



IMO
INTERNATIONAL MARITIME LAW INSTITUTE
Established under the auspices of the International Maritime Organization
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**AN ACT TO INCORPORATE THE CONVENTION ON
FACILITATION OF INTERNATIONAL MARITIME
TRAFFIC 1965 AS AMENDED INTO THE LAWS OF THE
FEDERAL REPUBLIC OF NIGERIA**

AND

THE REGULATIONS MADE PURSUANT TO THE ACT

**A Legislation Drafting Project submitted in partial fulfillment of the
requirements for the award of the Degree of Master of Laws (LL.M.) at the
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DEDICATION

To God Almighty who gave me life, wisdom and strength and bestowed upon me his abundant blessings; and
To my late beloved Parents, for all the love and discipline they raised me up with.

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EXPLANATORY NOTE

1) INTRODUCTION

The Convention on Facilitation of the International Maritime Traffic, 1965 (FAL Convention) which is aimed at facilitating the maritime traffic at the ports was enacted in London on 9 April 1965 and entered into force on 5 March 1967. Prior to the adoption of the Convention, it was observed that the ports were characterised with undue delays in the arrival, stay and departure of ships. This was greatly due to the lack of uniform standards for all ports operations in the maritime nations of the world.

The developments in shipping after the World War II necessitated a quick response to these problems. This era witnessed an increase in the speed of vessels, the building of larger vessels, the increase in the amount of cargoes as well as passengers, the introduction of containers, the advances of telecommunication and the increase in paper work.

The U.S Pacific Coast Shipping prepared a report in April 1959 titled „*Merchant Shipping on a Sea of Red Tape*“. The Report contained the analysis on the documentation processes at the ports. The analysis showed that ports required between twenty two and forty six separate documents. This Report was lodged with the Inter-Governmental Maritime Consultative Organization (IMCO)¹, then in its formative stage. In 1961, IMCO adopted a Resolution to study the matter. An Expert Group which deliberated on the Report suggested the drawing up of a convention on the facilitation of international maritime traffic. Consequent upon this, on 9 April 1965, the Convention was adopted.²

2) OBJECTIVES AND SCOPE OF THE CONVENTION

Traditionally, seaports have been defined as a terminal for the inter-modal transfer of cargo between land and seagoing vehicles. The role and functions of the seaport have however

¹ IMCO, a specialized Agency of the United Nations, was established in Geneva in 1948 and entered into force in 1958, with its Headquarters in London. It was formed to bring the regulation of the safety of shipping into an international frame work. IMCO was renamed International Maritime Organization (IMO) in 1982, www.imo.org.

² Mr. Charles Abela (Chairman of the IMO FAL Committee) „Lecture notes“ delivered on 27 October 2010, at IMO International Maritime Law Institute, Malta.

evolved in response to changes in the global pattern of production, distribution and marketing. The modern seaport has therefore, ceased to be a mere terminal for the transfer of cargo between land and sea modes of transport. It has evolved into a dynamic logistics platform, providing value-adding services to trade, industry and commerce. The modern seaport in addition plays very important roles in international politics and diplomacy of the countries in which they are located. This brought to the fore the urgent need to improve port efficiency to ensure the speedy clearance of vessels and cargoes. Globalisation of production and distribution has created a situation whereby the efficiency and production capacity of a seaport can greatly influence the decision of an investor to locate a manufacturing plant or a distribution centre in a country. The efficiency of a port also determines to a very great extent, whether a local producer (i.e. an exporter) can compete in global or regional markets. Again, the efficiency of a seaport impacts the landed price of imports in local markets. In a nutshell seaports now contribute to enhancing a country's attractiveness as a destination for foreign direct investment and a country's growth and development performance.³

Against this background, the objectives of the Convention are, to facilitate the international maritime traffic, prevent unnecessary delays to ships, crews, passengers, and cargoes; secure the highest practicable degree of uniformity in formalities, documentary requirements and procedures and keep to the barest minimum any alterations needed to meet special national requirements. These are to be achieved through simplification of the relevant processes by eliminating unnecessary elements and duplication in formalities and procedures; by standardisation, in developing common documents and procedures for all ports in a country, in a region and internationally; and, through the harmonisation of national formalities with international legislative instruments.⁴Therefore, the benefits of the Convention cannot be overemphasised.

