the **World Shipping Council**. **Brazil** cannot accept the change to "Standard" as some authorities that require the information for each stop, especially for Parties with many ports. Brazil proposes to retain the current text as RP.
The **World Shipping Council**,in response to Brazil's comment, respectfully enquired why public authorities see a need for a shipowner to provide the exact same information that was provided to the authorities when the ship made its first port of call in the State when the ship calls at subsequent ports in that same State without intermediate ports of call outside the State? Considering that this particular Convention is about *facilitating* maritime traffic – the WSC thinks it reasonable to expect that public authorities make use of information that is already in their possession.
The WSC further proposed as a compromise, working from its proposed amendments, to amend the last sentence to read: "…limited to confirming the ship's routing and provision of the ship's manifest"

48 Proposed by **Venezuela.**

49 (Part of the dabate on electronic exchange under item I of annex 1.) The **World Shipping Council**: the proposed amendment would ensure that the same requirements 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.

G. Errors in documentation and penalties therefore

2.18 **Standard.** Public authorities shall, without delaying the ship, allow correction of errors in the data transmitted as ~~a document~~ provided for in Appendix 1 of[50] this annex or, in exceptional circumstances, a document ~~the corresponding data~~ not transmitted in electronic form, in accordance with applicable laws and regulations ~~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.~~

Positions taken concerning the proposed amendments to standard 2.18 (Part of the debate on electronic exchange under item I of annex 1.)
Comments providing justification for the proposed amendment
The **World Shipping Council**: it is In the interest of transparency and predictability and to avoid misuse by either party, that rules on amendments and correction of errors should be promulgated. The WSC note that changes may occur to previously submitted cargo information for entirely legitimate, business-driven reasons, e.g. the sale of goods in transit, later or earlier actual discharge of cargo than originally scheduled according to supply and demand, vessel diversions because of operational or other reasons such as weather, strikes etc. In response to France's comment, below, the WSC wished to note that "exceptional circumstances" in its proposal is solely intended to refer to situations where, due to systems failures, electronic transmission and/or receipt is not possible; the term is not intended to refer to situations where amendments should be allowed because, as noted above, changes to e.g. bills of lading and manifests occur all the time and routinely for entirely legitimate reasons. (To clarify this meaning the WSC has inserted a comma before "exceptional circumstances" in the text in 2.18 (and in the identical text in 2.19). The WSC further noted that e.g. the EU's "24 Hour Rule" regarding submission of so-called entry summary declarations (ENS) explicitly includes a right for the submitter to amend the previously lodged ENS, subject to certain conditions – such conditions would in the proposed amendment be covered by "in accordance with applicable laws and regulations".
Comments expressing reservations to the amendment
France considers that the proposed amendments should be clarified, in particular to ensure that it would not imply a decrease in quality of the information communicated to the public authorities. Exceptional circumstances can be taken into account but it may be useful to define them so that they do not result in a decrease in safety. France would actually prefer to keep the current text.

2.19 **Standard.** 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~~,[51] 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.

50 The reference to appendix 1 of the Annex to the FAL Convention is meant to ensure clarity that the documents referred to are the FAL Forms found in this appendix. The possibility of errors occurring also in data transmitted in electronic form is taken into account.

51 (Part of the debate on electronic exchange under item I of annex 1.) Proposed by the **World Shipping Council** in coherence with amendments to standard 2.18.

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 **Standard.** 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 **Standard.** Public authorities shall, ~~by radio whenever possible, but in any case~~[52] 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 **Standard.** 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 **Standard.** With regard to ships calling at ports for this purpose and intending to leave again immediately, public authorities shall not normally require the documents mentioned in Standard 2.1 with the exception of the Maritime Declaration of Health, and, if it is indispensable, the General Declaration. The shipowner shall not be held liable for not having complied with pre-arrival security declaration requirements.[53]

2.24 **Standard.** 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 **Standard.** 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 **Standard.** 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 **Standard.** 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.

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52 The phrase 'by radio whenever possible" is redundant and should be removed (Proposal by australia).

