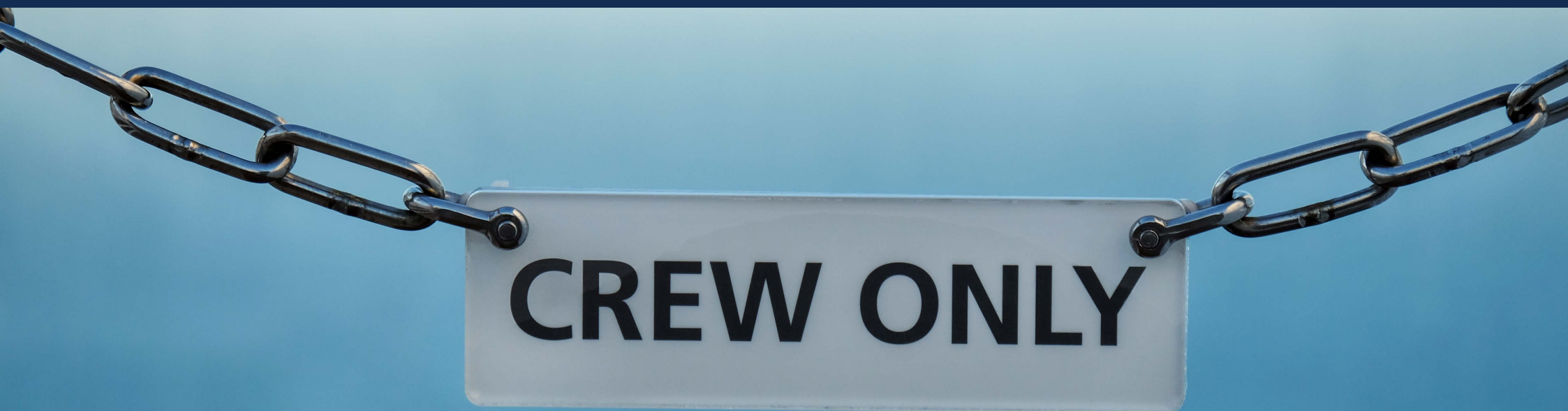


Guidance on  
**Stowaways**



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# Guidance on stowaways

## The stowaway problem

Stowaways seem to be an ever-present problem for the shipping industry. Migrants in search of a better life continue to risk their lives by 'stowing away' on board private and commercial ships. Unnoticed by master, crews, port and customs authorities, stowaways may gain access to ships with or without the assistance of port personnel.

People stow away on ships for many reasons. Some flee their own country because they are at risk of serious human rights violations and persecution there. Others leave their country because they want to work, study, or join family, for example. Others feel they must leave because of poverty, political unrest, gang violence, natural disasters or other serious circumstances that exist there. A stowaway can also be an individual associated with known terrorist organizations, trying to circumvent travel security in cruise ports and airports.

It may be difficult to accurately predict which ports are considered high risk for stowaways at any given time. There are certain geographical areas which historically have been, and still are, considered high risk. Among these are ports in Africa, particularly in South Africa and many West African countries. However, there has also been an increase in the number of stowaways embarking in Southern Europe and Turkey, as well as in the Maghreb region of North Africa, and in some of these cases, evidence seems to point to actively operated networks of human traffickers. The grim reality today is that many people around the world feel compelled to leave their home country, and that stowing away on ships is worth chancing. The importance of properly assessing the stowaway risks should therefore never be underestimated, regardless of the ships' trading areas.

Despite available regulations, guidelines, and awareness material on the topic, preventing stowaways' access to ships is challenging and once onboard, their presence may bring serious consequences, for the specific ships and for the industry as a whole. The ship could be delayed in port, the safety of a ship's crew may be threatened should stowaways get violent or outnumber the crew, and last but not least, the life of stowaways could be endangered as they may spend several days hidden, with the risk of suffocation and without any food and water. Stowaways are also expensive to process and repatriate. It can be difficult to find countries willing to allow stowaways to disembark, particularly if they have no identification documents, and ships may be delayed in port or have to deviate from their planned voyage. Moreover, it is often necessary to employ escorts to accompany stowaways in transit when they are finally sent home.

## Purpose of this Guidance

This guidance is intended to assist shipowners and ships crews in avoiding some of the common pitfalls and problems related to stowaways. It shares some of the important lessons we have learned over the years in terms of handling stowaways, including measures that can prevent stowaways from accessing the ship in the first place, what to do if stowaways are found onboard, and some of the insurance implications.

*The IMO FAL Convention defines a stowaway as: "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"*

This guidance is intended to assist shipowners and crews in avoiding some of the common pitfalls and problems related to stowaways. It shares some of the important lessons we have learned over the years in terms of handling stowaways, including measures that can prevent stowaways from accessing the ship, what to do if stowaways are found onboard, and some of the insurance implications.

Whereas this guidance offers practical advice and outlines some of the legal responsibilities of a crew and master on discovering stowaways on board, it is not intended to replace any regulatory requirements or company specific procedures. Should a master find that there is a contradiction or significant difference between this guidance and that of the ship's flag administration or company, the master is advised to resolve such issues with the company before taking action. However, we do hope that the information and recommendations provided will encourage crews and companies to review and improve their own procedures on how to deal with the stowaway problem.

Please also bear in mind that Gard should be contacted immediately upon the discovery of stowaways on board. All stowaways can be successfully disembarked eventually. Crews are advised to be patient and co-operative and, by working as a team, the crews, shipowners, local correspondents, and Gard can together resolve each stowaway incident.

We also take this opportunity to extend our thanks to all our local correspondents and service providers that have contributed, and continue to contribute, with knowledge and expertise of local conditions enabling stowaway cases to be resolved in the best possible manner for all parties involved. In particular, we would like to thank the following companies for their assistance in the preparation of this version of the Guidance:

- **Van Ameyde Marine**, ([www.ameydemarine.com](http://www.ameydemarine.com))
- **Eltvedt & O'Sullivan**, ([www.eltvedtosullivan.com](http://www.eltvedtosullivan.com))
- **Scandinavian Underwriters Agency, SCUA** ([www.scua.com](http://www.scua.com))
- **Bull Marine Surveyors** ([www.bullsurveyors.com](http://www.bullsurveyors.com))

# IMO regulations and guidance

## The FAL Convention – a binding regulation on stowaways

The Convention on Facilitation of International Maritime Traffic (FAL Convention) has been in force since 1967. Its main objectives are to prevent unnecessary delays in maritime traffic, aid co-operation between governments, and secure the highest practicable degree of uniformity in formalities and other procedures.

FAL provisions specifically addressing delays in maritime traffic caused by stowaways were adopted in 2002. A separate section in the annex to the FAL Convention now prescribes standards and recommended practices on matters relating to stowaways. The standards assign responsibilities to all parties involved in stowaway incidents, including public authorities, port authorities, shipowners, and masters, and are based on the following basic principles:

### Ship/port preventive measures:

- All parties involved shall cooperate to the fullest extent possible in order to prevent stowaway incidents.
- Ports and ships shall have adequate security arrangements in place which, as far as practicable, prevent intending stowaways from getting onboard a ship or, if this fails, detect them before the ship leaves port or, at the latest, before it arrives at the next port of call.
- Adequate, frequent and well-timed searches minimize the risk of having to deal with a stowaway case and may also save the life of stowaways who may, for example, be hiding in a place which is subsequently sealed and/or fumigated.

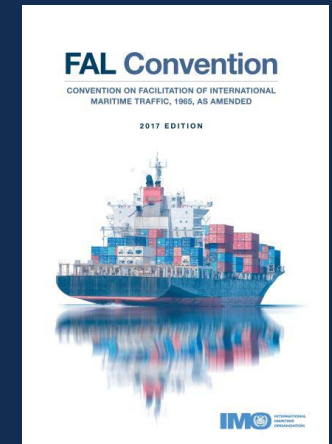
### Treatment of stowaways while onboard:

- Stowaway incidents shall be dealt with in a manner consistent with humanitarian principles. Due consideration must always be given to the operational safety of the ship and to the safety and well-being of the stowaways.

The FAL Convention is kept continually amended and updated and new standards and recommended practices for dealing with stowaways have been added over the years. Recommended practices on preventive measures have also been revised to make sure they do not duplicate the existing provisions of the International Ship and Port Facility Security (ISPS) Code but rather augment and supplement them in the context of preventing stowaways.

### Disembarkation and return of stowaways:

- All parties involved shall cooperate to the fullest extent possible in order to resolve stowaway cases expeditiously and ensure that an early return or repatriation of stowaways will take place.
- Stowaways arriving at or entering a country without the required documents are, in general, illegal entrants. Decisions on dealing with such situations are the privilege of the country where such arrival or entry occurs.
- Stowaway asylum seekers shall be treated in accordance with international protection principles as set out in international instruments, such as the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, and relevant national legislation.
- Every effort should be made to avoid situations where a stowaway has to be detained on board a ship indefinitely.
- Countries shall allow return of stowaways who have full nationality/citizenship status in that country or have a right of residence in that country.
- Where the nationality or citizenship or right of residence cannot be established, the country of the original port of embarkation of a stowaway should accept the return of such a stowaway for examination pending final case disposition.



The Convention on Facilitation of International Maritime Traffic (the FAL Convention)

## The ISPS Code – a framework for assessing security threats

The ISPS Code entered into force in 2004 and forms the basis for a comprehensive mandatory security regime for international shipping. The Code is implemented through SOLAS Chapter XI-2 “Special measures to enhance maritime security” and has two parts. Part A contains the mandatory requirements and Part B provides guidelines on how to meet them.

In essence, the ISPS Code takes the approach that ensuring the security of ships and port facilities is a risk management activity and that, to determine what security measures are appropriate, an assessment of the risks must be made in each particular case. It establishes a standardised consistent framework through which governments, ports authorities and shipowners can cooperate to:

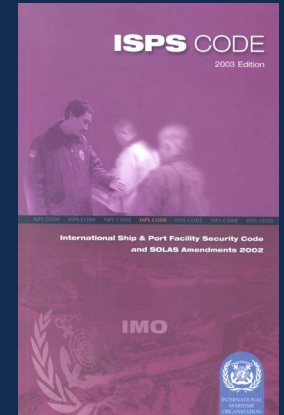
- monitor the activity of cargo and people,
- detect security threats and implement corresponding preventive measures,
- establish roles and responsibilities concerning maritime security,
- collect and share security-related information, and
- conduct security assessments so as to have in place plans and procedures to react to changing security levels.

