



SUB-COMMITTEE ON STABILITY AND  
LOAD LINES AND ON FISHING VESSELS  
SAFETY  
51st session  
Agenda item 5

SLF 51/INF.7  
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## SAFETY OF SMALL FISHING VESSELS

### Outcome of 2004 Beijing Seminar

#### Note by the Secretariat

#### SUMMARY

<i>Executive summary:</i>	This document reports on the outcome of the 2004 Beijing Regional Seminar on the Implementation of the 1993 Torremolinos Protocol
<i>Strategic direction:</i>	5.2
<i>High-level action:</i>	5.2.1
<i>Planned output:</i>	5.2.1.4
<i>Action to be taken:</i>	Paragraph 7
<i>Related document:</i>	SLF 51/2/2

#### Introduction

1 MSC 84 agreed to include, in the work programme of the Sub-Committee, a high priority item on “Development of an agreement on the implementation of the 1993 Torremolinos Protocol” and instructed SLF 51 to give preliminary consideration to the matter.

2 In this regard, the Secretariat compiled the outcome of the 2004 Beijing Regional Seminar on the Implementation of the 1993 Torremolinos Protocol (2004 Beijing Seminar) for facilitating the consideration on the matter.

#### Outcome of 2004 Beijing Seminar

3 The Seminar on the Implementation of the 1993 Torremolinos Protocol took place from 21 to 24 September 2004 in Beijing, People’s Republic of China.

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4 In order to facilitate the work of the Seminar, two working groups were established as follows:

- .1 the Working Group on Technical Issues to identify technical difficulties that the participating countries may have encountered while considering to implement the 1993 Torremolinos Protocol and to find solutions to the identified difficulties; and
- .2 the Working Group on Legal Issues to identify the legal constraints that the participants may have experienced while considering to ratify the 1993 Torremolinos Protocol; to arrive at specific recommendations as to how to address these constraints and to determine the extent to which the Asian Guidelines and Part B of the Fishing Vessel Safety Code (as revised) may be used as a basis for the development of further guidelines for vessels registered within the region but operating or intending to operate outside the region.

5 The outcome of the work carried out by the two working groups on technical and legal difficulties is reproduced in annexes 1 and 2 respectively.

6 The Seminar also produced a detailed list of recommendations concerning the follow-up actions to be undertaken by the Organization identifying those IMO bodies which should be tasked with the review of specific provisions of the Protocol, as set out in annex 3.

#### **Action requested of the Sub-Committee**

7 The Sub-Committee is invited to note the information provided and take action as deemed appropriate.

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## ANNEX 1

### TECHNICAL DIFFICULTIES IDENTIFIED

1 The Working Group on Technical Difficulties identified several technical difficulties which are listed in the paragraphs below, together with the group's recommendations for solution. In the paragraphs, references are made to the 1993 Torremolinos Protocol as well as the Guidelines for the safety of fishing vessels of 24 metres in length and over but less than 45 metres in length operating in the East and South-East Asia region, hereinafter referred to as the Asian Guidelines.

#### **Narrow beam design**

2 The group noted that in some of the participating countries, the legislation on the fishing management is based on the vessels' tonnage measurement, as in SOLAS, instead of the vessels' length as provided for in the Protocol. In other participating countries such regulations are based on the power of the main engine. From the view of the group, the former has lead to a "narrow beam" design of fishing vessels and consequently there is less space on board for equipment, piping, etc., as required by the Protocol. The group considered this "narrow beam" design to be the main reason for most of the technical difficulties that some of the participating countries have encountered.

#### **Existing vessels**

3 With regard to the application of chapters IX and X of the Protocol, as well as chapter 5 of the Asian Guidelines, to existing vessels, the group was of the opinion that a suitable period of grace should be given to those vessels and recommends this to be considered. The purpose of such a period is for the equipment to be fitted on board in the next drydock survey or three years after the entry into force date of the Protocol, whichever is later.