53 The **World Shipping Council**: situations covered by section H can, by any measure, only be characterized as force majeure and it would be entirely unreasonable if a shipowner would be penalized for not having submitted pre-arrival security information to the public authorities in a port state within the prescribed time lines that was not on the original vessel itinerary but which, due to the force majeure situation, is being called by the vessel.

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 **Standard.** 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 **Standard.** 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 **Standard.** 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 **Standard.** 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 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 is to be construed as contradicting the provisions of the United Nations 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.** Contracting Governments shall accept for examination a person being returned from his 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 was earlier found to be inadmissible.

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

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 or in Note 1 is to be construed as contradicting the provisions of the United Nations 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.** 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.** 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.** Where a person is found to be inadmissible, the public authorities shall, without unreasonable delay, inform the shipowner and consult the 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 **Standard.** 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.][54]

3.7 **Standard.** 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 and simplify review.

Positions expressed concerning the proposed amendments to Recommended Practice 3.9.1
The amendment to Recommended Practice 3.9.1 was proposed by **Venezuela**. **France** support this proposition, with the reservation that the term « simplify » should be deleted as it is redundant with the term « facilitate ».

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 **Standard.** A passport or an identity document issued in accordance with relevant ILO Conventions, or else a valid and duly recognized seafarer's identity document, shall be

[54] See debate under item III of annex 1.

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

- family name
- given names
- gender[55]
- date and place of birth
- nationality
- physical characteristics
- photograph (authenticated)
- signature
- date of expiry (if any)
- issuing public authority.

3.10.2 **Standard.** 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 ship or transferring to another ship,

(b) passing in transit to join his 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.

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 administration[56] 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 levels[57].

55 It is proposed to add the gender in the list of particulars that may be required in the seafarer's identity document, as article 3.7 of the ILO Seafarers' Identity Documents Convention, 2003 (C185), lists it among the particulars that must be included in the seafarer's identity document.

56 Proposed by **Venezuela**.

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

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;

(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;

(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 **Standard.** 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 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.

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

3.14 **Standard.** 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 **Standard.** 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 **Standard.** 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 inadmissibility.

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 standardized 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 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 **Standard.** Public authorities shall authorize granting of pratique by ~~radio~~ electronic means[58] 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.

[58] The term "by radio" is amended to cover current method of operating.

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 **Standard.** 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 **Standard.** 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.

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

3.26 **Standard.** 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.

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

3.32 **Standard.** 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 **Standard.** 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 **Standard.** A passenger in transit who remains on board the ship on which he 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.[59]

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 arrived and departs with it should not be required to complete a disembarkation/ embarkation card.

Positions taken concerning the proposed amendments to recommended practice 3.38
Comments providing justification for the proposed amendment
Footnote of the report FAL 37/WP.5: Text of clause aligned with that of 3.36.
Comments opposing the amendment
The **International Chamber of Shipping** points out that the proposed amendment appears to change to a considerable degree the intent of the recommended practice and consider that clarifications are needed as to its purpose. The ICS believes that clarification is required regarding the purpose of the proposal to amend Recommended Practice 3.38

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 requirements[60].

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 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.

[59] **Brazil** does not see the necessity to separate "reasons of security" and "exceptional situations" because all are exceptions. Brazil propose to remove "the reasons of security" and keep the proposed text.

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

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 **Standard.** Foreign crew 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 reason to refuse permission to come ashore for reasons of public health, public safety or public order.

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

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

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

4.2 **Standard**. Public authorities, port authorities, shipowners ~~and their representatives~~[61] and ~~shipmasters~~ masters[62] 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.

