
EU Social Partners for Sea Fisheries response to public consultation on Fishing Vessel Safety Directive

Brussels, 15 March 2023

The current evaluation of Directive 97/70/EC setting up a harmonised safety regime for fishing vessels of 24 meters in length and over is timely and welcomed by the EU Social Partners for Sea Fisheries. Safety and health at sea is a top priority in fisheries management and for the Social Partners who wish to further reflect on the subject.

In essence, the Social Partners consider it necessary for Directive 97/70/EC to be updated and aligned with the Cape Town Agreement, with the Port State control to facilitate the introduction of a European control scheme for fishing vessels and, where possible and justified, with the SOLAS Convention. It should also cover somehow vessels below 24 meters in length, especially those of 12 m and above in length, introduce a fishing safety management code and have special attention for fishing vessel stability.

Particularly, the Social Partners wish to highlight the following priorities to the attention of the European Commission to be considered in the evaluation:

1. The Directive lays down standards for fishing vessel safety which stem from the 1993 Torremolinos Protocol relating to the 1977 Torremolinos International Convention for the Safety of Fishing Vessels. In this context, there is an obvious inconsistency with the new provisions introduced by the 2012 Cape Town Agreement, adopted by the IMO to bring into force the provisions of the earlier treaties which failed to come into force. This gap should be addressed by aligning the Directive with the Cape Town Agreement to introduce international standards which are up-to-date and levelling the playing field for the global fishing fleet. It would also assist the situation for ratifying EU Member States which are required to enforce two varying sets of requirements.
2. The SOLAS Convention went through several upgrades in its technical requirements for the merchant fleet, touching upon construction, stability, fire safety, and navigation among others. The Social Partners agree with the Commission in the said intention to align the Directive with the SOLAS Convention, but where possible and justified as the majority of the SOLAS requirements (apart from Chapter V) do not apply to fishing vessels. Given the complex nature of the fishing fleet, including fishing trips that have nothing to do with merchant shipping, SOLAS provisions should be analysed (by means of a socio-economic impact assessment), consulted on, and tested before being proposed as legislation applicable to fishing vessels. Furthermore, it is worth noting that the shipping industry is not subject to fleet and subsidy restrictions such as those imposed by the Common Fisheries Policy in terms of fishing capacity ceilings and limited funding opportunities (fleet subsidies).
3. There is a strong connection between the Directive and the Port State Control Directive 2009/16/EC, but apart from references to one another there is no interaction nor alignment. Without such alignment, fishing vessels cannot adequately be included as part of a common

Port State Control system subject to general and shared operating rules under the supervision of a European Authority, here the European Maritime Safety Agency (EMSA). Thus, making such control on fishing vessels the sole and isolated responsibility of each Member State. Subsequently, the Port State Control provisions should be aligned with Directive 97/70/EC to facilitate the introduction of a European control scheme for fishing vessels.

4. Given the fact that 76% of the EU active fishing fleet consists of fishing vessels below 12 meters¹, and the need to strengthen the protection of EU fishermen from injuries and fatalities at work, Social Partners encourage the European Commission to consider extending the scope of the Directive, as and where appropriate, to vessels of 0-12 and strongly recommend to do so for vessels of 12-24 meters in length. The Social Partners wish to point at definitions and requirements already used by international specialised United Nations Agencies like the IMO, FAO, and ILO. Likewise, there is EU legislation, like Council Directive 93/103/EC on the minimum safety and health requirements for work on board fishing vessels, and EU guidelines² to ensure consistency and coherence. The definition of 'Length Overall' as the basis of measurement for vessels rather than 'Length' as explained in ILO C188 is such an example.

Since the safety regime for smaller vessels normally falls under national legislation³, the Commission should consider the best way to harmonise the system without jeopardising existing national regimes. Likewise, given the fact that existing EU and international safety standards use size thresholds (e.g. 12 or 15 metres length), these values should be considered when establishing EU safety regimes.

5. The Social Partners stress the need for the Directive to give special attention in its provisions for fishing vessel stability in operation and steaming back to port with cargo while taking into consideration fishing gear on deck. The guidelines developed in collaboration with the EU regarding risk prevention in small fishing vessels² can be of help here.
6. Safety management is not common in fishing and lacks an international code, like for instance the International Safety Management Code (ISM-Code) for merchant shipping, which is attached to the SOLAS Convention. The FISH Platform is currently finalising a fishing safety management code. Introducing this tool within the Fishing Vessel Safety Directive would represent a great asset and undeniable added value for safety at sea.
7. In line with the statement of the Commission in the recent Communication on the CFP⁴, the Social Partners insist on the need to adopt at European level a Directive transposing the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F). This Convention can be a juridical tool to provide to Member States a certification for a workforce that comes more and more from different countries, with evident benefits for safety.

¹ European Commission, Directorate-General for Maritime Affairs and Fisheries, *Facts and figures on the common fisheries policy : basic statistical data : 2022*, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2771/737237>.

² The European guide for risk prevention in small fishing vessels <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7990&furtherPubs=yes>.

³ Royal Decree 543/2007, of April 27, which determines the safety and pollution prevention standards to be met by fishing vessels under 24 meters in length (L). <https://www.boe.es/buscar/doc.php?id=BOE-A-2007-10867> (under revision).