

EP(19)43

Brussels, 24 October 2019

Transparency register number: 2312395253-25

Europêche position on safety measures for non-SOLAS ships operating in polar waters

In a nutshell

The International Maritime Organization's (IMO) International Code for Ships Operating in Polar Waters (Polar Code) is mandatory under both the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention for the Prevention of Pollution from Ships (MARPOL). Europêche stresses that the Polar Code does not apply to fishing vessels apart from Chapter V of SOLAS. For these vessels, the IMO Torremolinos Convention 1977 applies instead which, although not in force yet, has been transposed into EU law through Directive 97/70/EC. Therefore, Europêche concludes that in case the SOLAS Convention becomes applicable to EU fishing vessels operating in polar waters, it would bring about legal uncertainty and negative socio-economic consequences since the SOLAS is not designed to regulate the differences in design and operation that characterizes the fishing industry.

The fishing industry concerns

The IMO Maritime Safety Committee, at its ninety-ninth session (MSC 99), considered various proposals for safety measures for non-SOLAS ships operating in polar waters.

The position of certain contracting parties to IMO is to follow the above-described strategy - to apply the SOLAS convention to fishing vessels operating in polar waters - which is raising deep concerns among the EU fishing industry. It would entail adapting fishing vessels to the requirements set in the Polar Code which are lacking fit for purpose measures and this without having a full understanding of what the implications would be for the EU fishing fleet.

Against this background, during the MSC 99 it was decided to concentrate work on fishing vessels over 24m in length (pleasure yachts and small cargo ships) and refer this subject to the Subcommittee on Ship Design and Construction (SDC). The SDC met in February 2019 (SDC 6) to study a set of recommendatory guidelines designed to improve the safety of fishing vessels of 24 metres and over operating in polar waters as proposed and submitted by Canada and New Zealand (SDC n°6/8).

The set of guidelines were designed to align with the Cape Town Agreement on Safety of Fishing Vessels (2012) and include an additional Chapter 11 which sets out recommendations for safety measures concerning certain fishing vessels operating in polar waters – both Arctic and the Antarctic area.

While applauding the intention to enhance safety on board fishing vessels and prevent navigational risks for operators in polar waters by addressing hazards present in polar waters not adequately mitigated by other IMO instruments, Europêche points out the necessity to deliver guidelines that are fit for purpose for the various types of vessels operating in these waters under vast diverse conditions due to differences in location and seasonality.

Namely, from a fishing industry's point of view it is important to note that the degree of risk in polar waters may depend on the geographical location (ice-free waters or not), the time of year (daylight or

not), the design of the vessel et cetera. Therefore, the mitigation measures required to deal with particular safety risks may vary within polar waters and may be different in Arctic and in Antarctic waters and for different types of vessels. For example, vessel performance standards may vary or will not even be applicable for situations with a very low probability of risk occurrence.

Recommendations

- Europêche calls on coastal and flag state countries with fishing vessels operating in polar waters to ratify the Cape Town Agreement;
- Europêche calls for the safety measures to take full note of the differences in design and operation that characterizes the fishing industry;
- The application of the SOLAS Convention to the EU fishing fleet should by no means result in legal uncertainty and negative socio-economic consequences. Europêche therefore urges the European Commission to carry out an impact assessment to fully understand the implications for the EU fleet of adapting fishing vessels to the requirements of the Polar Code.
- The fishing industry recalls the importance of consulting all stakeholders affected before committing to or taking a decision on new policies or legislation of mandatory compliance. Europêche emphasizes the willingness to support and assist in such consultations.