Positions taken concerning the proposed amendments to standard 4.2
Comments providing justification for the proposed amendment
(Footnote of the report FAL 37/WP.5: The word "indefinitely" leaves too much leeway.) **The International Goup of P&I Clubs** agreed with and supported the amendments made by the IMO FAL Committee working group as reflected in standard 4.2 above, on the basis that stowaways clearly should not stay on board for an open ended period of time, and while the reference to "an unreasonable amount of time" remains subjective, as stated by Brazil, it does at least indicate that there needs to be a point in time at which it is determined that stowaways need to be taken off the ship, and clearly the latest when that should happen is when it becomes unreasonable for the stowaways to remain on board. "Indefinitely" provides no cut off point at all. Therefore, the International Goup of P&I Clubs fully supports the text as drafted above and already agreed. The **ICS** supported the view expressed by the International Goup of P&I Clubs, concurred that the term "Indefinitely" was too subjective and underlined that the draft text had been agreed after a long debate in the working group.
Comments opposing the amendment
Brazil considers that to replace "indefinitely" by "for an unreasonable amount of time" is the insertion of too vague words. The time beyond what is reasonable seems undertermined. For example, is a day beyond the reasonnable ? For a ship crossing the Atlantic a day may be nothing, but the the same would not be true for navigation off the coasts of Europe . What is wanted is a guarantee that the stowaway will be landed. Every Captain (or Shipmaster) when finding a stowaway on board wants to disembark this stowaway as soon as possible. The current wording "indefinitely" is also subjective, and give a little more time before measures could be taken to "solve" the problem, so the current text is more acceptable. Regarding the suppression of the expression "*and their representatives*" from standards 4.2 and 4.3.2.1 although Brazil prefers to keep the original text, more in line with its practice, the currrent proposal can also be accepted. **Australia** agree with Brazil, that the change does not make the intention of the paragraph any clearer. It suggests maintaining indefinitely and extend the sentence to clearly highlight an expectation that states will wherever possible repatriate the stowaway at the next port after the stowaway was identified.

61 The shipowners representatives are included in shipowners definition.

62 Having two terms to describe the same entity causes confusion.

B. Preventive measures

4.3 Ship/Port preventive measures

4.3.1 Port/terminal authorities

4.3.1.1 **Standard**. Contracting Governments shall ensure that the necessary infrastructure, and operational and security arrangements for the purpose of preventing persons attempting to 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 security plans should, at least be equivalent to those contained in relevant text of paragraph B/16 of the ISPS Code.[63] ~~inter alia, address the following issues where appropriate:~~

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

~~(b) establishment of special storage facilities for cargo subject to high risk of access of stowaways, and continuous monitoring of both persons and cargo entering these areas;~~

[(c) inspection of warehouses and cargo storage areas;] [64]

~~(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~~

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

64 The **World Shipping Council** points the need to redraft the Recommended Practice 4.3.1.2 if this single bullet point, c, is to be retained.

~~(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.** Contracting Governments shall require that shipowners, ~~and their representatives~~[65] ~~in the port,~~ the masters as well as other responsible persons[66] 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 a known 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 paragraph B/9 of the ISPS Code.[67]

~~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;~~

~~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.~~

Positions taken concerning the addition of the term "*a known*" to qualify '*risk*' in standard 4.3.2.2
Comments providing justification for the proposed amendment
The **World Shipping Council**: shipowners cannot reasonably be expected, let alone required, to ascertain the risk of stowaways in every port around the world without public authorities – via the IMO (see Standard 4.7.1 below) – having informed the shipping community about stowaway incidents. In reponse to the comment by France, below, the WSC maintained that it is not reasonable to require shipowners to have the *same* measures in place in every port around the world when the risks of stowaway's indisputably are different between ports. The WSC, nevertheless, would be receptive to replace "known" with another term, e.g. "confirmed" or "identified".

65 The shipowners representatives included in the shipowner definition.

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

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

Comments opposing the amendment
France observes that it seems difficult to qualify the risk. Whether it is known or not, zero risk does not exist. Therefore, France deems it is not desirable to restrict the application of preventive measures to known risk and would prefer to keep the current text.

4.3.2.3 **Standard.** Contracting Governments shall require that ships entitled to fly their flag, except passenger ships, when departing from a port, where there is a known[68] 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.[69] Search methods, which are likely to harm secreted stowaways shall not be used.

4.3.2.4 **Standard.** Contracting Governments shall require that fumigation or sealing of ships entitled to fly their flag may not be carried out until a search which is as thorough as ~~possible~~ practicable[70] of the areas to be fumigated or sealed has taken place in order to ensure that no stowaways are present in those areas.