#### **Port State control**

4 With regard to Article 4 of the Protocol on port State control, the group was of the opinion that when a fishing vessel was subject to port State control, the PSCO should be able to communicate with at least one of the crew members. If that is not possible the skipper should be given the opportunity to seek assistance from interpreters, if necessary. The PSCO should assist in this regard. However, the group did consider this only to be a matter for the PSC procedures, such as the ones contained in resolution A.787(19), and not an issue in relation to the implementation of the Protocol.

#### **Survey intervals**

5 With regard to regulation I/6 on survey intervals, the group was of the opinion that the Administrations should be allowed to use the Harmonized System of Survey and Certification (HSSC), which is now the prescribed system in the SOLAS and Load Lines Conventions, as amended by their 1988 Protocols, in lieu of the current system of survey and certification in that regulation. The group did not consider this to be a difficulty in relation to the implementation of the Protocol and recommends that this item should be dealt with as soon as possible after the entry into force criteria of the Protocol have been met. A provision should be added to allow that certificates, which are issued before the HSSC system comes into force, remain valid until they expire.

## **Stability**

6 With regard to regulation III/2 on the minimum stability criteria, the group was of the opinion that some of the stability criteria were too stringent for vessels of “wide beam” design, such as purse seiners. It was suggested by one of the participating countries that the minimum stability criteria for offshore supply vessels contained in the IS Code could be used as an alternative. However, the group did not consider this as a difficulty in relation to the implementation of the Protocol since the regulation allows the Administration to apply other stability criteria if it is satisfied that operating experience justifies departures therefrom.

7 With regard to regulation III/12 on the bow height and recommendation 4 of attachment 3 to the Final Act of the 1993 Torremolinos Conference, the group was of the opinion that the criteria of the recommendation were too stringent for vessels that are of a limited gross tonnage due to marine resources protection purposes. However, the group did not consider this as a difficulty in relation to the implementation of the Protocol since the recommendation was referred to in a footnote which does not form part of the Protocol (see Foreword to the 1995 Consolidated edition of the Protocol). The group recommended that a study be carried out on the sea states in the region in order to develop criteria for bow height, that would be alternative to the ones contained in recommendation 4. This study should take into account the operation in the summer and winter zones (as they are specified in the Load Lines Convention), respectively.

## **Machinery and electrical installations and periodically unattended machinery spaces**

8 The group did not identify any problem related to chapter IV of the Protocol on machinery and electrical installations and periodically unattended machinery spaces.

## **Fire protection, fire detection, fire extinction and fire fighting**

9 With regard to fishing vessels built of glass reinforced plastic construction, the group was of the opinion that such vessels could not comply with many of the provisions of chapter V of the Protocol and some of the provisions contained in chapter 3 of the Asian Guidelines. The group recommended, in case of vessels built of glass reinforced plastic construction and to which chapter V of the Protocol applies, that the provisions of that chapter be amended. The group, furthermore, recommended that during that exercise chapter 3 of the Asian Guidelines should be drawn from wherever possible. On the same issue, one of the participating countries considers that a further study of fire protection provisions applicable to vessels of glass reinforced plastic (GRP) construction needs to be carried out. In this regard, it should be noted that the matter has been raised in the FP Sub-Committee (see document FP 47/16, paragraphs 6.13-6.14).

10 With regard to the methods of protection as defined in regulation V/1, the group was of the opinion that the provisions contained in chapter V and are referring to one or more of these methods are too stringent. The group, therefore, recommends that these provisions be applied to vessels as follows:

- |    |              |   |
|----|--------------|---|
| .1 | Method IF:   | Vessels of 60 m in length and over;     |
| .2 | Method IIF:  | Vessels of 75 m in length and over; and |
| .3 | Method IIIF: | Vessels of 75 m in length and over.     |

With regard to Methods IF, IIF and IIIF, some of the participating countries did not support the group's recommendation and were of the opinion that it should be to the satisfaction of the Administration to decide what length limits should apply in the regulations of chapter V of the Protocol.

