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NOTE

from : Presidency
to : Working Party on Frontiers / Mixed Committee
(EU-Iceland/Norway/Switzerland)

Subject : Incompatibilities between the FAL Convention and EC Law - Results of
Questionnaire – Doc 9387/07 FRONT 54 COMIX 454

1. Introduction

a) Questionnaire

1. Following the meeting of the Working Party on Frontiers / Mixed Committee on 3 and 4 May 2007 delegations were invited to reply by 31 May 2007 to a questionnaire established by PT regarding the differences between on the one hand national and Community legislation and on the other hand the Standards and Recommended Practices set out in the Annex of the Convention on Facilitation of International Maritime Traffic (FAL Convention). The questionnaire is set out in doc. 9387/07 FRONT 54 COMIX 454.

b) Background

2. The FAL Convention provides that any Contracting Government which finds it impracticable to comply with a Standard of the Convention, or deems it necessary to adopt regulations differing from such Standard, shall inform the Secretary-General of the International Maritime Organization (IMO) and notify him of the differences between its own practices and the Standard in question. The same procedure applies to new or amended Standards.
3. In the case of Recommended Practices, Contracting Governments are urged to adjust their practices accordingly but are only required to notify the Secretary-General of IMO when they have brought their own formalities, documentary requirements and procedures into full accord.
4. In a questionnaire launched by IMO in 2002 Contracting Governments were invited to answer to a questionnaire on incompatible Standards and Recommended Practices of the FAL Convention. The answers given have shown a lack of harmonization and divergent positions about the same Standards and Recommended Practices. (doc. FAL30/7/2, 21/11/2002).
5. It is noted that the FAL Facilitation Committee is currently working on a revision of the FAL Convention itself and preparing an Explanatory Manual on that Convention. The amendments under discussion are intended to modernize the Convention in order to enhance the facilitation of international maritime traffic. The amendments need to be analysed in order to assess to which extent they would lead to greater compatibility with Community legislation on cross-border movement of persons.
6. During the last meeting of the FAL Committee (London in March 2007, 34th FAL meeting), the Chairman of the Facilitation Committee of IMO (FAL Committee), considering that reservations are frequently entered by the EU Member States in relation to the Schengen Acquis, requested that EU Member States establish a clear position with regard to the FAL Convention's provisions. Following this recommendation, a common and a coordinated position by the EU Member States, as well as a line of conduct, was agreed with regard to several of the proposed amendments to the FAL Convention.

7. A consensus should be achieved by all EU Member States regarding the compatibility problems with the EC Law, in particular with Section 3 and 4 of the FAL Convention, taking into consideration that until present there were several amendments to the original text of the Convention (in 1973; 1986; 1987; 1990; 1992; 1993; 1996; 1999; 2002 and 2005).
8. A further detailed Community position is needed for an appropriate discussion with regard to the differences between the FAL Convention and the Community Law, especially in relation to regulation (EC) 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).
9. Following the adoption of the said Regulation establishing a Community Code on the rules governing the movement of persons across borders (Schengen Border Code), the Commission took the initiative to promote expert meetings on sea borders in order to examine which of the Standards and Recommended Practices of the FAL Convention may be incompatible with EC Law."The proposal for a notification of divergences (Commission document SEC (2007) 95, doc 5596/07 FRONT 8) was limited to those provisions which were newly introduced by the SBC".
10. The questionnaire referred to under point a) is intended to form a basis for discussions in the Working party with a view to preparing a coordinated notification to IMO, under Article VIII of the FAL Convention, of the incompatibilities between the FAL Convention and EC Law.

2. Results of the Questionnaire on the FAL Convention in regard of the Schengen acquis

11. The FAL Convention's main objectives are to prevent unnecessary delays in maritime traffic, to aid co-operation between Governments, and to secure the highest practicable degree of uniformity in formalities and other procedures. The FAL Convention is an important international legal instrument for the harmonisation of sea border procedures worldwide, and for the standardization of the ship and port interface.