Shipowners have a general responsibility to provide adequate security protection for their crew, passengers, and cargo. This responsibility is embodied in the ISPS Code through a set of functional security requirements. Shipowners are required to appoint a Company Security Officer (CSO) and a Ship Security Officer (SSO) for each of its ships, ensure that each ship undergoes a ship security assessment (SSA), develop a ship security plan (SSP) for each ship, and manage onboard procedures and equipment. The ISPS Code also requires that all personnel involved with security are given proper training and that drills are carried out at appropriate intervals.

The content of each SSP will vary depending on the ship it covers and the identified security threats for that ship. However, in terms of operational and physical security arrangements, the SSP should, as a minimum, detail measures that will allow the ship to:

- control access to the ship,
- control the embarkation of persons and their effects,
- monitor restricted areas to ensure that only authorized persons have access,
- monitor deck areas and areas surrounding the ship,
- monitor and supervise the handling of cargo and ship’s stores; and
- ensure that security communication is readily available.

Preventing stowaways from getting onboard is therefore an important part of fulfilling obligations under the ISPS Code and the relevant procedures and measures to do so, including access control and searches, should be clearly stated within the SSP. Having stowaways on board is likely to be seen as evidence of a breach in the ship’s security arrangements and may be considered by port authorities as “clear grounds” that the ship is not in compliance with the ISPS Code. When a ship issues a declaration of security/notice to the port authorities advising them of the presence of stowaways onboard, the ship may not be allowed into the port, be detained or be subjected to additional security control measures, all of which would inevitably lead to further difficulties in disembarking any stowaways and would incur additional costs to operators and delay of the ship. Some countries may also impose fines on the ship for breaching immigration laws.



The International Ship and Port Facility (ISPS) Code

## IMO Guidelines on Stowaways

Effective prevention and handling of stowaways is a global problem and requires shared responsibility in decision making and commitment by all the involved parties. The IMO recognises that no matter how effective port and ship security measures are, there will still be occasions when stowaways gain access to ships. It also recognises that the resolution of stowaway cases is difficult. Several countries may be involved, each with its own national legislation. These could include the country of embarkation, country of disembarkation, the ship's flag state, the stowaway's country of origin, and countries of transit during repatriation.

In 2018 the IMO adopted **Resolution FAL.13 (42)** on "Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases". The guidelines provide more clarity on the complex issue of stowaways and is considered particularly useful for those countries that have not signed the FAL Convention or find it impracticable to comply with its recommended practices. The guidelines' approach on how to prevent stowaway incidents is also aligned with the security approach of the ISPS Code. A copy of the IMO guidelines is included in Appendix A, however, the recommendations that are of particular relevance for shipowners and masters are included below.

It is also worth noting that the IMO recommends authorities of the countries involved to keep the costs of detention, maintenance and return to a minimum when these are borne by the shipowner. Furthermore, the authorities are encouraged to mitigate penalties or other charges, if the master and shipowner have properly declared the presence of stowaways, substantiated that all practicable measures have been taken to prevent stowaways from boarding the ship in the first place, and otherwise co-operated fully with the authorities.



### **In order to prevent stowaway incidents, the shipowner and master should:**

- Make sure the ship security assessment considers all possible threats, including unauthorized access or use, such as the presence of stowaways.
- Ensure that sufficient security arrangements are in place to prevent stowaways from getting onboard, or detect them before the ship leaves port, and that these arrangements are adequately detailed in the ship's formal security plan as required under the ISPS Code.
- Where there is a risk of stowaway embarkation, consider implementing the following security arrangements:
  - Locking of all doors, hatches and means of access to holds or stores, which are not used during the ship's stay in port.
  - Keeping the number of access points to the ship to a minimum and ensure they are adequately secured.
  - Securing areas seaward of the ship.
  - Keeping adequate deck watch.
  - Recording all persons boarding and disembarking the ship.
  - Maintaining adequate lighting at night, both inside and along the hull.
  - Carrying out a thorough search of the ship prior to departure. Focusing on places where stowaways might hide and use methods that are not likely to harm secreted stowaways.
  - Not carrying out fumigation or sealing of an area until the search for stowaways has been completed for that area.
  - Maintaining adequate means of communication between ship and others, including port facilities.

### **If stowaways are found onboard, the master should:**

- Make every effort to determine the port of embarkation of the stowaways and establish their identity and nationality/citizenship.
- Prepare a statement containing all available information relevant to the stowaway for presentation to the appropriate authorities.
- Notify the existence of a stowaway and any relevant details to the shipowner and appropriate authorities at the port of embarkation, the next port of call and the flag state.
- Treat the matter as confidential as far as necessary for the security of stowaways if refugee status is declared.
- Not depart from the planned voyage to seek the disembarkation of a stowaway discovered on board the ship, unless the permission to do so has been duly granted by the authorities of the country in question, or unless there are extenuating safety, security, health or compassionate reasons.
- Ensure that the stowaway is presented to the appropriate authorities at the next port of call in accordance with their requirements.
- Take appropriate measures to ensure the security, general health, welfare and safety of the stowaway until disembarkation, including providing him or her with adequate provisioning, accommodation, proper medical attention and sanitary facilities.
- Ensure that stowaways are not permitted to work on board the ship, except in emergency situations or in relation to the stowaway's accommodation and provisioning on board.
- Ensure that stowaways are treated humanely, consistent with the basic principles.

### **In addition, the shipowner should:**

- Ensure that all relevant information on stowaways has been notified to the appropriate authorities.
- Comply with any removal directions made by the relevant authorities at the port of disembarkation.
- Cover any applicable costs relating to the removal, detention, care and disembarkation of stowaways in accordance with the legislation of the countries which may be involved.

# Assessing the stowaway risk

Risk assessment is a systematic procedure for measuring and managing the likelihood that the harm from a particular threat, such as stowaways, will occur. It is an integral part of voyage planning within a safety management system and an important first step to identify potential threats for which appropriate preventive measures must be implemented.

Although international regulations and guidance documents outline a number of prescriptive security measures that shipowners, masters and crews may implement to prevent stowaway incidents from happening, or limit their consequence, an assessment of the risks must always be made in each particular case. Different ship types and sizes may need different security procedures and specific trading areas may need special measures to be implemented. It is therefore important that company risk assessments are subject to regular reviews, to identify if new risks have emerged, existing risks have changed or could be removed, and if identified preventive measures are still relevant, practical, and realistic.

## Information gathering

Reliable information on regional 'hot spots' for stowaways, and the stowaways' methods of operating in each port, is probably the most important input to a risk assessment. The information will enable shipowners and ships' crew to identify current threats and implement effective countermeasures when operating in high-risk areas.

It may be difficult to accurately predict in which ports the stowaway risk is high at any given time. Some geographical regions have become high-risk because of dramatic events such as civil war or natural disaster. Economic downturn may also increase the number of stowaway attempts. It is therefore important that shipowners and masters do their utmost to monitor current events in the countries to which their ships will be trading and identify changes that could impact the stowaway risk.

The stowaway risk may be higher in ports and terminals where the ISPS Code is not being properly implemented. The IMO does not issue a "blacklist" of countries and ports not in compliance with the ISPS Code. **The ISPS Code database** contains the information required by SOLAS Reg.XI-2/13 as supplied by each contracting government, e.g., if the port has an approved security plan or equivalent security arrangements. However, the IMO emphasises that lack of inclusion in the database should not be construed automatically as failure to comply with the requirements in SOLAS and the ISPS Code. Conversely, an ISPS statement of compliance from the port's government should not be regarded as a "security guarantee" that permits masters and shipowners to lower their guard. Instead, it may be in such ports that masters and shipowners must focus their anti-stowaway efforts based on intelligence and their own sources of information.

In order to gather as much information as possible, we recommend discussing the stowaway problem with local sources of information, such as ships' agents, port authorities and Gard's correspondents, as well as with other masters. Doing so could provide valuable and up to date information, not only on the current regional hot spots but also on the most common methods used by stowaways to gain access to ships in a specific port: is it by bribery, in containers, do they use boats or swim to hide in rudder trunks, or do they pose as stevedores? When trading to ports where stowaway embarkations is a known problem, the local environment and security arrangements in the port should be carefully considered and include a review of factors such as lighting, facility access, the ship's area of operation, and, to the extent possible, input from the local port facility security officer.

## Incident trends and regional hot spots

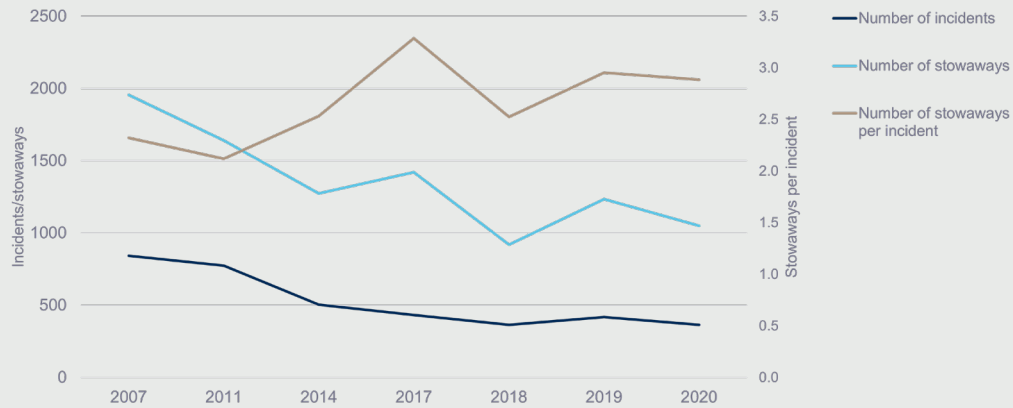
The International Group of P&I Clubs (IGP&I) carries out regular data collection exercises in respect of stowaways. Based on claims experience within all the member clubs, areas and ports where stowaways are a common problem are identified, along with the nationalities of persons stowing away and the average cost of stowaway incidents.

While the IGP&I data collection is primarily meant to compliment the stowaway cases reported to the IMO in its **Global Integrated Shipping System (GISIS)**, it is worth noting that the number of incidents recorded by the IGP&I is generally higher than the those submitted via the IMO-system. In 2020 for example, 58 stowaway incidents were reported in GISIS compared to 364 incidents recorded by the IGP&I. However, even if the IMO GISIS data are more moderate in terms of the total number of incidents and stowaways, some of the observed trends concerning regional 'hot spots' for stowaway, as well as stowaways' nationalities are very similar to those identified in the IGP&I data.