4.3.3 National Sanctions

4.3.3.1 **Standard.** Where appropriate, Contracting Governments shall~~, according~~ 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 containers.[71]

C. Treatment of the stowaway while on board

4.4 General principles – Humane treatment

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

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68 **France** is not favourable to this inclusion proposed by the **World Shipping Council**, for the reason indicated under Recommended Practice 4.3.2.2. WSC observed that another term than "known" such as "identified" or "confirmed" would be acceptable.

69 The **World Shipping Council** proposed this amendment to reflect that different ship types and the different modi operandi of such ship types, including differing duration of port calls, will influence the -- search methods for potential stowaways.

70 Proposed by the **World Shipping Council** for reasons identical as for standard 4.3.2.2.

71 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. Otherwise the provision on national sanctions is rather lacking in teeth. For example, whilst the existing 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.

4.4.2 **Standard.** 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.

4.5 Work on board

4.5.1 **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 provisioning[72] on board.

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

4.6.1 **Standard**. Contracting Governments shall require ~~shipmasters~~ masters to make ~~every~~ reasonable 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~~.

Positions taken concerning the proposed amendment to standard 4.6.1
Comments providing justification for the proposed amendment
The **World Shipping Council** proposed the amendment on the ground that there would be no need to inform subsequent ports of call in the event that the incident is resolved in cooperation with the public authorities in the first port of call. Also, liner shipping vessels will have several subsequent ports of call in their itinerary and, again, there would be no need to inform all such ports if the incident is resolved in cooperation with the public authorities in a subsequent port of call after the first port of call. Finally, it is unreasonable to require shipowners to make "every" effort to establish the identify of a stowaway; ultimately, this is the responsibility of public authorities.
Comments opposing part of the amendment
Commenting on the proposed substitution of "*every effort*" by "*reasonable effort*", **France** indicated that it did not favour the proposal, because the term "*reasonable*" reduces the responsibility of the master in establishing the identity of a stowaway. Therefore, France would rather propose to replace "*to make every effort*" by "*to perform every due diligence*".

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

[72] S 4.4.2 introduces provisioning as a criterion. Ship's crew should not be expected to wash plates, etc., for stowaways. This Standard states that the stowaway should not be required to work. We would propose that it says "shall not be permitted to work on board the ship except ...". Naturally, if a stowaway works, he/she will feel 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.

4.6.3 **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[73] the International Maritime Organization

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

Positions taken concerning the proposed amendment to standard 4.7.1
Comments providing justification for the proposed amendment
Proposed by the **World Shipping Council** for the same reason as under 4.3.2.2 above, as shipowners rely on reporting by the public authorities to ascertain the risk of stowaways. Noting France's comments, below, the WSC proposed that the text of the proposed standard be amended to read: "Public authorities should report all stowaway incidents of which they become aware to the [IMO]".
Comments opposing the amendment
France wonders about the added value to transform recommended practice 4.7.1 into a standard. In accordance with standard 4.6.1, masters shall notify the existence of a stowaway to the public authorities of the first port of call, and also to the shipowner, public authorities at the port of embarkation, the flag State and any subsequent ports of call if relevant. Moreover, the Facilitation Committee invited not only IMO Member Governments but also international organizations in consultative status, through Circular FAL.2/Circ.50.Rev.2, to provide the IMO with information on stowaway incidents. In the light of the above, France considers that public authorities should be encouraged to notify stowaways to IMO but it is not possible to transform the recommended practice into a standard, as the responsibility to notify all stowaway incidents would be entirely assumed by the public authorities whereas they are sometimes less aware of these situations than international organizations in consultative status.

D. Deviation from the planned route

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

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

[73] Editorial amendment proposed by the secretariat and supported by the correspondance group.

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

there are extenuating safety[74], 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.