11 With regard to chapter 3 of the Asian Guidelines, i.e. the chapter concerning the fire protection issue, the group was of the opinion that the provision of the chapter did not cause any difficulty in relation to the implementation of the Protocol.

### **Life-saving appliances**

12 With regard to the life-saving appliances, the group was of the opinion that the provision of chapter VII of the Protocol did not cause any difficulty in relation to the implementation of the Protocol. However, some of the participating countries, referring to the "narrow beam" design issue, was of the opinion that regulation VII/5(3)(b) could cause difficulty in cases where a rescue boat or a survival craft, used as a substitute for the rescue boat, needs to be recovered by means of davits.

### **Radiocommunications equipment**

13 The group noted that the provisions of chapter IX of the Protocol apply to both new and existing fishing vessels of 45 m in length and over. The group also noted that since the provisions of that chapter apply to existing vessels, the entry into force of the Protocol would have a great impact within States with large fishing fleets. It was pointed out by some of the participating countries that the radiocommunications equipment was expensive and it would cause difficulties if the whole existing fleet had to be retrofitted within a short period of time.

14 Referring to the provisions of chapter IX of the Protocol in general as well as chapter 5 of the Asian Guidelines, the group noted that many fishing vessels operated in groups of four to five vessels accompanied by one vessel-in-command and that only the vessel-in-command was fully equipped with radiocommunication equipment as provided for in the chapters mentioned. The group was of the opinion that it was too stringent to require that fishing vessels, which were accompanied by a vessel-in-command, were fully equipped in accordance with chapter IX of the Protocol and recommended that such vessels should only be provided with radio equipment as provided for in paragraph 5.2.3 of the Asian Guidelines.

15 Regulation IX/14(7) of the Protocol requires that on vessels engaged in sea areas A3 and A4, the availability of maintenance shall be ensured by using a combination of at least two methods, such as duplication of equipment, shore-based maintenance or at-sea electronic maintenance capability. Some of the participating countries informed the group that their regulations only require one maintenance method and that this arrangement has not caused any problems. The group considered this requirement to be too stringent and recommended that the minimum number of maintenance methods should be to the satisfaction of the Administration. However, the minimum number of methods should be at least one.

16 Regulation IX/15 of the Protocol requires that the radio personnel shall be holders of certificates specified in the Radio Regulations. These regulations require that the holders are able to communicate in English. In case of fishing vessels that operate in coastal waters of the flag State, the group considered this requirement to be too stringent and recommended that this requirement should only apply for fishing vessels engaged on voyages in sea areas A3 and A4. Two of the participating countries were, however, of the opinion that this should be to the Administration to decide as is provided for in paragraph 5.14 in the Asian Guidelines.

17 With regard to chapter IX in general and the language skills in particular, the group noted that much of the information related to the radiocommunications are in English only, such as the printout of the NAVTEX system. The group noted the problem but could at this stage not come up with a recommendation.

### **Shipborne navigational equipment and arrangements**

18 The group noted that the provisions of chapter X of the Protocol apply to both new and existing fishing vessels of 24 m in length and over. With regard to regulation X/3(9) on the echo-sounding device, the group was of the opinion that a reference should be made to fish-finding devices in the event that they could be used as echo-sounding devices for the purpose of measuring the depth of water under the vessel. The group, therefore, recommends that a sentence, similar to the one contained in paragraph 10.1.6 of the revised Code of Safety for Fishermen and Fishing Vessels, Part B, be added at the end of regulation X/3(9) of the Protocol. The sentence in paragraph 10.1.6 of the revised Code states that: "Where fish-finding devices are fitted they could be used for that purpose."

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## ANNEX 2

### LEGAL DIFFICULTIES IDENTIFIED

#### **Ratification process**

1 Many participants cited tedious ratification processes as required by the respective national legislations. In some countries, this is exacerbated by the need to translate the Protocol into the national language before this can be deliberated internally and submitted to a higher authority for ratification. Furthermore, members of the group pointed out that in many cases, matters concerning the safety of fishing vessels and fishermen were not afforded the level of priority by governments needed to speed up the ratification process.