12. There are some incompatibilities between the FAL Convention and Community Law. Furthermore, there are some difficulties in relation to certain Standards and Recommended Practices which have an important impact on border control procedures.
13. In particular, the FAL Convention, as amended, does not respond to the needs of risk analysis, the visa policy of the EC and certain other concerns, such as illegal migration by sea and the rescue of persons in distress at sea.
14. In order to relax border checks and to facilitate the international maritime traffic firm steps must be taken regarding secure travel documents and secure procedures during the arrival, stay and departure of the ship, its crew and passengers.
15. At a later stage, the differences between EC law and the present FAL Convention must be reviewed in order to determine to which extent and for what provisions it may be appropriate to seek to have the FAL Convention amended make it compatible with EC law, taking into account that the FAL Convention is under revision and also will provide port authorities, crew members and ship masters with an Explanatory Manual.
16. On the basis of the answers given to the above mentioned questionnaire¹, the Presidency has established a list of Standards (Annex I) and a list of Recommended Practices (Annex II) which one or more Member States consider to be incompatible with EC law.

¹ The following delegations replied to the questionnaire: Germany, Czech Republic, Cyprus, Portugal, Spain, Switzerland, Slovakia, Slovenia, Austria, Poland, Sweden, Finland, The Netherlands, Italy, Estonia, Norway, Romania, Luxembourg, Denmark, Latvia, Lithuania.

STANDARDS

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.

PT

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

LT

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.

LT, PT

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.

CY

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.

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.

DK

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.

DK

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
- family name
- given names
- nationality
- rank or rating
- date and place of birth
- nature and number of identity document
- port and date of arrival
- last port of call.

DE, ES, NL, PL, PT, SI, FI, SE, NO, FR

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.

FR

2.6.3 Standard. Public authorities shall not normally require a Crew List to be submitted on each call in cases where a ship, serving in a scheduled programme, calls again at the same port at least once within 14 days and when there has been no change in the crew, in which case a statement of "No Change" shall be presented in a manner acceptable to the public authorities concerned.

DK, ES, IT, CY, LT, NL, PL, PT, SI, FI, FR

2.11 Standard. 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.

FR(?)

2.12 Standard. 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.

CY

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.

CY, NL, PT

2.16 Standard. Public authorities 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.

CY, LT, PT

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 acceptable to the public authority concerned.

CY, PT

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.

PT

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

PT, FR (?)

2.19 **Standard.** If errors are found in documents provided for in this annex 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.

PT, FR (?)

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

PT, FR (?)

2.21 **Standard.** Public authorities shall, by radio whenever possible, but in any case 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.

PT, FR (?)

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.

PT, FR (?)

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.

NL, PT, SI, NO, FR

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.

PT, FR (?)

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.

FR (?)

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.

FR (?)

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.

CY, FR (?)

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.

ES, CY

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.

CY, LT, FR

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.

ES, PT

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.

CY, LT, PT

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 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.

CY, NL, FR

3.3.7 Standard. Contracting Governments and shipowners shall co-operate, where practicable, to establish the validity and authenticity of passports and visas.

CY

3.10 Standard. A valid seafarer's identity document or a passport shall be the basic document providing public authorities with information relating to the individual member of the crew on arrival or departure of a ship.

DK, ES, PL, SI, FI, FR

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

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

DK, PT

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.

DK, NL, PL, PT, RO, SI, NO (?)

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

FR

3.15 **Standard.** Public authorities shall not impose any penalty 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.

DK, EE, ES, IT, CY, LT, NL, PL, PT, RO, FI, FR

3.21 **Standard.** For cruise ships, the General Declaration, the Passenger List and the Crew List shall 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.

DK, ES, NL, PL, PT, SI, FI, FR

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

DK

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

CY

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.

IT, PT

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.

ES, PL, PT

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

CY, PT, FR

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.

PT

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.

NO(?)

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

EE, IT, PL, PT, RO, NO(?)

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.

CY, PL, PT, RO

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

PT

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 co-operation with relevant public authorities, shipowners and shore-side entities, with the aim of preventing stowaway occurrences in the individual port.

CY, FR (?)

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

CY, FR (?)

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

CY, FR (?)

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

CY, FR (?)

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

CY

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.

CY

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

CY

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

CY

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

CY

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

CY, FR

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

- permission to disembark the stowaway has been granted by the public authorities of the State to whose port the ship deviates; or
- repatriation has been arranged elsewhere with sufficient documentation and permission for disembarkation; or
- there are extenuating security, health or compassionate reasons.

PT, FR (?)

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.

CY, PT

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.

IT, CY, PT

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

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

IT, CY, PT

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

IT, CY, PT

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.

CY

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.

CY

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.

CY, PT

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

CY, PT

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.

CY, PT

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

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

CY

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.

CY, PT

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.

CY

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.

CY

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.