These benefits extend to all the stakeholders involved in international maritime trade for the reasons illustrated below.

³ Part of the submission by the Ghana Working Group during a Sub-regional Seminar on „Facilitation of Maritime Traffic“ held in Lagos, Nigeria from 22-26 May, 2006.

⁴ Mr. Charles Abela op.cit.

Benefits to the Governments

The benefits of the Convention to the Government of the port State will include the reduction of administrative burden and better utilisation of personnel by eliminating non-essential information and documents. Also, since the formalities and procedures are similar in competing ports this means that formalised documents will be easily understood by Masters and more likely to be completed correctly. In addition, the uniform layout makes it easier for the use of electronic submission. The result will be the increase in ship turn-around time and better utilisation of port infrastructure.

Benefits to Shipowners and Masters

The immediate Stakeholder affected by any difficulties or delays in a port are without doubts the Shipowners and Masters. With the implementation of the Convention, less time is required to complete documentation and certainly lesser number of documents will be required. Furthermore, the simplification and reduction in the number of documents will reduce the possibility of errors and thereby avoiding any penalties and detentions by public authorities for incorrect data. It will also enhance the quicker familiarisation with the documents by the crew and a quicker handling of cargoes and passengers. Lastly, the documents are easier to be submitted electronically.

Benefits to Shippers

For the shippers, the implementation of the Convention saves time and expense in cargo clearance and it facilitates procedures for cargoes packed in containers. In addition, considering the reduced time spent at port, cargoes are less exposed to the risk of damage or pilfering.

3) OVERVIEW OF THE CONVENTION⁵

As aforementioned, the Convention is enacted 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.

The Convention contains sixteen Articles and one Annex which has seven broad Sections. The Articles cater for the procedural aspects while the Annex offers the substantive provisions of the Convention, which are categorised either as „Standards“ or „Recommended Practice“. Article VI of the Convention provides that:

„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 Governments is desirable in order to facilitate international maritime traffic.

Thus, the Convention does not require total compliance with all its provisions. The ones categorised as „Standards“ are compulsory and their uniform application is necessary, while the ones categorised as „Recommended Practice“ are desirable measures which are highly recommended.

However, where a State adopts some other forms of practice different from the „Recommended Practice“ stated in the Convention, the State is to inform the Secretary-General of IMO who will in turn inform other Member States so that, in the event a vessel from one State is entering the port of the State with the different practice, she is already aware of the practice and will be ready to conform with the latter State practice accordingly.

Summary of the Articles of the Convention

The Convention in its sixteen Articles provides for the general procedures and appropriate measures to be adopted by Contracting Governments to facilitate and expedite

⁵ Consolidated text of the FAL Convention, incorporating the 2009 amendments (Resolution FAL.10(35)).

international maritime traffic. These provisions include the undertaking by Governments to co-operate in order to achieve uniformity in documentary requirements and procedures⁶. They further provide that Governments may adopt formalities, documentary requirements or procedures different from the laid down standards and inform the Secretary-General of IMO of the difference between its own practice and such standards⁷. The Articles also expressly provide that Contracting Governments are not precluded to adopt temporary measures to preserve public morality, order and security and health of persons, animals or plants and that all matters not covered by the Convention are subject to national legislation of the Contracting State.⁸

Finally, provision is made for the definition of „Standards“ and „Recommended practices“,⁹ the procedures for the amendment of the Convention¹⁰ and the rules regarding the acceptance of or accession to the Convention¹¹ and the process of denunciation.¹²

Summary of the Annex

Section 1 contains the definitions of terms used in the Convention and general provisions relating to standard formalities, and the recommended practice with regards to electronic data processing techniques. The section further provides for standards as well as recommended practices in respect of illicit drug trafficking.

