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NSAC/NWWAC Advice on the Evaluation of Directive 97/70/EC on harmonised safety regime for fishing vessels of 24 metres in length and over

This paper was approved by the NSAC and NWWAC Executive Committees on 11 May 2023 via written procedure. The paper contains one minority position.

1 Background

The Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over, calls for the implementation of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977. The evaluation report on implementation was to be published by end of 2021. The related public consultation¹ runs from 22 December 2022 to 16 March 2023, after which an evaluation report will be published.

In November 2021, the North Sea Advisory Council (NSAC) and the North Western Waters Advisory Council (NWWAC) set up a joint focus group on the social aspects of the Common Fisheries Policy. Within this focus group, the ACs agreed to jointly contribute to the consultation on the Evaluation of Directive 97/70/EC in the form of a joint advice paper. This advice aims, based on the survey questions and focus group discussions, to flag particular areas and issues that in our view deserve further consideration in a potential revision of the Directive. The advice was developed in collaboration with the social partners of the European sectoral social dialogue committee for the sea fisheries sector.

2 Directive 97/70/EC on vessel safety

The vessel safety considerations relate to the UN Convention on the law of the sea UNCLOS in 1982, stipulating that:

¹ [Evaluation of fishing vessel safety Directive](#)

“It is a flag State’s duty to take legal measures to ensure safety at sea with regard to construction, equipment and seaworthiness of ships which conform to generally accepted international regulations, procedures and practices.”

The first marginal consideration of fishing vessels’ safety can be found in the International Convention for the Safety of Life at Sea (SOLAS), 1974, in force since 25 May 1980. SOLAS generally applies to merchant shipping, not to fishing, however, the Chapter V on safety of navigation does also apply to fishing. Originally SOLAS was adopted in 1914 after the Titanic disaster (1912), and later it was renewed in 1929, 1948, 1960 and in 1974, often after a shipping disaster. Since 1974 it is almost annually updated through tacit amendment: Amoco Cadiz (1978), Herald of Free Enterprise (1986) and Estonia (1994).

The Torremolinos International Convention for the Safety of Fishing Vessels (1977) is considered the first convention aimed at safety of fishing vessels. Both, the 1977 Convention and the 1993 Torremolinos protocol apply to 24m and over vessels, however, neither of them is currently in force.

Further to this, the 2012 Cape Town Agreement on the Implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (‘Cape Town Agreement’), also applies to 24m and over and is also not in force.

The Torremolinos Declaration on the Cape Town Agreement from 21 October 2019 has so far not produced the desired effect due to lack of ratification and vessel coverage.

The Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over, is the Implementation of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, into EU’s acquis. The evaluation report on implementation was to be published by end of 2021, however, this has not been realised.

The main differences for the EU-fleet between Cape Town Agreement and Directive 97/70/EC include:

- More comprehensive Annual periodic surveys;
- Additional intermediate surveys are no longer optional.

The NSAC and the NWWAC note that at least since 1977, it has become clear that many sea-fishing accidents occur on and with fishing vessels less than 24 meters in length, which represent some 80% of the EU fleet. It is therefore legitimate to consider whether the scope of the Directive 97/70/EC should be extended to smaller vessels. Furthermore, the SOLAS Convention has been updated almost yearly and is therefore much more up-to-date than the Directive 97/70/EC. The question arises whether the Directive should be aligned with the SOLAS Convention where possible and justified.

The European Maritime Safety Agency’s Annual Overview of Marine Casualties shows that during the period 2014 – 2021, 4082 incidents involving fishing vessels occurred, of which 2302 were classified as ‘serious or very serious marine casualty’.² The risk of accidents on fishing vessels in certain fisheries is about 50-times higher compared to professionals onshore³. In many cases at sea accidents result from stability deficiencies. Other major

² EMSA Report on Annual Overview of Marine Casualties. Accessible here: <https://www.emsa.europa.eu/accident-investigation-publications/annual-overview.html>

³ Conoship International. (2022). Stability of beam trawlers – report, Accessible here: <https://open.overheid.nl/documenten/ronl-3e57eb8eec4bad3f3d4dbfcd4e7091658a028779/pdf>

factors, according to EMSA's Report, include human action (55,7%), system/equipment failure (28%), other agent/vessel (6,3%) and hazardous material (4,5%).⁴ Furthermore, safety management is not common in fishing and lacks an international code, comparable to the one for merchant shipping, the International Safety Management Code (ISM-Code), which is attached to the SOLAS Convention. Through industry's own initiative, The FISH Platform⁵ is currently finalizing a Fishing Safety Management Code.

