

EP(18)37

4 June 2018

**Subject: Safety measures for non-SOLAS ships operating in polar waters
IMO Maritime Safety Committee (MSC) 99, 16 - 25 May 2018**

Europêche agrees with the importance to adopt and apply adequate safety measures in order to guarantee the health and safety of the fishers. For this purpose, in view of the proposals submitted by several contracting parties to IMO during the last MSC 99 meeting, the European fishing industry would like to express their views on the possible extension of the “Polar Code” to non-SOLAS ships.

First of all, it is important to note that the European Union favours to explore the proposal by Norway to amend the SOLAS Convention and its Chapters IV and V¹, so as to extend the mandatory application of Chapters IX and XI² to certain segments of the fishing fleet. In our view, this approach would not take into consideration nor resolve the difficulties and particularities identified for fishing vessels:

- Potential limitations to access to areas delimited by the Polar Code (in case of technical and financial impossibility to adapt the vessels to the requirements of the Code);
- Requirements relating to occupational skill and competence standards for the crew;
- Treatment of “animal waste” (fish processing waste).

It is important to note that Norway does not regulate its fishing fleet by capacity ceilings established in terms of kilowatts (kW) and gross tonnage (GT), contrary to what happens in the European Union. However, the impact of gross tonnage restrictions on the technical feasibility of new vessel projects or their financial viability is recognized by many Member States and the whole EU fishing industry. In addition, for polar waters in the Arctic, this “technical” limitation of evolution would lead to a distortion of competition between the EU and Norwegian fleets having access to the same resource.

Before openly supporting the proposal tabled by Norway, the European Commission should have conducted an impact assessment to analyse the impact of the proposed legislative change (number of vessels affected, socio-economic consequences, cost-benefit analysis, proportionality, development of different policy scenarios, etc...). Only then, the EU should be in a position to endorse third parties’ strategies. Otherwise, the Union may end up supporting a position that may be contrary to the interest of the industry it represents.

Europêche concurs with the position of Pew that underlines that the ratification of the Cape Town Agreement would provide mandatory means to applying the Polar code to fishing vessels. In particular the Cape Town Agreement may be useful in the fight against IUU fishing because applies to fishing vessels and thus subject them to port State control.

Opposite to the SOLAS Convention, the Cape Town Agreement provides tailor-made standards for stability and associated seaworthiness, life-saving appliances, communications equipment or fire protection, as well as fishing vessel construction. Applying a Convention originally designed for a different sector (shipping) to fishing, would certainly create business and legal difficulties.

¹ IV - Radio-communications. V - Safety of Navigation

² IX - Management for the safe operation of ships. XI - Special measures to enhance maritime safety

Regarding the implementation of the provisions contained in the Cape Town Agreement, it seems to be more flexible than the Polar Code since national administrations may, according to a plan they shall define, gradually implement the provisions of certain chapters for periods of time (radio telecommunication, survival devices and devices, etc.). It also authorizes administrations to exempt any vessel authorized to fly its flag from the application of any requirement if it considers that the application is "unreasonable and impractical", taking into account the type of vessel, the weather conditions and the absence of general risks to navigation.

We recognise however that only few coastal Arctic or Antarctic countries have ratified the Torremolinos Convention: 4 out of 8 in the Arctic and 7 CCAMLR member countries. Regarding the EU, to date only five EU Member States (BE, DE, DK, FR and NL) plus Iceland and Norway have done so.

Many States (mostly from Asia) claim that this Convention is too strict for their fishing fleet because of various technical and legal obstacles. And yet, unless expressly stated otherwise, the provisions of the Cape Town Agreement would apply only to new vessels, which may be of interest in order to avoid new difficulties for existing fishing vessels (construction, safety equipment, ship stability).

In conclusion, as stated in the Better Regulation guidelines: "*Good implementation starts with a good impact assessment and stakeholder consultation.*" Therefore, we invite the competent representatives of the European Commission (DG MOVE and DG MARE) to participate in the next Sectoral Social Dialogue Committee that will take place in Brussels on 5th September 2018 to exchange views on the way forward regarding this issue.