Section 2 deals with the arrival, stay and departure of ships. It contains provision concerning the documents required on arrival and departure of ships, the contents and purpose of such documents and their classifications into „standard“ or „recommended“ practices. It further provides for errors in documentation and penalties thereof and

⁶ Article III.

⁷ Article VIII.

⁸ Article V (2) and (3).

⁹ Article VI.

¹⁰ Article VII.

¹¹ Article X.

¹² Article XII.

special measures of facilitation for ships calling at ports to put ashore sick or injured crew members, passengers, persons rescued at the sea or other persons for emergency medical treatment.

Section 3 contains provisions on the arrival and departure of persons. This includes arrival and departure requirements and procedures, measures to facilitate clearance of cargo, passengers, crew and luggage. It further provides for special facilities for marine transport of elderly and disabled passengers, facilitation for ships engaged on cruises and for cruise passengers and special measures of facilitation for passengers in transit. It also deals with measures on facilitation for ships engaged in scientific services. Lastly, measures on facilitation for foreigners belonging to the crew members of the ship engaged in international voyages and their procedures for shore leave are catered for.

Section 4 contains provisions on the general principles concerning stowaways, preventive measures to be adopted and treatment of the stowaway while on board. It also provides for the standard practice on the rules regarding deviation from the planned route to seek disembarkation and return of stowaways.

Section 5 deals with the general provisions on the arrival, stay and departure of cargoes and other articles. It provides for the standard and recommended practices with regards to clearance of cargo, containers and pallets, cargo not discharged at the port of intended destination and the limitation of shipowner's responsibilities.

Section 6 contains the „standard“ and „recommended“ practices in relation to public health and quarantine including, sanitary measures for animals and plants. It also contains provisions encouraging States not Party to the International Health Regulations to apply the provisions of these regulations applicable to international shipping.

Section 7 deals with miscellaneous provisions with regards to bonds and other forms of security required by the public authorities from shipowners, services at the ports and the standard regulations in respect to emergency assistance to be rendered to distressed ships. The Section further encourages Contracting Governments to establish a national maritime transport facilitation committee or a similar national co-ordinating body to work with

other organisations or agencies responsible for various aspects of international maritime traffic with a view to develop measures to ensure the adoption and smooth implementation of the objectives of the Convention.

4) **AMENDMENTS TO THE CONVENTION**

The IMO through its institutionalised body - the FAL Committee, which is tasked with the responsibilities of facilitating the implementation of the Convention and developing measures to ensure smooth implementation at the ports, takes into consideration the dynamic nature of the maritime industry and the need to meet with the demands of the modern world and as such amends the Convention from time to time to meet these demands. These include the 1984, 1986, 1990, 1992, 1996, 1999, 2002, 2005 amendments respectively. The latest are the amendments proposed in January 2009. Nigeria ratified the convention in 2004, thus the focus will be on the 2009 amendments.

These include:

- In **Section 2 –‘Arrival, stay and departure of the ship’**; Section B clarifies the documents required under this section and deletes Standard 2.6.3, which was in relation to crew list.
- In **Section 3 – ‘Arrival and departure of persons’**; Section A, ‘Arrival and departure requirements and procedures’ clarifies the document required. Standard 3.10 is amended to read: “A passport or an identity document issued in accordance with the relevant ILO conventions, or else a valid and duly recognised seafarer’s identity document, shall be the basic document providing public authorities with information relating to the individual member of the crew on arrival or departure of a ship”.
- In **Section 3, Section B. ‘Measures to facilitate clearance of cargo, passengers, crew and baggage’**; Standard 3.15 is replaced by Recommended Practice 3.15, which states that: “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”.

- In **Section 3**, Section D. „**Facilitation for ships engaged on cruises and for cruise passengers**”; Standard 3.21 was replaced by Recommended Practice 3.21, which states that: “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”.
- In **Section 3**, Section D; Recommended practice in 3.35, which refers to details which may be required on the passenger list, was deleted.¹³

The amendments entered into force on 15 May, 2010.