Positions taken concerning the proposed amendments to standard 4.8
Comments providing justification for the proposed amendment
(Footnote of the report FAL 37/WP.5: The clause discouraging shipowners from deviating to land stowaways whilst idealistic is just not realistic. Due to the problems faced by vessel Owners and the very limited ports where disembarkation is allowed, deviation is often the last necessary solution, particularly for shipowners on liner routes where all ports are refusing to allow disembarkation.) **Australia** considers that Masters should be able to deviate from planned route, if the nationality of the Stowaway is identified and a port of that country is in the vicinity of the vessels planned route that could handle such a matter. Australia agrees also with the insertion of 'safety' as a reason for deviation **The International Goup of P&I Clubs** underlines that the current wording of standard 4.8 reflects a compromise position following a proposal to delete this provision. The current wording reflects a middle ground between that proposal and those who preferred to keep the text but recognized that it did not necessarily reflect reality. This compromise allowed for deviation where: "*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*". The International Goups of P&I Club understands that this compromise is now opposed by Brazil on the basis that "it serves as kind of "prior authorization" for the Captain to take the action of a "deviation" in view of a single one stowaway, without mention of the implications in insurance transactions involved". The International Goup of P&I Clubs does however fully support the current wording as reflected above and agreed at the working group that met during the last IMO FAL Committee meeting, since this was the result of long discussions in that working group on the basis that the wording that previously existed was unrealistic. The International Goup of P&I Clubs believes that it would be unfortunate to re-open the compromise that was reached. The **Marshall Islands** supports the insertion of "safety" to the list of extenuating reasons, and can agree to the proposed text that was developed by the Working Group at FAL 37 regarding deviation from a planned route ..."to avoid that the stowaway remain on board for a significant period of time."
Comments opposing the amendment
Brazil supports the insertion of "safety", but is opposed to the insertion of the bullet related to "deviation". It would serve as a kind of "prior authorization" for the Captain to take the action of a "deviation" in view of a single one stowaway, without mention of the implications in insurance transactions involved. If the compulsory acceptance of the first country in the route is agreed, there is no necessity to interpret "unreasonable period of time" or "indefinitely" (Standard 4.2) or as proposed to this Standard "Significant period of time".

[74] If Standard 4.8 were retained, it would be suggested to add safety to the list of extenuating reason. 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 (raised at MSC 88).

The **International Chamber of Shipping** is concerned by the proposal for Standard 4.8 to be amended so that Masters may deviate from a planned route if "attempts to disembark at 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". Although, at first sight, this amendment seems to give greater flexibility to the Master, it might also be used as an excuse for port states not to deal with stowaways.
ICS believes that the numbers of exception/deviations should be limited in order to put maximum pressure on countries en route to accept stowaways.

E. Disembarkation and return of a stowaway

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

4.9.1 **Standard**. Public authorities in the country of the ship's first scheduled port of call after discovery of a stowaway shall decide in accordance with national legislation whether the stowaway is admissible to that State and will do their utmost to cooperate with the parties involved in resolving the issue.[75]

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

4.9.3 **Standard.** ~~Where appropriate and in accordance with national legislation, public~~ Public[76] 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 remaining[77] 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.

[75] 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.

[76] This suppression is proposed due to the fact that part of the standard 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.

[77] 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.

4.10 Subsequent ports of call

4.10.1 **Standard**. When disembarkation of a stowaway has failed in the first scheduled port of call after discovery of the stowaway, public authorities of ~~the~~ [78] subsequent ports of call shall examine the stowaway as for disembarkation in accordance with Standards 4.9.1, 4.9.2 and 4.9.3.

4.11 State of Nationality or Right of Residence

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

4.11.2 **Standard**. Public authorities shall, when possible, assist in determining the identity and nationality/citizenship of stowaways claiming to be a national or having a right of residence in their State. 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.[79]

4.12 State of Embarkation

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

4.12.2 **Standard**. When it has been established to their satisfaction that attempted stowaways have embarked a ship in a port in their State, public authorities shall accept disembarkation of attempted stowaways, and of stowaways found on board the ship while it is still in 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 **Standard.** When an attempted stowaway has not been disembarked at the port of embarkation he/she is to be treated as a stowaway in accordance with the regulation of this section.

4.13 The flag State

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

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78 Proposed by the **World Shipping Council,** for reasons discussed under 4.6.1.

79 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.

