Amendments to the Convention on Facilitation of International Maritime Traffic

The 2002 amendments to the FAL convention include a standard form to record stowaway details and state that public authorities should report all stowaway incidents to the Secretary General of the International Maritime Organisation for statistical purposes. This also serves in assisting the Facilitation Committee in its further work on the Guidelines. Reports on stowaway incidents reported to the IMO can be found on the IMO website at www.imo.org. The FAL Convention has been ratified by 94 parties representing 60.95 per cent of the world shipping tonnage (as at June 30th 2003).

Security arrangements

The new standards call upon shipowners, port authorities, public authorities and shipmasters to co-operate in preventing stowaway incidents. Port area patrolling, the establishment of special storage facilities for cargo particularly susceptible to stowaway access together with continuous monitoring of cargo and persons entering these areas are some of the recommended preventative measures to be taken by the port/terminal authorities.

The new standards and recommendations also include a list of minimum shipboard security arrangements to be complied with when calling at stowaway-prone ports. Apart from thorough stowaway searches upon departure from ports where there is a risk that unauthorised embarkations occur, the standards include the following:

- All doors, hatches and means of access to holds and stores, which are not used during the ship’s stay in port should be locked.
- Access points to the ship should be kept to a minimum and be adequately secured.
- Adequate deck watch should be kept.
- Boardings and disembarkations should be tallied by the ship’s crew or, after agreement with the master, by others.
- Adequate means of communication should be maintained.
- At night, adequate lighting should be maintained both inside and along the hull.

Right to humane treatment

However, no matter how effective routine port and ship security is, there will always be occasions when stowaways gain access to vessels. In those situations the FAL amendments reinforce the right of stowaways to humane treatment. Flag states are under an obligation, according to the amendments, to require masters to take appropriate steps to ensure the well-being and safety of any stowaway while on board. This includes providing him with adequate accommodation/food and necessary medical treatment.

Public authorities are called upon to instruct masters of ships flying their flag NOT to deviate from the planned voyage for the purpose of landing stowaways discovered on board after the vessel has left the territorial waters of the country where the stowaways embarked, unless

- permission to disembark the stowaway has been given by the public authorities of the state to whose port the ship deviates or
- repatriation has been arranged elsewhere with sufficient documentation and permission of disembarkation or
- if there are security, health or compassionate reasons for doing so.

Disembarkation

The amendments also stipulate that stowaways who are found to be inadmissible to the country of disembarkation should be returned from their point of disembarkation to the country where they boarded the vessel.

The country of embarkation shall not, in turn, be allowed to return the stowaways to the country where they were earlier found inadmissible. The country of the original port of embarkation of stowaways should accept the return of such a stowaway for examination, pending final case disposition.

If a country denies a stowaway’s disembarkation, it must promptly notify the flag state of the reasons for doing so. Contracting states should accept the disembarkation of a stowaway unless the presence in that state of the individual is considered to be a threat to national security.

Countries should admit returned stowaways with full nationality/citizenship status of that country or a right of residence. Difficulties in repatriating stowaways are encountered less often when the stowaway holds a valid passport or other requisite authentic identification documents. More often than not stowaways are however found without any documents.
whatever on them.

To overcome this obstacle the FAL Convention provides that the country of the first scheduled port of call after discovery is to issue a document attesting to the circumstances of embarkation and arrival to enable the return of the stowaway either to his country of origin, to the country of the port of embarkation, or to any other country to which lawful directions can be made.

The costs of the return and maintenance of stowaways should be kept to a minimum as far as is practicable and according to national legislation, if they are to be covered by the shipowner.

Furthermore, the country of the port of disembarkation is obliged to consider mitigation of charges and fines that might otherwise be applicable when shipowners have cooperated with the control authorities to the satisfaction of those authorities in relation to measures designed to prevent stowaway incidents.

Report stowaway incidents
The amendments to the FAL convention are the first binding regulations in respect of stowaways and they are believed to be an effective tool for providing more leverage for shipowners when faced with a stowaway problem.

Some concern has, however, been expressed at the relatively small number of reports submitted to the IMO by member states and international organisations upon which the statistics are based. The number of unrecorded cases is believed to be high. Possibly much less than 50 per cent of all stowaway cases are reported. Member governments and non-governmental bodies are encouraged by the IMO to submit as many reports on stowaway incidents as possible.