5) THE NIGERIAN POSITION

Nigeria, aware of the importance of the efficiency of port processes ratified the FAL Convention as amended. Furthermore, Nigeria was among the Member States in attendance during the deliberations on the 2009 amendments to the Convention. However it is yet to domesticate it into the national law. Until this is done, the Convention does not have a binding effect and as such is not enforceable by the Courts of the country.

The 1990 Amendment to the Convention institutionalised the National Facilitation Committee. Interestingly, Nigeria after ratification of the Convention in 2004 established its National Facilitation Committee. The members comprise of the Honourable Minister of Transport who heads the Committee, the Federal Ministry of Finance, Federal Ministry of Health, Nigerian Customs Service, Nigerian Immigration Service, Shipping Agencies, Nigerian Ports Authority, Nigerian Maritime Administration And Safety Agency, Nigerian Shippers’ Council, Representative of Freight Forwarders, and National Drug Law Enforcement Agency. These relevant authorities comprise of all the governmental departments, agencies and other organisations concerned with various aspects of

¹³ IMO/FAL/35th session.

international maritime traffic.

In 2006, Nigeria hosted the West African Sub-regional Seminar on the FAL Convention which was held from the 22 to 26 May. The meeting was jointly organised by IMO and the Nigerian Federal Ministry of Transport. IMO was represented by Capt. (Mrs.) Georgina Tackie and other IMO Officials and Consultants.

The main purpose of the Seminar was:

- a. To fully acquaint participants with the FAL Convention, as amended;
- b. To make participants fully aware of the institutional and economic advantages and benefits to be derived from the acceptance and implementation of the Convention.

At the end of the seminar, resolutions were drawn from the submissions of various working groups that were constituted. Member States were urged to review their national legislations with a view to ratify, implement and disseminate the FAL Convention as amended, where this has not been done already.

Nigeria before this meeting had already ratified the Convention and indeed attends the IMO Facilitation Committee meetings regularly. Furthermore, Nigerian ports are to some extent, already carrying out their operations in line with the provisions of the Convention. Nigeria being the largest maritime nation in the Africa and the Headquarters for the West and Central Africa Memorandum of Understanding (Abuja MOU) on Port State Control needs to be in the lead for the effective implementation of international instruments including the FAL Convention.

Nigeria has all the right tools in place for the domestication of the Convention into her National Legislation and therefore is very imperative to give it the force of law.

6) THE PROCESS OF DOMESTICATING CONVENTIONS IN NIGERIA

The duties and powers to domesticate a treaty are vested in the National Assembly as laid

down in the Constitution of the Federal Republic of Nigeria of 1999.

Section 12(1) of the Constitution provides that

“No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into the law by the National Assembly”.

Sub-section (2) further states that

“The National Assembly may make laws for the Federation or any part thereof with respects to matters included in the Exclusive Legislative List for the purpose of implementing a treaty”.

Consequently, a treaty remains invalid and unenforceable before the Nigerian Courts until a law has been enacted and approved by both Houses (the House of Representatives and the Senate) of the National Assembly. With respect to maritime conventions, the Merchant Shipping Act, 2007 through Section 1(1) reposes general responsibility on the Minister for Transportation. The said section provides that

“Subject to the provisions of this Act, the Minister shall have the general superintendence of the matters to which the Act relates”.

Therefore, the proper process of domestication of maritime treaties in Nigeria is through the presentation of a draft Bill by the Federal Ministry of Transportation in conjunction with the Federal Ministry of Justice for the consideration by both Houses of the National Assembly.

Upon the passage of the Bill by both Houses of the National Assembly, the Bill is taken to the President of the Federal Republic of Nigeria for his assent after which it is published in the National Gazette, whereupon it becomes law recognised and enforceable in the Nigerian Courts.

It is usual for the National Assembly to graciously, upon the passage of a Bill, grant the Minister powers to make regulations or guidelines for the implementation of the Law.