- identifying the stowaway and determining his/her nationality;

- making representations to the relevant public authority to assist in the removal of the stowaway from the ship at the first available opportunity; and

- making arrangements for the removal or repatriation of the stowaway.

4.14 Return of stowaways

4.14.1 **Recommended Practice.** When a stowaway has inadequate documents, public authorities should, whenever practicable and to an extent compatible with national legislation and security requirements, issue a covering letter with a photograph of the stowaway and any other important information, 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 the[80] 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[81.]

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.

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80 Comment: There are additional costs that the State of disembarkation should inform the shipowner of, which we have sought to cover in the amendments.

81 The International Group of P&I Clubs observed that 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 Committee meeting in September 2011. Those words are here reinserted.

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

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

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 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~~ ensure [82] 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 storage facilities and port 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 re-forwarding [83] of cargo if required. There should be convenient and direct access between the the free zone, storage facilities and[84] 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 infrastructure[85].

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82 The **World Shipping Council** proposed this amendment, intending to reflect that many ports around the world are essentially landowners who lease acreage to terminals that stevedore the ships calling that particular port.

83 The **World Shipping Council** considers this term to be unclear. Is "re-loading" the intended term? Is "onward movement"?

84 The **World Shipping Council**: 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.

85 "Mechanical conveyance" is deemed a unclear term by the **World Shipping Council** who propose this alternative drafting.

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 paragraph B/16 of the ISPS Code ~~by unauthorized persons at all times~~. 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.[86]

5.4 **Standard.** 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**~~ **Standard.** 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~~ shall authorize either Customs or one of the other agencies to carry out the required procedures or, where that is not feasible, take all necessary steps to ensure that such ~~clearance is~~ 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.[87]

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

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.

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86 The World Shipping Council: 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.

87 The **World Shipping Council**: 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.

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.

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

5.10.1 **Recommended Practice.** Public authorities should ~~consider the introduction of~~ introduce[88] 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.

5.11 **Standard.** 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 ("stuffed") [89] 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 container is loaded and sealed.

5.13 **Standard.** 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-export [90] processes.

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

89 The **World Shipping Council**: 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.

90 The **World Shipping Council**: the current 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.

5.14.1 **Recommended Practice.** Public authorities should ~~endeavour to~~ quickly ~~clear~~ terminate[91] the transit procedure covering goods from another State awaiting loading.

C. Containers and pallets

5.15 **Standard.** Public authorities shall, in conformance ~~subject to compliance~~ with their respective regulations, permit the temporary admission of containers, ~~and~~ pallets and container equipment and accessories that are affixed to the container or are being transported separately [92] 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 Standard 5.15, for the acceptance of a simple declaration to the effect that containers, ~~and~~ pallets and 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.[93]

5.17 **Standard.** Public authorities shall permit containers, ~~and~~ pallets and container equipment entering the territory of a State under the provisions of Standard 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.

5.17.1 **Recommended Practice.** Public authorities should permit containers and pallets that are to be repositioned to a port for re-export to be used for transportation of cargo within the territory of a State subject to conditions set forth in their regulations.[94]

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

D. Cargo not discharged at the port of intended destination

5.19 **Standard.** Where any cargo listed on the Cargo Declaration , if applicable subject to Standard 2.1.4, 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 [95] landed at another port.

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91 The **World Shipping Council** propose this amendment with the aim 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].

92 Proposed by the **World Shipping Council** in conformance with both the Customs Container Convention and the Istanbul Convention.

93 See comment immediately above.

94 Proposed by the **World Shipping Council** in conformance with the Customs Container Convention, specifically Article 9 and its Annex 3.

95 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.

5.20 **Standard.** 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~~ [96] to its intended destination. This provision does not apply to dangerous,[97] prohibited or restricted cargo.

