ANNEX 2

RESOLUTION FAL.7(29)

Adopted on 10 January 2002

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

THE FACILITATION COMMITTEE,

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

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

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

1. ADOPTS, in accordance with article VII(2)(a) of the Convention, the amendments to the Convention, the text of which is set out in the annex to the present resolution;

2. DETERMINES, in accordance with article VII(2)(b) of the Convention, that the amendments shall enter into force on 1 May 2003 unless, prior to 1 February 2003 at least one-third of Contracting Governments have notified the Secretary-General in writing that they do not accept the amendments;

3. REQUESTS the Secretary-General, in conformity with article VII(2)(a) of the Convention, to communicate the amendments contained in the Annex to all Contracting Governments;

4. FURTHER REQUESTS the Secretary-General to notify all Signatory Governments of the adoption and entry into force of the said amendments.

ANNEX

AMENDMENTS TO THE ANNEX TO THE FAL CONVENTION, AS AMENDED

Section 1 - Definitions and general provisions

A. Definitions

1 Add the following definitions:

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

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

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

Section 2 - Arrival, stay and departure of the ship

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

"Note:

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

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

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

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

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

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

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

5 Delete paragraphs 2.7.6 and 2.7.6.1 and associated notes.

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

"• 1 copy of the Dangerous Goods Manifest"

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

"• 1 copy of the Dangerous Goods Manifest"

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

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

A. General Principles

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

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

B. Preventive measures

4.3. *Ship/Port preventive measures*

4.3.1 *Port/terminal authorities*

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

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

a) regular patrolling of port areas;

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

c) inspections of warehouses and cargo storage areas;

d) search of cargo itself, when presence of stowaways is clearly indicated;

e) co-operation between public authorities, shipowners, masters and relevant shore-side entities in developing operational arrangements;

f) co-operation between port authorities and other relevant authorities (e.g. police, customs, immigration) in order to prevent smuggling of humans;

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

g) developing and implementing agreements with stevedores and other shoreside entities operating in national ports to ensure that only personnel authorized by these entities participate in the stowing/unstowing or loading/unloading of ships or other functions related to the ships stay in port;

h) developing and implementing agreements with stevedores and other shoreside entities to ensure that their personnel having access to the ship is easily identifiable, and a list of names of persons likely to need to board the ship in the course of their duties is provided; and

i) encouragement of stevedores and other persons working in the port area to report to the port authorities, the presence of any persons apparently not authorised to be in the port area.

4.3.2 ***Shipowner/Shipmaster***

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

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

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

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

- areas seaward of the ship should be adequately secured;

- adequate deck watch should be kept;

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

- adequate means of communication should be maintained; and

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

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

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

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

4.3.3 National Sanctions

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

C. Treatment of the stowaway while on board

4.4 General principles – Humane treatment

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

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

4.5 Work on board

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

4.6 Questioning and notification by the shipmaster

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

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

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

4.7 Notification of the International Maritime Organization

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

D. Deviation from the planned route

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

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

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

- there are extenuating security, health or compassionate reasons.

E. Disembarkation and return of a stowaway

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

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

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

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

- a case is unresolved at the time of sailing of the ship; or

- the presence on board of the stowaway would endanger the safe operation of the ship, the health of the crew or the stowaway.

4.10 Subsequent ports of call

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

4.11 State of Nationality or Right of Residence

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

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

4.12 State of Embarkation

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

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

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

4.13 The flag State

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

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

4.14 Return of stowaways

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

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

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

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

4.15 Cost of return and maintenance of stowaways

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

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

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

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

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

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

12 In renumbered paragraph 7.5 replace “Standard 6.2” by “Standard 7.2”.

13 In renumbered paragraph 7.9 replace “Standard 6.2” by “Standard 7.8”.

14 Appendices should be renumbered as follows:

.1 Appendix 1 to be kept as Appendix 1;

.2 Appendix 2 to become Appendix 6;

.3 Appendix 3 to become Appendix 4;

.4 Appendix 4 to become Appendix 2;

.5 Appendix 5 to be kept as Appendix 5; and

.6 Appendix 6 to become Appendix 7.

15 Add the following new Appendix 3 – *Form referred to in Recommended Practice 4.6.2*:

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

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

[*] If the Stowaway declares himself to be a refugee or an asylum seeker, this information shall be treated as confidential to the extent necessary to the security of the stowaway.

Date of birth: *Place of birth:* *Claimed nationality:* *Home address:* *Country of domicile:*	*First language:* *Spoken:* *Read:* *Written:* *Other languages:* *Spoken:* *Read:* *Written:*

Other details:

1) *Method of boarding, including other persons involved (e.g. crew, port workers, etc.), and whether the Stowaway was secreted in cargo/container or hidden in the ship:*

2) *Inventory of the Stowaway's possessions:*

3) *Statement made by the Stowaway:*

4) *Statement made by the Master (including any observations on the credibility of the information provided by the Stowaway).*

Date(s) of Interview(s):

Stowaway's signature: *Master's signature:*

Date: *Date:* "

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

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