7) METHOD OF PRESENTATION

This Act is drafted in a manner that reflects the practical procedure of law making in Nigeria. It comprises of the Bill along with the models of Attestation by the Clerk of the National Assembly and the Presidential Assent. Regulations drafted by virtue of the powers conferred on the Minister of Transportation to make regulations when necessary, are also attached to

this Act. The Regulations are intended to guide the Public Authorities in the performance of their functions with respect to the implementation of the Act.

In coming into force, this Act will be incorporated in the Merchant Shipping Act, 2007 and it will be inserted in Part XII as the new Section 215 (m). The Merchant Shipping Act shall be therefore amended accordingly.

As a result, the Act will assume the position of primary legislation on the facilitation of international maritime traffic. Consequently, the Act replaces any other national legislation regulating the arrival, stay and departure of ships in Nigeria. The Regulations herein are designed explicitly in order to ensure that the Public Authorities charged with implementing the law would be able to perform their functions effectively by mere perusal of the Regulations without referring to the Act.

CONCLUSION

In consideration of the aforesaid, it is apparent that the need for the domestication of the FAL Convention into the Nigerian Law cannot be overemphasised and with the necessary organs of the Government already actively involved, the transposition of the Convention into the national legislation will give it the force of law it urgently needs.

Therefore, the purpose of this draft Act is to incorporate all the provisions of the Convention on the Facilitation of International Maritime Traffic, 1965 as amended into Nigeria's domestic laws.

The Act shall come into force upon passage by the National Assembly on such date when the Presidential Assent is given and shall become the primary legislation regulating the formalities, documentary requirements and procedures associated with the arrival, stay and the departure of all international ships that enter any of the ports in Nigeria.

The Regulations, after their approval by the National Assembly will be attached to the Act and become a Subsidiary Legislation.

**CONVENTION ON FACILITATION OF
INTERNATIONAL MARITIME TRAFFIC
(RATIFICATION AND ENFORCEMENT) ACT, 2011**

2011 ACT NO....

AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC OF NIGERIA TO THE CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC 1965, AS AMENDED; AND FOR RELATED MATTERS.

.....day of. 2011

Whereas a Convention entitled “ The Facilitation of International Maritime Traffic, 1965 as thereafter amended in 1984, 1986, 1990, 1992, 1996, 1999, 2002, 2005 and 2009 respectively has been duly adopted by IMO;

Whereas the Federal Republic of Nigeria has deposited the necessary instrument of ratification of the said Convention;

Whereas the Annex to the Convention and the Articles shall be taken as one single instrument;

Whereas it is expedient that the said Convention as set out in the Schedule to this Act (in this Act referred to as “the Convention”) should, subject to the provisions of this Act, be given the force of law;

AND Whereas the implementation of the said Convention will amend Part XII of the Merchant Shipping Act 2007;

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria, in this present Assembly, by the Authority of the same, as follows:

Short title

1. This Act may be cited as the Convention on Facilitation of International Maritime Traffic (Ratification and Enforcement) Act, 2011.

Commencement

2. This Act shall enter into force on the -----day of -----2011.

3. As from the commencement of this Act, the provisions of the Convention on Facilitation of International Maritime Traffic, 1965, as amended from time to time, and set out in the Schedule to this Act, shall subject as hereunder provided have the force of law in the Federal Republic of Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria.
4. Section 215 of the Merchant Shipping Act 2007 shall be amended to include a new paragraph (m) “The Convention on Facilitation of International Maritime Traffic 1965, as amended”.
5. The Minister of Transportation shall in accordance with this Act make Regulations necessary or expedient for the purposes of implementation of this Act.

SCHEDULE

The Contracting Governments to the present Convention, 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 co-operate, 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 co-operate 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 co-operate with each other or through the Inter-Governmental Maritime Consultative Organization* (hereinafter called the

* 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.

“Organization”) in matters relating to formalities, documentary requirements and procedures, as well as their application to international maritime traffic.

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.

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, 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.

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.

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.

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

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.

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

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

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.