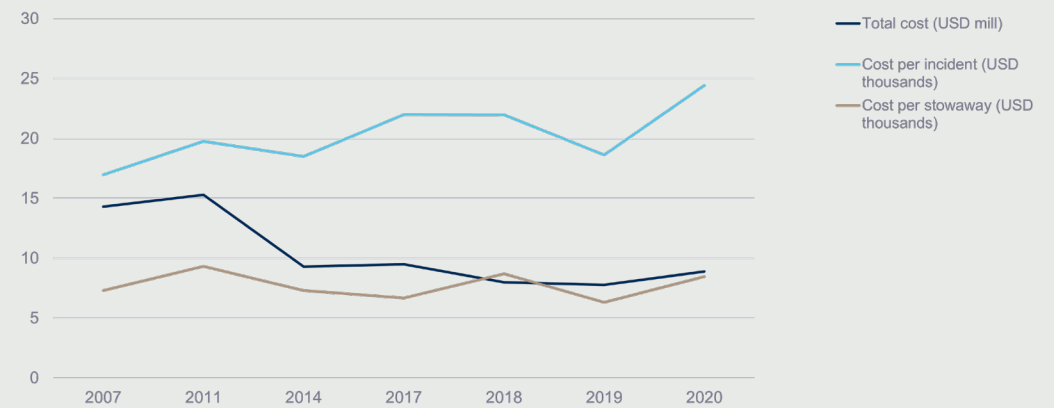


Looking at the available IGP&I data with stowaway data reported in IMO GISIS for the period 2013 to 2022, the following observations can be made. Overall incident trends, source IGP&I

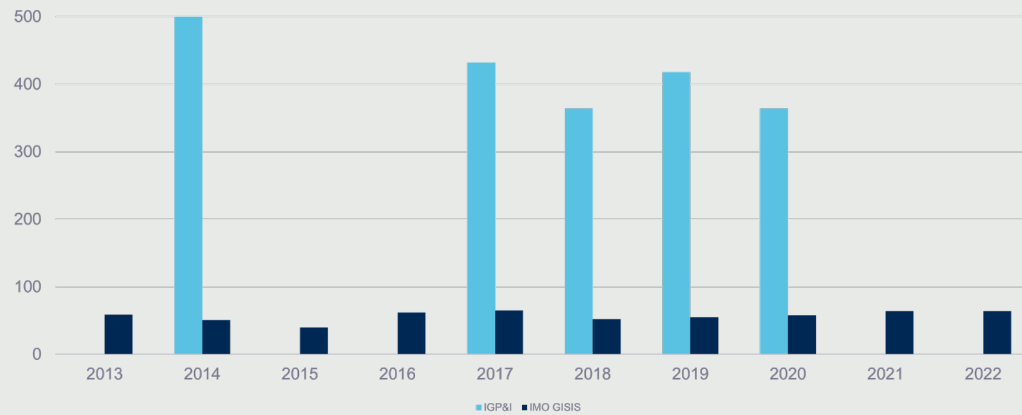
Number of incidents and stowaways



Cost of incidents and stowaways



Comparison of number of IGP&I incidents with the number of IMO GISIS reports



- The number of stowaway incidents has more than halved since IGP&I carried out its first data collection exercise for the 2007/8 policy year but has remained fairly level over the past five years.
- The total number of stowaways involved has also decreased, but not at the same rate as the incident figures. This means that the number of stowaways per incident has been growing, and the data would seem to suggest that the current average is close to three stowaways per incident.
- Whilst the total cost net of deductible to the IGP&I, including fines imposed by states on shipowners, has dropped, the cost per stowaway incident, as well as per stowaway, has risen. It is also important to note that the cost to shipowners is higher than that incurred by the Clubs as, in addition to their deductible, shipowners are likely to incur other costs, which are not insured.

- Ports on the African continent continued to be the main hot spots for stowaway embarkations, even if the overall number of incidents reported from ports in Africa have decreased.
- European ports started to feature in the statistics in 2017 and the number of incidents reported from the European continent has remained high thereafter.
- The rate of stowaway embarkations in South African ports, which historically have been considered high risk ports, has fallen. The same goes for ports in some of the West African countries. However, the port of Durban in South Africa, and West African ports such as Lagos in Nigeria, Conakry in Guinea, Dakar in Senegal, must still be treated as ports with high risk of stowaways.
- It is well known that many North African countries have become major transit points for African and Arab migrants trying to reach Europe to escape war and poverty and there is a clear upward trend in the number of incidents reported from the Maghreb region of North Africa, particularly from the port of Casablanca in Morocco and Rades/Tunis in Tunisia.
- The majority of stowaway embarkations in Europe were reported from ports in Greece and Turkey, but also ports in France and Belgium that are facing the English Channel were popular spots for persons attempting to stow away.

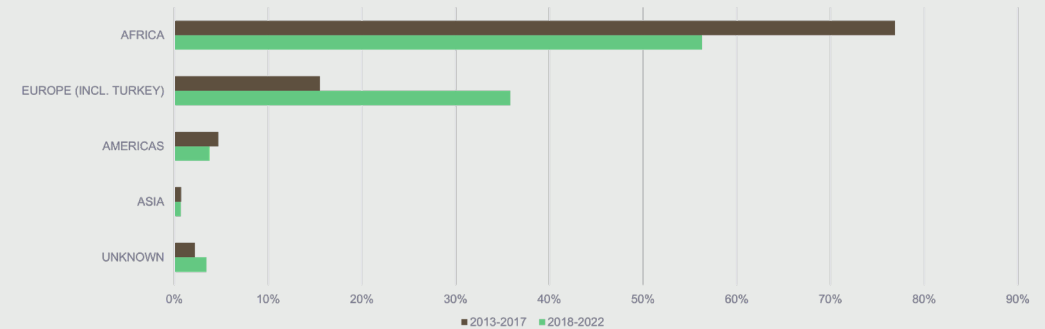
In terms of stowaways' nationalities, the available data would seem to suggest that most stowaways continued to be from African countries, primarily from Nigeria, Ghana, Tanzania, Guinea, and more recently, Morocco. The data also indicates that the majority of Tanzanian stowaways embark in South African ports, and that they have made up a large part of the total number of stowaways that have embarked in South African ports over the years. In line with the changes in popular ports of embarkation, the data also indicate a clear increase in the number of Afghan, Iraqi, Syrian and Albanian stowaways over the past five years.

## Awareness and training

Protecting a ship against stowaways begins with a knowledgeable well-trained crew who understand the current security situation. It is therefore important that crew members are adequately briefed about how the ship's trading patterns affect the stowaway risk and trained to handle potential stowaway scenarios. The correct implementation of regular security drills and training for crew, especially those with specific security duties and responsibilities, in line with the ISPS Code's requirements is therefore critical if security measures are to be effective.

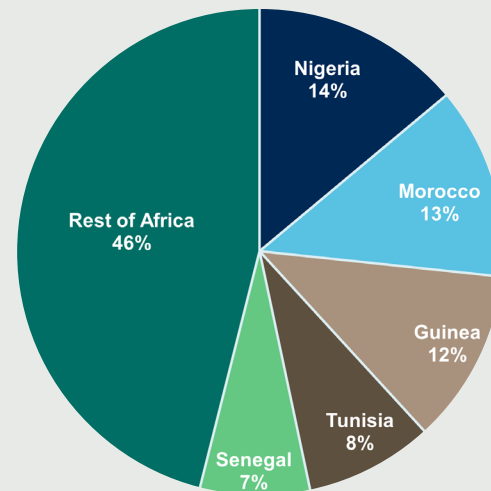
## Regional hot spots, source IMO GISIS

Stowaway incidents by region of embarkation

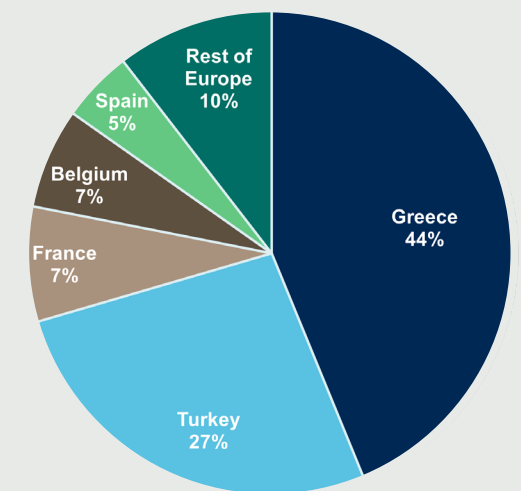


## Top five countries of embarkation 2020 - 2022, Source IMO GISIS

African continent



European continent



# Ship/port preventive measures

As highlighted in the previous chapter, assessing the stowaway risk is an important part of fulfilling obligations under the ISPS Code and the relevant procedures and measures to do so, including access control and searches, should be clearly stated within a ship's security plan. The IMO guidelines on stowaways (Resolution FAL.13 (42)) provide even more clarity on the complex issue of stowaways and highlight additional best practice and preventive measures to be considered by masters and shipowners.

In the chapters following below, we reflect on some of the lessons learned through years of handling stowaway incidents on behalf of our members and clients. Shipowners and masters must comply with statutory regulations and company procedures. We hope that some of the advice provided may be considered useful as supplementary measures.

## Port security

Security at ports across the world can range from exceptional to inadequate and virtually non-existent. The stowaway risk may be higher in ports and terminals where the ISPS Code is not being properly implemented and the task of preventing the stowaways from coming onboard could also be more difficult. The ships' agents will be able to offer updated advice in advance of a ship's call, allowing the master and crew to plan and implement suitable preventive measures. It is also imperative to ensure that shipping agents clearly understand that the ship will not sail with stowaways onboard, and that all necessary safety measures available at the port should be implemented in the interest of the ship.

The many stowaway cases handled by P&I Clubs over time have clearly demonstrated that relying on port security alone will not always ensure the required level of security. In many parts of the world, the stowaway business is regarded as "financially attractive" and could therefore involve corrupt port workers and/or stevedores. Hence, solely relying on port security and local security staff has in some cases shown to merely offer an easy path for persons planning to stow away. Stowaways frequently hide in cargo units, such as containers and vehicles, waiting at the terminal before it is loaded onto the ship. In many of these cases, it turned out that the stowaways had had local help to get access to the cargo units in question, sometimes by persons linked to human trafficking organizations. There have also been cases where interviews of stowaways have revealed that ships' crew have been part of the arrangements. In cooperation with port officials, "tickets" had been collected from persons before allowing them to access and stow away on a ship.



The chances of discovering stowaways secreted away in cargo stored at the terminal will depend on the time available to undertake a thorough search of the cargo before loading and the amount of money the shipowner is prepared to spend. Obviously not every container or vehicle can be checked, however, masters and crew should pay special attention to containers with:

- broken seals, or seals that have been tampered with,
- noticeable weight misdeclarations,
- signs of recent repair or repainting, or
- small cut-outs or holes used for ventilation.