E. Limitation of shipowner's responsabilities

5.21 **Standard.** 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 **Standard.** 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 **Standard.** The shipowner shall be obliged to provide the information regarding the entry or exit of goods known to him 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 his shipper customer, unless the shipowner has reason to believe that the data provided is untrue. [98]

5.24 **Recommended Practice.** Public authorities should implement regulations pursuant to which the person, who initiates and contractually agrees with 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 carrier, freight forwarder or consolidator. [99]

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96 Editorial clarification proposed by the **World Shipping Council.**

97 Proposed by **Venezuela**. The **World Shipping Council** commented that it did: not understand the reason for the proposal made by Venezuela.If dangerous goods are manifested, marked and placarded in accordance with the IMDG Code, there would be no reason why such goods should not be allowed to be re-loaded or to be onward moved to its intended destination.

98 Proposed by the **World Shipping Council** as 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 Standard 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]

99 The **World Shipping Council**: 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).

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

6.1 **Standard.** 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 standardizing such requirements.

6.4 **Recommended Practice.** Public authorities should ~~whenever practicable~~ authorize granting of pratique ~~by radio~~ by electronic means [100] 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 and without impacting the efficiency of maritime traffic [101] be allowed to join a ship prior to entry of the ship into port.

6.4.1 **Standard.** 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 means [102] 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 **Standard.** 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 **Standard.** Public authorities shall ensure that sanitary measures and health formalities are initiated forthwith, completed without delay, and applied without discrimination.

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100 **Australia:** to ensure standardization across the Annex, 'granting of pratique by radio' should be changed to 'pratique by electronic means', as in 3.20.

101 This addition and the suppression of 'whenever practicable' have been suggested by the **World Shipping Council** for editorial clarifications, to underline the facilitatory nature of the Recommended Practice.

102 The **World Shipping Council** proposes this amendment as editorial change, consequence of the amendment to 6.4.

6.8 **Recommended Practice.** Public authorities should maintain at as many ports as feasible to ensure efficient maritime traffic [103] adequate facilities for the administration of public health, animal and agricultural quarantine measures.

6.9 **Standard.** 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 **Standard.** 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 the States concerned.

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 **Standard.** 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.

[103] Editorial clarification proposed by the **World Shipping Council** to underline the facilitatory nature of the Recommended Practice.

7.4 **Standard.** 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 **Standard.** 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.

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 **Standard.** Public authorities shall facilitate the arrival and departure of ships engaged in:

- disaster relief work;
- the rescue of persons in distress at sea in order to provide a place of safety for such persons;
- the combating or prevention of marine pollution; or
- other emergency operations designated to enhance maritime safety, the safety of life at sea, the safety of the population or the protection of the marine environment.

7.9 **Standard.** 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 Standard 7.8.

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

D. National facilitation committees

7.11 **Recommended Practice.** Each Contracting Government should, where it considers such action necessary and appropriate, or when the maritime industry through representative associations make such a request [104] establish 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 committee 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 [105] and shipowners.

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

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[104] Editorial amendment proposed by the **World Shipping Council** to encourage government-private sector cooperation on the promotion of facilitatory measures.

[105] the **World Shipping Council**: see discussion under 5.1. above.

ANNEX 3

Terms of Reference for the intersessional Correspondence Group

[The intersessional Correspondence Group on comprehensive review of the Convention should:

.1 make further progress on the general revision of the annex to the FAL Convention;

.2 identify the scope for harmonizing the provisions of the annex to the Convention with the current security requirements of relevant IMO instruments;

.3 take into account the areas of review as identified by the Committee at earlier sessions and which are outlined in document FAL 36/4;

.4 identify duplicative requirements of pre-arrival notifications for cargo-security and passenger information purposes and advance arrival/departure notification, and make recommendations for harmonization of these various requirements;

.5 identify outdated provisions in the current Standards and Recommended Practices taking into account the incorporated requirements of other international Conventions, for example in section 5, part C, Standard 7.4 and Recommended Practice 6.2; and

.6 investigate the need to develop new definitions which, inter alia, could include definitions for "declarant" or "stuffing of containers" bearing in mind the current globally used industry's terminology.

.7 identify the changes needed to align the FAL forms with the proposed changes of Standards 2.6.1 (Crew List) and 2.7.3 (Passenger List)

.8 consider the remaining issues identified by MSC 88 which are:

.9 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;

.10 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, identify further guidelines that need to be included in the Explanatory Manual; and

.13 submit its report in time to the next session of the Committee.]