1.1.1 **Recommended Practice.** Public authorities should take into account the facilitation implications which may result from the introduction of systems for the electronic exchange of information, and should consider these in collaboration with shipowners and all other interested parties.

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

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

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

C. **Systems for the electronic exchange of information**

1.4 **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.

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.

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

1.8 Standard. Public authorities, when introducing systems for the electronic exchange of information to assist clearance processes, shall encourage their use by maritime operators and other parties concerned but shall not reduce levels of service available to operators who do not use such systems.

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

D. Illicit drug trafficking

1.9 **Recommended Practice.** Public authorities should seek to establish co-operation 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 Co-operation Council* Memoranda of Understanding and the associated guidelines.

1.10 **Standard.** Where, as part of co-operation 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 for inspection by the appropriate authorities of certificates and other papers carried by the ship pertaining to its registry, measurement, safety, manning and other related matters.**

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

* Since 1994 known as the World Customs Organization.

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

- 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.

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

2.1.3 **Recommended Practice.** National legislation should specify the conditions for the 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.

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.

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.

B. Contents and purpose of documents

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

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

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

- name, type and IMO number of ship
- call sign
- flag state of ship
- voyage number
- particulars regarding registry
- particulars regarding tonnage
- name of master
- name and contact details of ship's agent
- brief description of the cargo
- number of crew
- number of passengers
- brief particulars of voyage
- date and time of arrival, or date of departure
- port of arrival or departure
- 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.

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

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

(a) on arrival

- name and IMO number of ship
- flag State of ship
- name of master
- call sign
- 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.

(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

* 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.

- transport document numbers for cargo loaded at the port in question.

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

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

2.3.2 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 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.

2.3.4.1 Recommended Practice. As an alternative to Standard 2.3.4, public 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 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.** 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
- call sign
- voyage number
- 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.

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.** 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.** 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
- voyage number
- family name
- given names
- nationality
- date of birth
- place of birth
- type of identity or travel document supplied by the passenger
- serial number of identity or travel document port of embarkation
- 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 Recommended Practice 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. 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
- Master's name
- Voyage number
- 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 °C, c.c.)
- Marine Pollutant
- Mass (kg) – gross/net
- EmS

- Stowage position on board
- Additional information

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.** 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.

D. Documents on departure

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.

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*

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

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.

***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.** 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.

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

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.

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.

G. Errors in documentation and penalties therefore

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.

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.

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 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.

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.

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.

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.

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.

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

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.

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 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
- 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 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.

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 government 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.

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.

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

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 co-operation 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 to a cruise ship when, on the basis of information received from it prior to its arrival, the health authority for the intended port of arrival is of the opinion that its arrival will not result in the introduction or spread of a quarantinable disease.

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

3.22 **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 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.

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 shop'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.

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.

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 should not be required to complete a disembarkation/embarkation card.

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

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.

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.*

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

* 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)).

4.3 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 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 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;
- (g) developing and implementing agreements with stevedores and other shoreside entities operating in national ports to ensure that only personnel authorized by these entities participate in the stowing/unstowing or loading/unloading of ships or other functions related to the ships stay in port;
- (h) developing and implementing agreements with stevedores and other shoreside entities to ensure that their personnel having access to the ship is easily identifiable, and a list of names of persons likely to need to board the ship in the course of their duties is provided; and
- (i) encouragement of stevedores and other persons working in the port area to report to the port authorities, the presence of any persons apparently not authorized to be in the port area.

4.3.2 Shipowner/Shipmaster

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 cooperate with the master/shipowner or the appropriate public authority at ports of call in:

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

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

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.

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 co-operation of shipowners and port authorities, take appropriate measures to the end 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 co-operation of shipowners and port authorities, take appropriate measures to the end 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 warehousing and re-forwarding of cargo if required. There should be convenient and direct access between the 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.

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 be protected against access by unauthorized persons at all times.

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

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.

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.** 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 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 law.

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

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

C. Containers and pallets

5.15 **Standard.** Public authorities shall, subject to compliance with their respective regulations, permit the temporary admission of containers and pallets 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 temporarily imported will be re-exported within the time-limit set by the State concerned.