Reefer containers set at relatively high temperatures could also be a warning sign, as could containers collected from uncontrolled/insecure locations and those that arrive shortly before start of loading. The crew should also be alert to strange odours or noise from vehicles or containers during or after loading.

Shipowners, in cooperation with port operators, should also consider deployment of technology to detect stowaways hiding in cargo units, such as carbon dioxide (CO<sub>2</sub>) detectors, infrared cameras, as well as heartbeat detectors. While methods of detection will vary from port to port, the type of technology available and procedures for use of the equipment should be discussed with the individual port operators. The use of sniffer-dogs should also be considered.

## Access control and monitoring

In many parts of the world, shipowners and masters have little or no influence on the overall port security and have to concentrate on preventing stowaways from gaining access to the ship. As far as ship security and watch keeping are concerned, a number of measures can be taken depending on the potential risk of stowaways in the particular port.

### Prevention is the best cure

*The core strategy is to ensure that no unauthorised personnel are able to gain access to the ship, and that all those who have been authorised to board, disembark before sailing.*

First and foremost, proper access control relies on crew members who are adequately briefed about how the ship's trading patterns affect the stowaway risk and the relevant security measures to be implemented. In order to best guard against unauthorised boardings, all crew members, especially those with specific security duties and responsibilities, must understand the threats facing them in a particular port. Onboard instructions must clearly specify when to control access to the ship and how to do it.

While the gangway is the easiest and most obvious point of access to the ship, the ISPS Code requires ships to identify and establish relevant security measures for all means of access, which could include:

- access ladders, gangways, and ramps,
- doors, side scuttles, windows, and ports,
- mooring lines and anchor chains,
- cranes and hoisting gear, and
- rudder trunks.

Access can be controlled in many different ways and the SSP should therefore identify the type of restriction or control measure to be applied at each access point, and the means of enforcing them. Depending on the individual port's security level, ships should typically apply a combination of

- watchkeepers,
- external signs directing visitors to the correct access point,
- physical barriers, such as gangway gates, doors and fences, and
- an access pass system, preferably an electronic gangway control system, for storing crew and visitor data.

Use of CCTV camera systems, motion sensors, and lighting can also be strong deterrents to potential stowaways. In addition, procedures for access control should include clear rules for checking people, the type of ID that is acceptable and when to deny access and when to call a superior for assistance.

Changes in the tide may have an impact on the vulnerability or security of the ship, particularly for ships with low freeboard. Note also that the rudder trunk is not an uncommon access point for stowaways and is often used as a hideout, especially when a ship is in ballast condition. An aft-ship design with an open rudder trunk can be found on many ships and the following precautionary measures should be considered when such ships are trading to ports with a high risk of stowaways:

- Cover openings to the rudder compartment with grating or steel bars to prevent stowaways from gaining access to the area.
- Install an inspection hatch in the steering gear room that will enable inspection of the rudder trunk prior to departures.

Based on experience, and considering the pressure often put on watchkeepers, it should be considered if the best solution is to arrange for watchkeepers to work in teams/pairs. In addition to monitoring identified access points, it is also recommended that the watchkeepers patrol the immediate surroundings of a ship. As stowaways frequently seek access to the rudder trunk or try to climb onboard via ropes, the water around the ship should be checked regularly for small boats or swimmers. Hence, access control should apply to both landward access as well as seaward access.

## Use of shore-based security personnel

Depending on the stowaway risk, the ship type, size, port schedule, and manning level, an alternative may be to recruit trusted professional shore-based security personnel for access control and patrolling. While this may seem like an extravagant solution, the cost involved could easily be justified when compared to the cost of repatriating stowaways, which often involves moving reluctant people across different continents. In some ports, ships are even routinely required to use shore-based security personnel.

In all instances where shore-based security personnel are involved, it is vital that roles and responsibilities between ship and shoreside personnel are clearly communicated and understood. Ask the ship's agent for assistance and explore the possibility of including specific terms in the contract with the shore-based security company whereby the security company would be held liable for all costs of disembarkation and repatriation should it later be discovered that stowaways have managed to board the ship in that particular port. Consider rewarding the agents for stowaway free sailings.

## Shipboard searches

Security does not stop at the gangway, nor should ships' access control. In addition to measures preventing unauthorised access onto the ship itself, locking of all doors, hatches and means of access to holds or stores, which are not used during the ship's stay in port will limit potential stowaways' options of hiding places onboard. Stowaways have been known to hide in the most unusual places. Besides cargo holds and containers, they have been found inside funnel casings, chain lockers, storerooms, cabins, crane cabs, mast houses, engine room bilges and even in the rudder trunk. Where locks are not considered appropriate, tamper-proof or wire seals can be used, as any broken seals would indicate that an entry has been made. When briefing the crew on stowaway risks, highlight the importance of monitoring deck areas, restricted areas, and the handling of cargo and ship's stores. Encourage the crew to report any abnormal and/or suspicious activity. Consider offering financial rewards to those crew members who discover and prevent stowaways.

The shipowner should also consider the need for more systematic shipboard searches in order to locate stowaways if any have managed to get onboard. Random and visible searches of the ship while in port could also act as a deterrent to those considering stowing away. However, as stowaways often hide away shortly before the ship leaves port, a thorough search of the ship should always be carried out shortly before departure from a port where there is a risk of stowaway embarkation. Search plans should be available onboard as part of the SSP and the search should focus on places where stowaways might hide and use methods that are not likely to harm secreted stowaways. Owing to the vast number of potential hiding places, a practical solution would be to divide the ship into separate search areas, e.g., accommodation, engine room, main deck, cargo compartments, and designate competent crew members to be responsible for searching each area. An inspection of the rudder trunk from the outside should be carried out when in ballast condition, e.g., by use of the ship's rescue boat.

The master should make an entry in the logbook, recording every stowaway search and its results, with full details of the date, time, spaces searched, and names and ranks of designated searchers. If stowaways are discovered during a search, the immigration authorities should be notified immediately in order that the stowaways can be removed from the ship. The master should also consider the need for a final onboard search immediately after the ship has unberthed. It may be easier to land potential stowaways before the ship has left territorial waters and when the outbound pilot is still on board. If stowaways are found at this stage, they can be repatriated using the pilot boat.



# When stowaways are found onboard

Stowaways frequently appear or are discovered by the crew two or three days after the ship has left port. When this happens, immediately notify the company and the P&I insurer as this will enable the CSO to inform the appropriate authorities at the next port of call. Please refer to Appendix B for details. The P&I correspondents and the ship's agent in the next port of call or the port of embarkation should also be notified, so that they can prepare for identification and repatriation of the stowaway. Generally, repatriation cannot be carried out if advance notice of the stowaway has not been provided.

We also take this opportunity to remind ship operators and their masters to be mindful of any **General Data Protection Regulation (GDPR)** or similar requirements that apply to collecting, saving, and distributing personal and sensitive information.

## Treatment of stowaways

Any stowaways found should be placed in secure quarters, guarded if possible, and be provided with adequate food and water. They, as well as the place they were found, should be searched for any identification papers. Where there is more than one stowaway, they should preferably be detained separately. The master and crew should act firmly, but humanely. Regardless of how inconvenient or irritating the stowaways may be to the master, crew and shipowner, it is important that the stowaways are treated humanely. If needed, the master and crew must also provide the stowaways with medical assistance. See the IMO guidelines in Appendix A.

Stowaways should not be put to work. If working, they will be at an increased risk of injuries which may lead to significant medical and deviation expenses and even claims for compensation. Moreover, many stowaways are not only untrained, but can also be unpredictable and may represent a safety hazard if put to work. Some shipowners have also faced claims for wages as a result of putting stowaways to work. These claims have caused additional problems in the repatriation process.

Ships operating in areas where there is a high risk of encountering stowaways, should consider setting aside a dedicated area where any stowaways can be lodged. The quarters should be furnished quite simply, and any items that can be used to harm the stowaway should be removed.

The use of handcuffs and other types of restraints may be required in some situations. However, the general recommendation is to use such means only in extreme situations, e.g. if the stowaway is a danger to him-/herself or others, and preferably by external security personnel trained to use such restraints.

Should a stowaway die during the voyage, the authorities at the next port of call, in co-operation with the relevant embassy, will decide how to proceed, i.e., whether to arrange burial at the port in question or repatriate the body. The body of an unidentified stowaway will normally not be returned to the port of embarkation. However, this practice may vary from country to country and Members are advised to follow the instructions provided by the local authorities and the embassy in question.

## Collecting evidence

It is important to have as much information and evidence as possible on how stowaways have boarded the ship and how the ship made every effort to prevent stowaways boarding and to find succeeding stowaways prior to leaving port. This includes details of access restrictions, watch arrangements, locked areas, etc.

As a means of obtaining as much information as possible for each stowaway, we recommend using the questionnaire included in Appendix C.

### **In addition, and depending on the circumstances in each case, the following actions should be considered:**

- Search the place the stowaways were found for drugs as stowaways can be used as drug couriers. If drugs are found, the place should be left untouched and sealed off. Photograph or video tape the place where the stowaways, and drugs if any, were found.
- Search the stowaways for identity papers. These documents, if found, must be confiscated as stowaways often try to hide their identity or destroy their identity papers.
- Search the stowaways for various items, including mobile telephones, drugs, and weapons. Document any positive findings and confiscate the items.
- Question each stowaway in detail about when and where the boarding took place as per the questionnaire in Appendix C. If there more than one stowaway, question each person separately.
- Establish the ship's security arrangements in place at the time of the boarding.
- Try to establish each person's reasons for stowing away and the circumstances under which his or her voluntary return may be possible. Explain that if economic reasons are behind stowing away, no other country will accept them, and repatriation will be inevitable.
- Make records of the stowaways' treatment during the voyage, e.g., frequency and types of meals, accommodation, times allowed out and sanitary arrangements, in logbooks and as far as practicable by taking photographs and video.



# Disembarkation and return of stowaways

Gard would like to emphasize that any disembarkation must be carried out officially in the presence of the ship's local agents or Gard's P&I correspondents. Indeed, in some cases, whereas the master is of good faith, the stowaway has been known to have been handed over to people alleging to be local Authorities and the master had handed over money to people who have released the stowaway unofficially, causing dire consequences. When investigations are thereafter made by the Police, the ship can face extreme difficulties.