In addition, the NSAC and NWWAC recall the purpose of Automatic Identification System (AIS), which was designed to increase maritime safety and as a tool to reduce vessel collision and is required for vessels over a certain size by international law and some smaller vessels according to certain national regulations. AIS emits a public signal which is electronically exchanged with other nearby ships and authorities, and it should not be turned off unless there is a legitimate reason (such as operating in areas with high levels of piracy).⁶

3 Best practice example: Denmark

Based on the presentation of the Danish Fishermen's Occupational Health Services, considered to be a leading expert in fishing vessel safety, the NSAC and the NWWAC identified the following useful practical examples:

- Establishment of an entity such as the Danish Occupational Health Services on national and regional level ensuring the development and maintenance of safety culture through counselling, assistance in safety-related issues, risk assessments, providing support in case of incidents, raising awareness on accident prevention etc.
- Production of publications, reports and other communication and visual materials on vessel safety matters (examples can be found here: <https://www.f-a.dk/english>);
- Development of educational and awareness raising campaigns, such as the Danish "safe start on a new job" and "safety for one-man operated fishing vessels".
- Establishment of reporting culture and ensuring systematic data collection. For example, the Danish Project "Safety in the Danish fishing industry" showed that the proportion of occupational injuries depends on how long the fisherman was employed on a particular vessel. Over 52.4 % of reported injuries involved fishermen who have worked less than one year on the vessel. 31.7 % of the reported injuries involved fishermen who've worked between 1 and 5 years. This shows that the risk of work-related injuries decreases, the more experience the fisherman has on the vessel.
- Fostering a culture of open discussion on vessel safety practices.
- Establishing regular workplace (risk) assessment, which can be a vital tool for new crew members.

⁴ EMSA Report on Annual Overview of Marine Casualties. Accessible here:

<https://www.emsa.europa.eu/accident-investigation-publications/annual-overview.html>

⁵ The FISH Platform is the world leading group of experts involved in safety and health in the fishing industry with participants from Belgium, Denmark, Estonia, France, Germany, Iceland, Italy, Japan, Latvia, Lithuania, New Zealand, Norway, Poland, Spain, Sweden, the Netherlands, United Kingdom, United States and the UN agency Food and Agriculture Organisation. <http://www.fish-platform.eu/index3.php>

⁶ Minority position: The ITF maintains that the enforcement of AIS requirements on fishing vessels contributes to the detection and prevention of excessive hours of work and insufficient rest of crew and the clear health and safety implications.

- Establishment of a Safety Management System: a web-based system for conducting workplace assessments, maintenance and control of the medical boxes, crew and their qualifications, equipment and survey, drills, safety meetings etc.

4 NSAC/NWWAC Advice

A general view of the AC members regarding the dedicated survey for the Evaluation of Directive 97/70/EC on harmonised safety regime for fishing vessels of 24 metres in length and over was that the questions were too general and that without a proper baseline and data it was difficult to assess its efficacy and effectiveness. This also in view of the fact that several EU countries have ratified different instruments and it was therefore difficult to determine whether any safety and health improvements stemmed from the Directive or other international instruments. The members were requested to fill out the questionnaire individually, however, for the respective ACs it was agreed that a joint advice paper calling for consideration of different aspects of the directive was more suitable.

Based on the above and in view of the fact that the EU should set the highest standards when it comes to vessels safety globally, the NSAC and the NWWAC propose to revise the Directive 97/70/EC and include the following aspects:

- Further develop science and technology in relation to fishing vessel safety;
- Include smaller fishing vessels (0-12 m, 12-24 m);
- Consider alignment with SOLAS where possible and justified;
- Address stability deficiency issues;
- Consider introduction of a Fishing Safety Management Code;
- Provisions on education and training of crew concerning fishing vessel safety procedures, in addition to STWC-F convention;
- Improve data collection in relation to fishing accidents, particularly on underlying drivers;
- Consider ways of strengthening compliance with AIS-operating requirements.
- Improve accident reporting tools at national and EU level and foster a culture of dutiful reporting;
- Develop actions and campaigns for awareness-raising in relation to vessel safety procedures;
- On national and regional level consider establishing entities to foster the development and maintenance of a safety culture through counselling, assistance in safety-related issues, risk assessments, providing support in case of incidents, raising awareness on accident prevention etc.
- Encourage the production of publications, reports and other communication and visual materials on vessel safety matters;
- Develop educational and awareness-raising campaigns on various vessel safety topics and considerations;
- Establish a dutiful reporting culture and ensure systematic data collection on fishing accidents;
- Improve the culture of open discussion on vessel safety practices.
- Conduct regular workplace (risk) assessments, especially for and with new crew members;
- Establish a Safety Management System: a web-based system for conducting workplace assessments, maintenance and control of the medical boxes, crew and their qualifications, equipment and survey, drills, safety meetings etc.

- Foster an exchange of best practices on vessel safety procedures and technologies in the EU and internationally.
- Use EMFAF possibilities to finance any safety-related vessel adaptations or awareness-raising campaigns.