5.17 **Standard.** Public authorities shall permit containers and pallets 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.

5.18 **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 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 landed at another port.

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-forwarding to its intended destination. This provision does not apply to dangerous, prohibited or restricted cargo.

E. Limitation of shipowner's responsibilities

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.

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 co-operate with a view to standardizing such requirements.

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

6.4.1 **Standard.** Public authorities shall seek the co-operation of shipowners to ensure compliance with any requirement that illness on a ship is to be reported promptly by radio 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.

6.8 **Recommended Practice.** Public authorities should maintain at as many ports as feasible adequate facilities for the administration of public health, animal and agricultural quarantine measures.

6.9 **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.

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 Deratting or Deratting 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, 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 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.

I, CERTIFY IN ACCORDANCE WITH SECTION 2(1) OF THE AUTHENTICATION ACT, CAP 4, LAWS OF THE FEDERATION OF NIGERIA 1990, THAT IS A TRUE COPY OF THE BILL PASSED BOTH HOUSES OF THE NATIONAL ASSEMBLY

.....
CLERK OF THE NATIONAL ASSEMBLY

.....DAY OF.....2011

**SCHEDULE TO THE CONVENTION ON
FACILITATION OF INTERNATIONAL MARITIME
TRAFFIC (RATIFICATION AND ENFORCEMENT)
BILL, 2011**

Short Title of the Bill	Long Title of the Bill	Summary of the contents of the Bill	Date passed by Senate	Date passed by the House of Representatives
Convention on Facilitation of International Maritime Traffic (Ratification and Enforcement) Act, 2011	An Act to enable effect to be given in the Federal Republic of Nigeria to the Convention on Facilitation of International Maritime Traffic 1965, as amended; and for related matters	This Bill seeks to provide effect to be given in the Federal Republic of Nigeria to the Convention on Facilitation of International Maritime Traffic 1965, as amended.day of January 2011	...day of January 2011

I, certify that this Bill has been carefully compared by me with the decisions reached by the National Assembly and found to be true and correct decision of the two Houses and in accordance with the provisions of the Acts Authentication Act Cap 4, Laws of the Federation of Nigeria 1990.

.....
Clerk of the National Assembly
.....Day of..... 2011

I ASSENT

.....
President of the Federal Republic of Nigeria
.....Day of..... 2011

A. GENERAL

Citation and Commencement

1. These Regulations may be cited as *Facilitation of International Maritime Traffic (Cargo and other Articles) Regulations, 2011* and shall come into force on the --- of ----- 2011

Interpretations:

2. In this Regulations -

„The Act“ means the Convention on Facilitation of International Maritime Traffic (Ratification and Enforcement) Act, 2011;

“Cargo” shall include 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, crew effects and passenger’s accompanied baggage;

“Nigerian Waters” shall have the same meaning given to them by the National Inland Waterways Act, Cap N47 Laws of the Federation of Nigeria, 2004;

“Nigerian Ports” shall have the same meaning given to them by the Nigerian Port Authority Act, No. 38 Laws of the Federation of Nigeria, 1999;

“Public Authorities” shall include the following Government establishments and their officials: The Nigerian Maritime Administration and Safety Agency, Nigerian Ports Authority, Nigerian Customs Service, Nigerian Immigration Service, National Drug Law Enforcement Agency, National Agency for Food and Drug Administration and Control, Standard Organisation of Nigeria and any other Agency or Establishment as the Government may deem fit to appoint from time to time.

B. Scope of Application

3. Subject to the provisions of the Act and unless otherwise stated, these Regulations shall apply to –

a) All Nigerian flagged ships carrying cargo in and out of the Nigerian Ports;

b) All foreign flagged cargo ships bound for any of the Nigerian Ports;

c) All Public Authorities and their designated Officers engaged in the implementation of the Act and these Regulations.