## Steps to be taken

Once stowaways have been found, the focus should be on the possibility of arranging disembarkation and repatriation. Gard offers all necessary assistance in this respect. A report should be sent as soon as possible to the shipowner, the P&I Club and the agents at the last and next port of call. The master may also contact Gard's local correspondent directly for assistance. The report should preferably contain information as set out in Appendix B.

According to the IMO, stowaways should not receive any payments, or other benefits beyond the minimal requirements to ensure the security, general health, welfare and safety of the stowaways while on board or on shore, as that might act as an incentive to reoffend or as an encouragement to other persons attempting to stow away.

## Identification papers - travel documents

The correct travel documents are essential for the stowaway to be granted permission to travel back to his or her homeland. These usually include temporary travel documents issued by the relevant country's embassy or consulate. It can take some time to arrange for these documents to be issued and it is therefore important that the master notifies Gard as early as possible, enabling the club to make the necessary travel arrangements before the ship arrives at the next port of call.

Ideally, the P&I club and/or the correspondents should establish and document the identity of the stowaway before approaching the relevant embassy or consulate for travel documents. However, this is not always easy, and it may take a number of interviews, as well as photographs and expert assistance to determine the nationality of the stowaway. Hence, it may be necessary to involve relevant government officials before the identity of stowaways is confirmed. It is also very important that the master or the crew search the stowaways for identification papers or personal belongings. The area where the stowaways were found should also be searched.

Repatriation is not always possible from the first port of call following the discovery of the stowaways, as the necessary travel documents may not have been received. The ship will then have to continue to her next scheduled port with the stowaways on board. Gard usually requests from the Member the ship's itinerary to put the correspondents on notice in the respective ports of call. The stowaways will then be repatriated at the first available opportunity, normally accompanied by a security guard.

Situations do arise when a ship is ready to sail, but the disembarked stowaway cannot depart the port of disembarkation until after the ship's scheduled departure. Immigration authorities usually only allow the repatriation to take place if the ship is still in port so that the stowaway can be put back on board should the repatriation fail. Some immigration authorities even require the ship to remain in port until such time as confirmation has been received from the country of origin that the stowaway has landed and has been accepted.

There are very few ports in the world where cooperation will be received by authorities in cases where stowaways are undocumented. The only exception to this rule applies to those seeking political asylum and those in need of medical attention. While most countries may allow repatriation of stowaways that are in possession of travel documents, we also see cases where stowaways remain onboard ships for extended periods of time, sometimes until a ship returns to the port where the stowaways embarked just because this is considered the "easier option". However, this is not an ideal situation as it may lead to confrontations and dangerous security situations onboard, putting both crews and stowaways at great risk.

## Political asylum

A stowaway may seek political asylum when the ship arrives in port. In these circumstances, the immigration authorities will frequently take responsibility for the stowaway. It is possible to involve the United Nations High Commissioner for Refugees (UN HCR) should the authorities refuse to disembark a stowaway who it is felt has a genuine case for asylum. The local authorities may in some cases demand a guarantee or other form of security from the shipowner, to cover all or part of the costs of detention and repatriation. If the stowaway is not granted asylum, the immigration authorities will make the necessary arrangements for repatriation of the stowaway back to the country of origin. However, the shipowner will most likely be held liable for the repatriation expenses.



## Alternative methods

Repatriation of a stowaway from a foreign port can be both time consuming and expensive. In the case of shipowners operating liner services there is an alternative way of returning the stowaways to their country of origin. A ship in liner service will usually at some point in the near future return to the port where the stowaway first boarded. Provided it is safe for the crew, the ship and the stowaway, the stowaway remains on board until the ship returns to that port, although it would be necessary to advise and obtain approval from the immigration authorities at all intermediate ports. However, it has proven difficult to keep stowaways on board in Brazil, as Brazilian authorities often disembark the stowaway in any case. It may also be possible for a shipowner to transfer a stowaway to another ship in the same ownership if that ship happens to be going to the port where the stowaway boarded or a more convenient destination than the initial ship.

## Diverting to land stowaways

Diverting to land a stowaway might seem attractive, particularly where a stowaway is discovered shortly after leaving port. However, it is important to realise that there could be serious consequences of a deviation.

As for P&I cover issues, please see chapter below. It is also worth noting the IMO FAL Convention, as a general principle, recommends 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 safety, security, health or compassionate reasons; or
- attempts to disembark in other ports on the planned voyage have failed and deviation is necessary in order to avoid that the stowaway remain on board for a significant period of time.”

To be able to provide the owner and master with the best service possible, it is important to receive early notification of the ship’s voyage plan or next port-of-call. Gard is then able to assist the owner and to try to identify the most suitable port for landing the stowaway. Another option is to keep the stowaways on board until the ship returns to the port of embarkation. The owner and insurer will then have reduced the cost of having the stowaways on board. To do so the stowaway must of course not interfere with the crew’s safe operation of the ship. In some cases, guards could be hired as watch keepers to take care of the stowaways while the ship is under way.

## Role of the P&I correspondents

Gard has appointed correspondents worldwide. Our correspondents are an important part of the team when it comes to stowaway cases.

As soon as instructions are received from the ship’s master, agent, P&I club or owner, the correspondent contacts the relevant authorities (harbour, immigration etc.) to obtain their agreement to repatriate the stowaways.

The correspondent will assist the master on board the ship in completing the disembarkation formalities with the authorities and interview the stowaways to ascertain the nationality of the stowaway. The correspondent provides the P&I club and the owner with an estimate of the cost of repatriation.

With the assistance of the police, the correspondent then disembarks and escorts the stowaways to a police detention centre pending further investigations and ensure that meals will be provided.

Once the stowaways have been escorted to and interviewed at the relevant embassy or consulate and their nationality is confirmed, the correspondent applies for emergency travel documents and makes the necessary repatriation arrangements, for example, booking escorts and plane tickets purchasing appropriate clothing if needed. The correspondents, or other security escort services, should accompany the stowaways to the airport, complete the boarding formalities and ensure that the stowaways board the plane. Repatriating groups of stowaways is generally not recommended as this can be a safety hazard. If the group is big, consideration can be made to charter a flight.

# The P&I cover

The latest version of the Gard Rules and Guidance to the Rules are available on our website under “**Publications**”: Stowaways are dealt with under Rule 32.

## Legal liability

In order to be covered under the P&I policy, the Member must have a legal liability for the costs or expenses relating to the stowaways. The carrier will normally be liable for a person on board who is not in possession of valid identification papers. The carrier is also likely to be held liable for the cost of food/lodging, repatriation and the cost of any escorts hired for the repatriation. Shipowners can also be liable for medical treatment or medical examination of stowaways.

The Member may also be liable for fines incurred where stowaways have escaped from the ship. Furthermore, the owner may be liable for fines levied by the authorities for each person arriving on their ship who is unable to produce the necessary visa or other entry documentation. Such fines will be covered under the P&I policy.

Any damage to the ship and/or cargo as a result of the stowaway being on board is not covered under the P&I policy and neither are consequential losses. In addition, measures taken to prevent stowaways boarding the ship are considered operational matters and are therefore not covered under P&I.

## Stowaway clause

In principle, the owners are responsible for all costs incurred as a result of having a stowaway on board. However, some charterparties contain a stowaway clause which states that the charterer is responsible for all costs incurred and other clauses allocate responsibility between the two parties. One example is the BIMCO Stowaway Clause for Time Charter Parties. The clause divides the responsibility for stowaways between owners and charterers based on the method of gaining access to the vessel. The clause and explanatory notes are available via BIMCO's website: [www.bimco.org](http://www.bimco.org).

We recommend that owners and charterers ensure clarity around terms for stowaways in their contract before commencement of a voyage. Once a stowaway has been found, it is important to establish how the stowaway gained access to the ship.

Gard recommends that owners include a stowaway clause in all charterparties.

## Diversion

There are times when the best option for disembarkation is to have the ship leave her planned voyage and return to the port of embarkation, or to call another convenient port enroute. If this is the case, the Member should immediately give notice to their responsible Gard underwriter about planned deviation, even if a claims handler is already involved. If the ship has cargo on board, a geographical deviation could deprive the Member of the right to rely on defences or rights of limitation which would otherwise have been available. Although Gard has arranged an open deviation cover for the benefit of its Members, it is a requirement of the insurance that the Member immediately gives the Club notice. In some cases, additional insurance may have to be arranged.

Rule 31 provides cover for diversion expenses where 'these are incurred solely for the purpose of securing treatment for an injured or sick person on board, or to transfer a deceased person on board to shore for repatriations'. 'Diversion' for disembarkation of a stowaway is not covered under Gard's Rule 31, unless the stowaway is in urgent need of medical care ashore, or it is to land a body.

However, cover for diversion expenses to land stowaways may be available under Rule 32, provided that the diversion to the embarkation port or other convenient port is approved by the Association and the costs and expenses are considered by the Association to be 'directly and reasonably incurred'. Please refer to the **Gard Guidance to the Rules** for details. For example, cover is available for the cost and expenses of diverting the ship to an unscheduled port to land stowaways if the Member can demonstrate that it was reasonable to do so and that it was in the best interests of the Association. Recoverable costs include those listed in Rule 31, i.e., extra costs of fuel, insurance, wages, stores, provisions and port charges – over and above what would have been incurred but for the diversion to disembark the stowaway(s). However, it is important to note the proviso in Rule 32 that the cover does not include consequential loss of profit or depreciation.



# Concluding remarks

It should not be forgotten that the processes of disembarkation and repatriation of stowaways will always be closely linked. Indeed, before taking any steps such as disembarkation, we would recommend that the masters/shipowners do not hesitate to request Gard's or our P&I correspondents' advice. Indeed, through our experience and network of correspondents, we have generally a good understanding of which port is the most convenient and cost-effective area for disembarkation/repatriation, i.e., the availability of diplomatic representation for documentation, flight possibilities, penalties and escort obligations, the latter of which are necessarily to be avoided.

Prevention is always better than cure, and this is especially true in cases involving stowaways. Any master who has had to deal with a stowaway situation on board will agree that time and money invested in preventing stowaways from boarding a ship is time and money well spent. Therefore, it is hoped that the advice provided in this guidance will assist Members and clients to avoid the problem altogether, or to at least ensure a swift resolution to a situation which in many cases presents a challenge to owners/operators, the Club and its correspondents.