CY

Recommended Practices

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

CY

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

IT, CY

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

CY

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

ES, CY

2.1.4 Recommended Practice. Public authorities should not require the lodgement of a separate General Declaration, Cargo Declaration, Crew List and Passenger List if the data elements contained in these documents are included in the pre-arrival information.

CY, SE

2.1.5 Recommended Practice. Public authorities should:

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

CY

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

- name, type and IMO number of ship
- call sign
- flag state of ship
- 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.

LT

2.6.4 Recommended Practice. Under the circumstances mentioned in Standard 2.6.3 but 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.

ES, CY, LT, PT

2.7.1 Recommended Practice. Public authorities should not require Passenger Lists on short sea routes or combined ship/railway services between neighbouring countries.

ES, IT, CY, LT, NL, PL, PT, FI

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.

CY

2.7.3 Recommended Practice. In the Passenger List, public authorities should not require more than the following data:

- name and IMO number of ship
- call sign
- flag State of ship
- family name
- given names
- nationality
- date of birth
- place of birth
- type of identity document supplied by the passenger
- serial number of identity document
- port of embarkation
- port of disembarkation
- port and date of arrival of the ship
- transit passenger or not.

DE, ES, LT, NL, PL, PT, FI, SE (?), NO,

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 Recommended Practice 2.7.3 and is dated and signed or authenticated in accordance with Standard 2.7.5.

ES, LT, PT

2.14 **Recommended Practice.** 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, 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 be kept to a minimum.

ES

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.

PT

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.

ES, RO

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.

PT

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.

PT, NO

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 of passport or other official identity document
- date of birth
- place of birth
- occupation
- port of embarkation/disembarkation
- sex
- destination address
- signature.

PT, NO

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.

PT

3.11 Recommended Practice. Public authorities should, with the co-operation of shipowners and port authorities, 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.

SE, NO

3.11.1 Recommended Practice. Public authorities should:

- (a) in co-operation 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.

RO

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 co-operation with other appropriate international organizations and which, to the greatest extent practicable, are common to all modes of transport.

CY

3.24 Recommended Practice. If a cruise ship stays at a port 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.

DE, ES, IT, CY, LT, NL, PL, PT, RO, FI, SE, NO

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.

ES, LT, SE

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.

IT, PT, SE, NO

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

IT, PT, SE

3.35 **Recommended Practice.** Except where passenger control is based solely on the Passenger List, the public authorities should not insist on the completion of the following details on the Passenger List:

- nationality (column 6)
- date and place of birth (column 7)
- port of embarkation (column 8)
- port of disembarkation (column 9).

ES, IT, CY, LT, NL, PL, PT, FI

3.38 **Recommended Practice.** A passenger in transit should not be required to complete a disembarkation/embarkation card.

CY

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.

DE, EE, ES, CY, LT, NL, PL, RO, SE, NO

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.

DE, IT, CY, NL, PL, PT, RO, FI, SE, NO

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.

EE, ES, IT, CY, LT, PT, SE

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.

EE, IT, LT, NO

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

IT, CY, PT

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.

ES

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.

IT, CY, LT, PT

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

- (a) regular patrolling of port areas;
- (b) establishment of special storage facilities for cargo subject to high risk of access of stowaways, and continuous monitoring of both persons and cargo entering these areas;
- (c) inspections of warehouses and cargo storage areas;
- (d) search of cargo itself, when presence of stowaways is clearly indicated;
- (e) co-operation between public authorities, shipowners, masters and relevant shoreside entities in developing operational arrangements;
- (f) co-operation between port authorities and other relevant authorities (e.g. police, customs, immigration) in order to prevent smuggling of humans;

CY

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

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

CY

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

CY

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

CY

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

CY, PT

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.

CY

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.

IT, CY, PT

4.15.1 Recommended practice. The public authorities of the State where a stowaway has been disembarked should generally inform the shipowner, on whose ship the stowaway was found, or his representative, as far as practicable, of the level of cost of detention and return of the stowaway, if the shipowner is to cover these costs. In addition, public authorities should keep such costs to a minimum, as far as practicable and according to national legislation, if they are to be covered by the shipowner.

CY

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.

CY

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

CY, NL, PT

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.

CY

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.

CY

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.

CY

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.

IT

7.11 Recommended Practice. Each Contracting Government should, where it considers such action necessary and appropriate, 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.

CY

7.12 Recommended Practice. Each Contracting Government should establish a national maritime transport facilitation committee or a similar national co-ordinating 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 and shipowners.

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

CY