C. Arrival, stay and departure of cargo and other articles

- 4.** The Nigerian Ports Authority shall prior to the arrival of the ship, obtain information from the owner, master, agent or operator of the ship, regarding the crew, cargo and other necessary information as stipulated in the Act, which will facilitate the ports' procedures on the ships arrival.
- 5.** The Nigerian Ports Authority shall immediately disseminate information received in accordance with Section 4, to all the relevant Public Authorities by the quickest means possible.
- 6.** The Nigerian Ports Authority shall ensure that proper arrangements for embarkation and disembarkation of the crew, loading and off loading of cargo and other measures associated with the clearance of the ship are in place before the arrival of the ship.
- 7.** The Nigerian Ports Authority shall inform the relevant Public Authorities associated with the clearance of the cargo of the expected time of arrival of the ship and ensure that there are necessary arrangements in place for a smooth and uncomplicated cargo handling and clearance procedures.

D. Clearance of Cargo

- 8.** The Public Authorities shall, subject to 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.
- 9.** The designated Public Authorities shall conduct a joint inspection of the cargo where necessary, within a reasonable time after such cargo has been offloaded.
- 10.** On the conclusion of the joint inspection exercise, the Nigerian Customs Services shall, where necessary, request for the transport documents from any person having interest in the cargo, to be delivered to the designated Nigerian Customs officials for necessary assessments of duty payable on the cargo through the Automated System for Customs Data (ASYCUDA).
- 11.** The Nigerian Customs Services shall conclude the verification of the transport documents as provided in Section 11, within a period not exceeding twenty four hours.
- 12.** The Nigerian Customs Services and other Public Authorities shall permit containers and pallets entering any of the Nigerian ports 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 documentation.
- 13.** The Nigerian Customs Services and other relevant Public Authorities shall, subject to their respective regulations, permit the temporary admission of containers and pallets without

payment of custom duties and other taxes and charges and shall facilitate their use in maritime traffic.

14. The Nigerian Customs Services and other relevant Public Authorities shall permit the temporary admission of component parts of containers without payments of customs duties and other taxes and charges when these parts are needed for the repair of containers already admitted under the terms of Section 13.

15. The Nigerian Customs Services and other relevant Public Authorities shall, where any cargo listed on the Cargo Declaration is not discharged at the port of intended destination, 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 landed at another port.

16. The Nigerian Ports Authority shall, when by error or for another valid reason, any cargo is discharged at a port other than the port of intended destination, facilitate re-forwarding to its intended destination permitted that this provision does not apply to dangerous, prohibited or restricted cargo.

17. The Nigerian Customs Services and other relevant Public Authorities shall not require a shipowner to place special information for their respective use on a transport document or a copy thereof, unless the shipowner is, or is acting for, the importer or exporter.

18. The Nigerian Customs Services and other relevant 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.

E. Clearance of the Ship

19. The Nigerian Maritime Administration and Safety Agency (NIMASA) in cooperation with the Nigerian Custom Services shall, upon satisfaction of the clearance of the cargo, proceed without delay in the assessment of the statutory levy payable on the cargo.

20. NIMASA shall upon the receipt of the payment of the statutory levy on the cargo, clear the ship to sail by issuing a Sailing Certificate to the Nigerian Ports Authority at the designated port.

21. The Nigerian Ports Authority shall upon the receipt of the Sailing Clearance from NIMASA and upon the satisfactory feedback from other relevant Public Authorities, release the ship immediately.

MADE at Abuja this – day of January, 2011

Alhaji Yusuf Sulaiman

Minister of Transportation

Explanatory note

(This note is not part of the Regulations)

These Regulations implement the requirements of Section 5 of the Schedule to the Act. The scope of application of the Regulations is set out in Part B of these regulations and they apply to all ships carrying cargo in and out of Nigeria and to all the relevant Public Authorities responsible for the application and enforcement of the Act and the regulations herein. The Regulations make provisions for expedient measures to be adopted by the relevant Public Authorities concerning the formalities required in connection with the arrival, loading and off loading of cargo and the clearance procedures for the departure of ships without delay.