We also reiterate the importance of adhering to IMO standards and recommended practices when it comes to security arrangements and procedures to prevent and handle stowaways. The basic principles set out in the IMO guidelines on stowaways and supported by the security approach of the ISPS Code:

- Cooperation to prevent incidents
- Security measures to prevent stowaways from boarding
- Proper onboard searches prior to leaving port
- Humanitarian treatment of stowaways
- Cooperation to repatriate stowaways
- Disembarking countries' responsibilities and rights on dealing with illegal immigrants
- International protection principles for dealing with asylum seekers
- Cooperation to disembark stowaways
- Countries' acceptance of return of its nationals/citizens
- Embarking country's acceptance of return of stowaways when nationality and citizenship cannot be established.

Appendix A  
IMO Stowaway Guidelines



**ANNEX 1**

**RESOLUTION FAL.13(42)  
(adopted on 8 June 2018)**

**REVISED GUIDELINES ON THE PREVENTION OF ACCESS BY STOWAWAYS AND THE  
ALLOCATION OF RESPONSIBILITIES TO SEEK THE SUCCESSFUL RESOLUTION OF  
STOWAWAY CASES**

THE FACILITATION COMMITTEE,

HAVING CONSIDERED the general purposes of the Convention on Facilitation of International Maritime Traffic, 1965, as amended (FAL Convention), and in particular article III thereof,

RECALLING the provisions of resolution A.1027(26) on *Application and revision of the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases* (resolution A.871(20)),

RECALLING ALSO that the International Convention Relating to Stowaways, which attempted to establish an internationally acceptable regime for dealing with stowaways, has not yet come into force,

RECALLING FURTHER that it adopted, in accordance with article VII(2)(a) of the FAL Convention, at its twenty-ninth session, on 10 January 2002, amendments to the Convention on Facilitation of International Maritime Traffic, 1965, as amended (resolution FAL.7(29)), which introduced a new section 4 on Stowaways in the annex to the FAL Convention, prescribing Standards and Recommended Practices on matters relating to stowaways (the FAL provisions on stowaways), which entered into force on 1 May 2003,

RECALLING IN ADDITION that, for the purposes of this resolution, a stowaway is defined as 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,

NOTING with concern the number of incidents involving stowaways, the consequent potential for disruption of maritime traffic, the impact such incidents may have on the safe operation of ships and the considerable risks faced by stowaways, including loss of life,

NOTING ALSO that several Member States which are also Contracting Governments to the FAL Convention:

- (a) have notified the Secretary-General, in accordance with article VIII(1) of the FAL Convention (in relation to the Standards specified in section 4 of the annex to the FAL Convention) either that they find it impracticable to comply with the above-mentioned Standards or of differences between their own practices and those Standards; or

- (b) have not yet notified the Secretary-General, in accordance with article VIII(3) of the FAL Convention, that they have brought their formalities, documentary requirements and procedures into accord in so far as practicable with the Recommended Practices specified in section 4 of the annex to the FAL Convention,

RECALLING that resolution A.1027(26) expressed conviction of the need to align, to the extent possible and desirable, the Guidelines with the FAL provisions on stowaways and to revise them in a manner that reflects developments in efforts undertaken to prevent stowaways, as well as to provide guidance and recommendations, taking into account the FAL provisions on stowaways, on measures which can be implemented by vessels to prevent cases involving stowaways,

TAKING INTO ACCOUNT that some stowaways may be asylum seekers and refugees, which should entitle them to such relevant procedures as those provided by international instruments and national legislation,

BEING AWARE that considerable difficulties continue to be encountered by masters and shipping companies, shipowners and ship operators when stowaways are to be disembarked from ships into the care of the appropriate authorities,

AGREEING that the existence of such guidance should in no way be regarded as condoning or encouraging the practice of stowing away and other illegal migration, and should not undermine efforts to combat the separate problems of alien smuggling or human trafficking,

AGREEING ALSO that the provisions of this resolution should, in accordance with resolution A.1027(26), be considered as being of relevance only with respect to:

- (a) Member States which are not Contracting Governments to the FAL Convention; and
- (b) Member States which are Contracting Governments to the FAL Convention and which:
  - (i) have notified the Secretary-General, in accordance with article VIII(1) of the FAL Convention (in relation to the Standards specified in section 4 of the annex to the FAL Convention) either that they find it impracticable to comply with the aforementioned Standards or of differences between their own practices and those Standards; or
  - (ii) have not yet notified the Secretary-General, in accordance with article VIII(3) of the FAL Convention, that they have brought their formalities, documentary requirements and procedures into accord in so far as practicable with the Recommended Practices specified in section 4 of the annex to the FAL Convention,

BELIEVING that, at present, stowaway cases can best be resolved through close cooperation among all authorities and persons concerned,

BELIEVING ALSO that, in normal circumstances, through such cooperation, stowaways should, as soon as practicable, be removed from the ship concerned and returned to the country of nationality/citizenship or to the port of embarkation, or to any other country which would accept them,

RECOGNIZING that stowaway incidents should be dealt with humanely by all Parties involved, giving due consideration to the operational safety of the ship and its crew,

WHILST URGING national authorities, port authorities, shipowners and masters to take all reasonable precautions to prevent stowaways gaining access to vessels,

NOTING that the Maritime Safety Committee, at its eighty-eighth session, adopted the *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases* (resolution MSC.312(88)),

NOTING ALSO that, at its thirty-seventh session, it adopted the *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases* (resolution FAL.11(37)),

RECALLING that, at its fortieth session, it adopted amendments to the annex to the FAL Convention (resolution FAL.12(40)), which included amendments to section 4 (Stowaways),

AGREEING that these amendments should be reflected in the revised guidelines as adopted by resolution FAL.11(37),

NOTING that the Maritime Safety Committee, at its ninety-ninth session, adopted the Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution MSC.448(99)),

1 ADOPTS the *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases*, set out in the annex to the present resolution;

2 URGES Governments to implement in their national policies and practices the amended procedures recommended in the annexed Guidelines;

3 ALSO URGES Governments to deal with stowaway cases in a spirit of cooperation with other parties concerned, on the basis of the allocation of responsibilities set out in the annexed Guidelines as from 1 July 2018;

4 INVITES shipping companies, shipowners and ship operators to take on the relevant responsibilities set out in the annexed Guidelines and to guide their masters and crews as to their respective responsibilities in stowaway cases;

5 INVITES Governments to develop, in cooperation with the industry, comprehensive strategies to improve access control and prevent intending stowaways from gaining access to ships;

6 RESOLVES to continue to monitor the effectiveness of the annexed Revised guidelines on the basis of information provided by Governments and the industry, to keep them under review and to take such further action, including the development of a relevant binding instrument, as may be considered necessary in light of the developments;

7 REVOKES resolution FAL.11(37) on *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases*;

8 REQUESTS the Assembly to endorse the action taken by the Maritime Safety Committee and the Facilitation Committee.

## ANNEX

### REVISED GUIDELINES ON THE PREVENTION OF ACCESS BY STOWAWAYS AND THE ALLOCATION OF RESPONSIBILITIES TO SEEK THE SUCCESSFUL RESOLUTION OF STOWAWAY CASES

#### 1 Introduction

1.1 Masters, shipowners, public authorities, port authorities and other stakeholders, including those providing security services ashore, have a responsibility to cooperate to the fullest extent possible in order:

- .1 to prevent stowaway incidents; and
- .2 to resolve stowaway cases expeditiously and secure that an early return or repatriation of the stowaway will take place; all appropriate measures should be taken in order to avoid situations where stowaways must stay on board ships for an unreasonable amount of time.

1.2 However, no matter how effective port and ship security measures are, it is recognized that there will still be occasions when stowaways gain access to vessels, either secreted in the cargo or by surreptitious boarding.

1.3 The resolution of stowaway cases is difficult because of different national legislation in each of the several potentially involved States: the State of embarkation, the State of disembarkation, the flag State of the ship, the State of apparent, claimed or actual nationality/citizenship or right of residence of the stowaway, and States of transit during repatriation.

#### 2 Definitions

For the purpose of these Guidelines, the following meanings shall be attributed to the terms listed:

- .1 *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.
- .2 *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.
- .3 *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 present Guidelines.
- .4 *Security measures.* Measures developed and implemented in accordance with international agreements to improve security on board ships and in port areas and facilities, and of goods moving in the international supply chain, to detect and prevent unlawful acts.<sup>1</sup>

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<sup>1</sup> Reference is made to chapter XI-2 of the International Convention for the Safety of Life at Sea, 1974, as amended (1974 SOLAS Convention) and the International Ship and Port Facility Security Code, as amended (ISPS Code); and to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (1988 SUA Convention) and its 2005 Protocol (2005 SUA Protocol).



- .5 *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.
- .6 *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.

### **3 Basic principles**

On the basis of the experience thus far, the application of the following basic principles have been useful in preventing stowaway incidents and have been helpful in the speedy resolution of stowaway cases:

- .1 Stowaway incidents should be dealt with in a manner consistent with humanitarian principles. Due consideration must always be given to the operational safety of the ship and to the safety and well-being of the stowaway.
- .2 Public authorities, port authorities, shipowners and masters should cooperate to the fullest extent possible in order to prevent stowaway incidents.
- .3 Shipowners, masters, port authorities and public authorities should have adequate security arrangements in place which, as far as practicable, will prevent intending stowaways from getting aboard a ship or, if this fails, will detect them before the ship leaves port or, at the latest, before it arrives at the next port of call.
- .4 Adequate, frequent and well-timed searches minimize the risk of having to deal with a stowaway case and may also save the life of a stowaway who may, for example, be hiding in a place which is subsequently sealed and/or chemically treated.
- .5 Public authorities, port authorities, shipowners and masters should cooperate to the fullest extent possible in order to resolve stowaway cases expeditiously and secure that an early return or repatriation of the stowaway will take place. All appropriate measures should be taken in order to avoid situations where stowaways must stay on board ships for an unreasonable amount of time.
- .6 Stowaways arriving at or entering a State without the required documents are, in general, illegal entrants. Decisions on dealing with such situations are the prerogative of the States where such arrival or entry occurs.

- .7 Stowaway asylum seekers should be treated in accordance with international protection principles as set out in international instruments, such as the provisions of the United Nations Convention relating to the Status of Refugees of 28 July 1951 and of the United Nations Protocol relating to the Status of Refugees of 31 January 1967 and relevant national legislation.<sup>2</sup>
- .8 Every effort should be made to avoid situations where a stowaway has to be detained on board a ship indefinitely. In this regard States should cooperate with the shipowner in arranging the disembarkation of a stowaway to an appropriate State.
- .9 States should accept the return of stowaways who have full nationality/citizenship status in that State, or have a right of residence in that State.
- .10 Where the nationality or citizenship or right of residence cannot be established, the State of the original port of embarkation of a stowaway should accept the return of such a stowaway for examination pending final case disposition.

#### **4 Preventive measures**

##### *4.1 Port/terminal authorities*

4.1.1 States and port and terminal owners, operators and authorities should ensure that the necessary infrastructure, and operational and security arrangements for the purpose of preventing persons attempting to stowaway on board ships from gaining access to port installations and to ships, are established in all their ports, taking into consideration when developing these arrangements the size of the port, and what type of cargo is shipped from the port. This should be done in close cooperation with relevant public authorities, shipowners and shore-side entities, with the aim of preventing stowaway occurrences in the individual port.

4.1.2 Operational arrangements and/or port facility security plans should at least be equivalent to those contained in the relevant text of section B/16 of the ISPS Code.<sup>3</sup>

##### *4.2 Shipowner/Master*

4.2.1 Shipowners and masters should ensure that adequate security arrangements are 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 or, at the latest, before it arrives at the next port of call.

4.2.2 When calling at ports and during stay in ports, where there is risk of stowaway embarkation, operational arrangements and/or ship security plans should at least be equivalent to those contained in the relevant text of paragraph B/9 of the ISPS Code.<sup>4</sup>

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<sup>2</sup> 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)).

<sup>3</sup> Recommended Practice 4.3.1.2 of the FAL Convention.

<sup>4</sup> Recommended Practice 4.3.2.2 of the FAL Convention.

4.2.3 When departing from a port, where there is risk of stowaway embarkation, a ship should undergo a thorough search in accordance with a specific plan or schedule, and with priorities given to places where stowaways might hide taking into account the specific ship type and its operations. Search methods which are likely to harm secreted stowaways should not be used.

4.2.4 Fumigation or sealing should not be carried out until a thorough search of the areas to be fumigated or sealed has taken place in order to ensure that no stowaways are present in those areas.

## **5 Responsibilities in relation to the resolution of stowaway cases**

### *5.1 Questioning and notification by the master*

It is the responsibility of the master of the ship which finds any stowaways on board:

- .1 to make every effort to determine immediately the port of embarkation of the stowaway;
- .2 to take practical steps to establish the identity, including the nationality/citizenship and the right of residence, of the stowaway;
- .3 to prepare a statement containing all available information relevant to the stowaway for presentation to the appropriate authorities (for example, the public authorities at the port of embarkation, the flag State and, if necessary, subsequent ports of call) and the shipowner; in this respect the reporting form provided in the appendix should be used and completed as far as practicable;
- .4 to notify the existence of a stowaway and any relevant details to the shipowner and appropriate authorities at the port of embarkation, the next port of call and the flag State, with the understanding that when a stowaway declares himself or herself to be a refugee, this information should be treated as confidential to the extent necessary for the security of the stowaway; to ensure confidentiality in these cases no information should be forwarded to authorities public or private in the country of origin or residence of the stowaway;
- .5 not to depart from the planned voyage to seek the disembarkation of a stowaway discovered on board the ship after it has left the territorial waters of the State 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 given for disembarkation, or unless there are extenuating safety, security, health or compassionate reasons, or attempts to disembark in other ports on the planned voyage have failed and deviation is necessary in order to avoid that the stowaway remain on board for a significant period of time;
- .6 to ensure that the stowaway is presented to the appropriate authorities at the next port of call in accordance with their requirements;

- .7 to take appropriate measures to ensure the security, general health, welfare and safety of the stowaway until disembarkation, including providing him or her with adequate provisioning, accommodation, proper medical attention and sanitary facilities;
- .8 to ensure that stowaways are not permitted to work on board the ship, except in emergency situations or in relation to the stowaway's accommodation and provisioning on board; and
- .9 to ensure that stowaways are treated humanely, consistent with the basic principles.

## 5.2 *The shipowner*

It is the responsibility of the shipowner of the ship on which stowaways are found:

- .1 to ensure that the existence of, and any relevant information on, the stowaway has been notified to the appropriate authorities at the port of embarkation, the next port of call and the flag State;
- .2 to comply with any removal directions made by the competent national authorities at the port of disembarkation; and
- .3 to cover any applicable costs relating to the removal, detention, care and disembarkation of the stowaway in accordance with the legislation of the States which may be involved.

## 5.3 *The State of the first port of call according to the voyage plan*

It is the responsibility of the State of first port of call according to the voyage plan after the discovery of the stowaway:

- .1 to accept the stowaway for examination in accordance with the national laws of that State and, where the competent national authority considers that it would facilitate matters, to allow the shipowner and the competent or appointed P&I Club correspondent to have access to the stowaway;
- .2 to favourably consider allowing disembarkation and provide, as necessary and in accordance with national law, secure accommodation which may be at the expense of the shipowner, where:
  - .1 a case is unresolved at the time of sailing of the ship; or
  - .2 the stowaway is in possession of valid 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; or
  - .3 other factors make it impractical for the stowaway to remain on the ship; such factors may include but are not limited to cases where a stowaway's presence on board would endanger the safe and secure operation of the ship, the health of the crew or the stowaway;
- .3 to make every effort to cooperate in the identification of the stowaway and the establishment of his or her nationality/citizenship or right of residence;

- .4 to make every effort to cooperate in establishing the validity and authenticity of a stowaway's documents and, when a stowaway has inadequate documents, to whenever practicable and to an extent compatible with national legislation and security requirements issue a covering letter with a photograph of the stowaway and any other important information, or alternatively, a suitable travel document accepted by the public authorities involved; the covering letter authorizing the return of the stowaway either to his or her State of origin or to the point where the stowaway commenced his or 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 effecting the removal of the stowaway; this letter will include information required by the authorities at transit points and/or the point of disembarkation;
- .5 to give directions for the removal of the stowaway to the port of embarkation, State of nationality/citizenship or right of residence or to some other State to which lawful directions may be made, in cooperation with the shipowner;
- .6 to inform the shipowner on whose ship the stowaway was found, as far as practicable, of the level of cost of detention and return and any additional costs for the documentation of the stowaway, if the shipowner is to cover these costs; in addition, public authorities should cooperate with the shipowner to keep such costs to a minimum, as far as practicable, and according to national legislation, if they are to be covered by the shipowner, as well as keeping to a minimum the period during which shipowners are held liable to defray costs of maintenance of a stowaway by public authorities;
- .7 to consider mitigation of charges that might otherwise be applicable when shipowners have cooperated with the control authorities to the satisfaction of those authorities in measures designed to prevent the transportation of stowaways; or where the master 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;
- .8 to issue, if necessary, in the event that the stowaway has no identification and/or travel documents, a document attesting to the circumstances of embarkation and arrival to facilitate the return of the stowaway either to his or her State of origin, to the State of the port of embarkation, or to any other State to which lawful directions can be made, by any means of transport;
- .9 to provide the document to the transport operator effecting the removal of the stowaway;
- .10 to take proper account of the interests of, and implications for, the shipowner when directing detention and setting removal directions, so far as is consistent with the maintenance of control, their duties or obligations to the stowaway under the law, and the cost to public funds;
- .11 to report incidents of stowaways of which they become aware to the Organization;<sup>5</sup>

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<sup>5</sup> Refer to FAL.2/Circ.50/Rev.3 on *Information on stowaway incidents*, as may be amended.

- .12 to cooperate with the flag State of the ship in identifying the stowaway and their nationality/citizenship and right of residence, to assist in removal of the stowaway from the ship, and to make arrangements for removal or repatriation; and
- .13 if disembarkation is refused, to notify the flag State of the ship the reasons for refusing disembarkation.

#### 5.4 *Subsequent ports of call*

When the disembarkation of a stowaway has not been possible at the first port of call, it is the responsibility of the State of the subsequent port of call to follow the guidance provided in paragraph 5.3.

#### 5.5 *State of embarkation*

It is the responsibility of the State of the original port of embarkation of the stowaway (i.e. the State where the stowaway first boarded the ship):

- .1 to accept any returned stowaway having nationality/citizenship or right of residence;
- .2 to accept a stowaway back for examination where the port of embarkation is identified to the satisfaction of the public authorities of the receiving State; the public authorities of the State of embarkation should not return such stowaways to the State where they were earlier found to be inadmissible;
- .3 to apprehend and detain the attempted stowaway, where permitted by national legislation, if the attempted stowaway is discovered before sailing either on the ship or in cargo due to be loaded; to refer the attempted stowaway to local authorities for prosecution, and/or, where applicable, to the immigration authorities for examination and possible removal; no charge is to be imposed on the shipowner in respect of detention or removal costs, and no penalty is to be imposed;
- .4 to apprehend and detain the stowaway, where permitted by national legislation, if the stowaway is discovered while the ship is still in the territorial waters of the State of the port of his or her embarkation, or in another port in the same State (not having called at a port in another State in the meantime); no charge is to be imposed on the shipowner in respect of detention or removal costs, and no penalty is to be imposed;
- .5 to report incidents of stowaways or attempted stowaways of which they become aware to the Organization;<sup>6</sup> and
- .6 to reassess the preventative arrangements and measures in place and to verify the implementation and effectiveness of any corrective actions.

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<sup>6</sup> Refer to FAL.2/Circ.50/Rev.3 on *Information on stowaway incidents*, as may be amended.

#### 5.6 *State of nationality or right of residence*

It is the responsibility of the apparent or claimed State of nationality/citizenship of the stowaway and/or of the apparent or claimed State of residence of the stowaway:

- .1 to make every effort to assist in determining the identity and nationality/citizenship or the rights of residence of the stowaway and to document the stowaway, accordingly once satisfied that he or she holds the nationality/citizenship or the right of residence claimed; where possible, the local embassy, consulate or other diplomatic representation of the country of the stowaway's nationality will be required to assist in verifying the stowaway's nationality and providing emergency travel documentation;
- .2 to accept the stowaway where nationality/citizenship or right of residence is established; and
- .3 to report incidents of stowaways of which they become aware to the Organization.<sup>7</sup>

#### 5.7 *The flag State*

It is the responsibility of the flag State of the ship:

- .1 to be willing, if practicable, to assist the master/shipowner or the appropriate authority at the port of disembarkation in identifying the stowaway and determining his or her nationality/citizenship or right of residence;
- .2 to be prepared to make representations to the relevant authority to assist in the removal of the stowaway from the ship at the first available opportunity;
- .3 to be prepared to assist the master/shipowner or the authority at the port of disembarkation in making arrangements for the removal or repatriation of the stowaway; and
- .4 to report incidents of stowaways of which they become aware to the Organization.\*

#### 5.8 *States of transit during repatriation*

It is the responsibility of any States of transit during repatriation to 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 the State of the port of disembarkation.

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<sup>7</sup> Refer to FAL.2/Circ.50/Rev.3 on *Information on stowaway incidents*, as may be amended.

APPENDIX

**FORM OF STOWAWAY DETAILS REFERRED TO IN RECOMMENDED PRACTICE 4.6.2 OF THE CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC 1965, AS AMENDED**

<p><b>SHIP DETAILS</b></p> <p><i>Name of ship:</i></p> <p><i>IMO number:</i></p> <p><i>Flag:</i></p> <p><i>Company:</i></p> <p><i>Company address:</i></p> <p><i>Agent in next port:</i></p> <p><i>Agent address:</i></p> <p><i>IRCS:</i></p> <p><i>Inmarsat number:</i></p> <p><i>Port of registry:</i></p> <p><i>Name of master:</i></p> <p><b>STOWAWAY DETAILS</b></p> <p><i>Date/time found on board:</i></p> <p><i>Place of boarding:<sup>8</sup></i></p> <p><i>Country of boarding:</i></p> <p><i>Date/time of boarding:</i></p> <p><i>Intended final destination:</i></p> <p><i>Stated reasons for boarding the ship:<sup>9</sup></i></p> <p><i>Surname:</i></p> <p><i>Given name:</i></p> <p><i>Name by which known:</i></p> <p><i>Gender:</i></p> <p><i>First language:</i></p> <p><i>Spoken:</i></p> <p><i>Read:</i></p> <p><i>Written:</i></p>	<p><i>Date of birth:</i></p> <p><i>Place of birth:</i></p> <p><i>Claimed nationality:</i></p> <p><i>Home address:</i></p> <p><i>Country of domicile:</i></p> <p><i>ID document type, e.g. passport no.:</i></p> <p><i>ID card no. or Seaman's book no.:</i></p> <p><i>If yes,</i></p> <p><i>When issued:</i></p> <p><i>Where issued:</i></p> <p><i>Date of expiry:</i></p> <p><i>Issued by:</i></p> <p><i>Photograph of the stowaway:</i></p> <div style="border: 1px solid black; width: 150px; height: 100px; margin: 10px auto; text-align: center; padding: 10px;"> <p>Photograph if available</p> </div> <p><i>General physical description of the stowaway:</i></p> <p><i>Other languages:</i></p> <p><i>Spoken:</i></p> <p><i>Read:</i></p> <p><i>Written:</i></p>
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*Other details:*

<sup>8</sup> "Place of boarding" should include port, port facility number, berth and terminal information (FAL.7/Circ.1, related to the *Unified interpretation of appendix 3 to the FAL Convention*).

<sup>9</sup> If the stowaway declares himself or herself to be a refugee or an asylum seeker, this information shall be treated as confidential to the extent necessary to the security of the stowaway.



- 1) *Method of boarding, including other persons involved (e.g. crew, port workers, etc.), and whether the stowaway was secreted in cargo/container or hidden in the ship:*
  
- 2) *Inventory of the stowaway's possessions:*
  
- 3) *Statement made by the stowaway:*
  
- 4) *Care provided to the stowaway (first aid, clothing, food):*

*Date(s) of interview(s):*

*Stowaway's signature:*

*Master's signature:*

*Date:*

*Date:*

\*\*\*

## Appendix B

# Repatriation report to the owner/P&I club/agent

Once stowaways have been found, the focus should be on the possibility of disembarkation and repatriation. The P&I club offers all necessary assistance in this respect. In addition to filling in the stowaway questionnaire in Appendix C, a report should be sent as soon as possible to the shipowner, the P&I Club and the agents at the last and next port of call. The master may also contact the club's local correspondent directly for assistance. Furthermore, if the vessel is on a charterparty including a stowaway clause, it should be considered sending a Letter of Protest to the charterer.

However, ship operators and their masters must be mindful of any General Data Protection Regulation (GDPR) or similar requirements that apply to collecting, saving, and distributing personal and sensitive information.

### **The report to the owner / P&I Club / agent should preferably contain information on the following:**

- The last port visited and likely port of embarkation
- Date and time of sailing from the last port
- How many stowaways have been found?
- When and where the stowaways were found
- How the stowaway gained access to the ship
- Do the stowaways have any travel documents
- Do the stowaways have any other form of identification papers
- Is it possible to communicate with the stowaways?
- State of health of the stowaways
- Where the stowaways are being kept on board
- Do the stowaways pose any particular threat to the safety of the crew or the ship
- Are the stowaways cooperative
- Has the hiding place been searched for possible documents
- Nationality
- Next port of call, ETA and name of the local agent
- Filled out stowaway questionnaire form(s)

## Appendix C

# Stowaway questionnaire for onboard interrogation purposes

Below is the English text version of the stowaway questionnaire. This questionnaire is also available in French, Spanish and Swahili and can be downloaded directly from Gard's website:  
<http://www.gard.no/web/forms>.



## STOWAWAYS QUESTIONNAIRE

The questionnaire consists of two pages. Both pages to be completed as accurately as possible once a stowaway is found. For each stowaway use a separate questionnaire.

Vessel:
Owners:
Managers:

### PERSONAL INFORMATION

01	Surname:	19	Seaman's book no.:
02	First name:	20	When issued:
03	Other name:	21	Where issued:
04	Date of birth:	22	Issued by:
05	Place of birth:	23	Emergency passport no.:
06	Nationality:	24	When issued:
07	Religion:	25	Where issued:
08	Tribe:	26	Issued by:
09	Chief:	27.1	When embarked:
10	Sub-Chief:	27.2	Where embarked:
11	Passport no.:	28.1	When discovered:
12	When issued:	28.2	Where discovered:
13	Where issued:	29	When landed:
14	Issued by:	30	Where landed:
15	ID card no.:	31	Address (house no, street, city, PO Box, tel.no
16	When issued:		
17	Where issued:		
18	Issued by:		

### PHYSICAL MARKS AND CHARACTERISTICS

32	Height (cm):	37	Colour of skin:
33	Weight (cm):	38	Marks (scars, tattoos):
34	Complexion:	38.1	
35	Colour of eyes:	38.2	
36	Colour of hair:	38.3	

### MARITAL STATUS

39	Married:	42	Place of birth:
40	Name of spouse:	43	Address:
41	Date of birth:		

### CHILDREN

44	Name:	Date of birth:	Place of birth:
44.1			
44.2			
44.3			

### PARENTS

45	Surname of father:	50	Surname of mother:
46	First names of father:	51	First names of mother:
47	Date of birth (age):	52	Date of birth (age):
48	Place of birth:	53	Place of birth:
49	Address:	54	Address:

Questionnaire to be continued on next page

Stowaways questionnaire continued

**SIBLINGS**

55	Brothers: Name	Date of birth:	Place of birth:
55.1			
55.2			
55.3			
55.4			
55.5			
56	Sisters: Name	Date of birth:	Place of birth:
56.1			
56.2			
56.3			
56.4			
56.5			

**OTHER RELATIVES**

57	Relationship, name, date of birth, place of birth, address:		
	Name:	Date of birth:	Place of birth:
57.1			
57.2			
57.3			
57.4			
57.5			

**PROFESSIONAL CAREER, EDUCATION**

58	Profession(s):		62	School (name of school, address):
59	Languages spoken:		62.1	
60	Languages written:		62.2	
61	Employer:		63	Headmaster:
61.1			64	Teachers:
61.2				

**OTHER INFORMATION**

65	Reason for stowing away:
66	Intention (willing to be repatriated?):
67	Remarks/history:
68	Method of gaining access to the ship (container):

Crew have notified stowaway(s) of GDPR                      YES

Date of completion of questionnaire: _____	Interviewer: _____
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## **Notice about processing of personal data in accordance with the EU General Data Protection Regulations 2016/679**

We in our capacity as the agent of Gard P. & I. (Bermuda) Ltd/Assuranceforeningen Gard – gjensidig (hereinafter called the “Association”) will, in compliance with, the information requirements of the Association and/or Gard AS as Controller(s) set out in Articles 13 and 14 of the EU General Data Protection Regulations 2016/679 as implemented in Norway (hereinafter referred to as the “GDPR” or the “Regulation”), inform you of Data Subject’s rights.

For ease of reference, we shall highlight the following:

### **1. Identity and contact details of the Association and Gard AS**

The Controller as defined in GDPR is in this case  
(*fill in the name of the Gard risk carrier*).

Its address and contact details are as follows:

*(Fill in name of Gard risk carrier)*  
Kittelsbuktheien 31,  
NO – 4836 Arendal  
P. O. Box 789 Stoa  
NO – 4809 Arendal  
Norway  
[www.gard.no](http://www.gard.no)

The Controller’s representative in this case is Gard AS. Its address and contact details are as follows:

Gard AS  
Kittelsbuktheien 31,  
NO – 4836 Arendal  
P. O. Box 789 Stoa  
NO – 4809 Arendal  
Norway  
[www.gard.no](http://www.gard.no)

### **2. Data Protection Officer**

The contact details of the Data Protection Officer in Gard AS are as follows:

Thor Magnus Berg, Head of Compliance and Quality Management  
Tel. work+47 37 01 92 13  
  
[thor.magnus.berg@gard.no](mailto:thor.magnus.berg@gard.no)  
P.O. Box 789 Stoa  
NO – 4809 Arendal

### **3. Purpose of processing personal data**

Processing personal data in this case is required for the handling of the Insurance Claim, including determining whether the owner of the Ship is liable to you and whether and to what extent the owner has a right to be indemnified in respect of the Insurance Claim under the relevant contract of insurance taken out with the Association.

### **4. Legal basis for processing of personal data**

The legal basis for processing personal data for the above purpose is GDPR article 6.1 (c) stating that processing is lawful when necessary for compliance with legal obligations (here the contract of insurance) to which the controller is subject. Further, processing of sensitive personal data as set out in GDPR article 9 is permitted because it is necessary for the establishment, exercise or defense of a legal claim.

#### **5. Storage of personal data**

The personal data will be stored for as long as it is deemed necessary for the purpose of handling the Insurance Claim and as long as it is required in order for the Association and/or Gard AS to comply with statutory requirements as to accounting and regulatory reporting.

#### **6. Rights of the Data Subject to lodge a complaint with supervisory authority**

In your capacity as the Data Subject, you have a right to request access to and rectification of personal data in our possession. You also have a right to lodge a complaint with the relevant supervisory authority.

As to further details regarding your rights as Data Subject as defined in the GDPR, we refer to Chapter III of the Regulation. A copy of the Regulation is available on request.

This message shall not be treated as an admission of liability of the owner of the Ship and/or the Association and/or Gard AS.

**Lingard Limited**

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