2 A number of participants noted that in existing Fisheries Acts and in some cases in the Maritime or Shipping Act, within the legislative procedures there are no clear references to the Protocol being brought forward for attention, thus individual States might require guidance, at the national level, from IMO to address legal matters.

#### **Regional guidelines**

3 The Facilitator explained that two sets of regional guidelines had been submitted to IMO and these are:

- .1 Guidelines for the Safety of Fishing Vessels of 24 m in length and over but less than 45 m in length Operating in the East and South East Asia (hereinafter referred to as the Asian Guidelines); and
- .2 Council Directive 97/70/EC setting up a harmonized safety regime for fishing vessels of 24 m in length and over adopted by the Council of the European Union 11 December 1997.

4 The group took note that whereas both of these guidelines made provisions for vessels of 24 m and over but less than 45 m in length, the provisions in the EU Directive were more stringent than the Asian Guidelines. The Facilitator explained that prior to the 1993 Torremolinos Conference that prepared the Protocol, many of the States within the European Union had ratified the 1977 Torremolinos Convention. Thus the EU Directive draws heavily on the 1977 Convention and it is, in part, more stringent than the Protocol. Furthermore, the EU Directive is so styled that the Member States cannot allow fishing vessels built to lower standards to fish in their waters or to land fish in their ports.

5 In addition, the group was informed that the EU Directive applies to seagoing fishing vessels of 24 m and over flying the flag of a Member State and registered in the Community, such vessels are not confined to operating in waters under the jurisdiction of Member States.

6 The Asian Guidelines were considered at length by the group and that due, in part, to the passage of time it was of the opinion that there is a need for a formal recognition of the Asian Guidelines bearing in mind that the guidelines include acceptance by the Parties of chapters I, II, III, VI, VIII and X of the Protocol. Therefore, although there may be no need to amend existing primary legislation due to the ratification procedure for IMO instruments, the same would not be the case for amendments to regulations in relation to the provisions set out in the Asian Guidelines giving an interpretation of the provisions of chapters IV, V, VII and IX of the Protocol for application to vessels of less than 45 m in length, but greater than 24 m in length.

7 Noting that not all countries within East and South East Asia had attended the Tokyo Conference in 1997, the group stressed the need to encourage those States that were not present at that time, to consider acceptance of the provisions of the Asian Guidelines. This might be accomplished through IMO sending a mission to those countries to assist them in understanding the implications of implementing the provisions guidelines and how their agreement might be accomplished.

8 The group noted the need for further work to be carried out to establish the standards to be applied to vessels of 24 m in length and above but less than 45 m in length registered in the region, but operating, or intending to operate on the high seas and, or in waters under the jurisdiction of a State other than those of the flag State. The group noted the need for IMO to consider facilitating a meeting of the countries that have accepted the Asian Guidelines and those countries invited to consider their agreement to the guidelines as mentioned above, in order to develop uniform standards for such new vessels.

### **Vessel measurement**

9 The discussion on this subject revealed that a variety of measurement systems are in place within the region, such as:

- .1 Vietnam uses 20 m length and over;
- .2 Myanmar has two classes:
  - .2.1 Vessels less than 30 ft in length and 20 horsepower;
  - .2.2 Vessels of 30 ft in length and of 20 horsepower and over;
- .3 the Malaysian Fisheries Department uses gross tonnage while its Marine Department uses length defined in the Protocol as in the Protocol; and
- .4 Thailand and the Republic of Korea likewise use gross tonnage.

### **Awareness and coordination**

10 The group considered that there was a lack of awareness among the main stakeholders in the fisheries sector of the very existence of the Protocol and Asian Guidelines. In addition, differences in national legislation, within the regional concerning the allocation of responsibilities for the regulation of the fisheries sector did not always follow the same pattern. Consequently, in a number of instances co-operation between the maritime and fisheries sector, so vital in the pre-ratification process was, at times, ineffective. Furthermore, this low level of coordination does not guarantee appropriate representation to important IMO meetings/seminars/workshops/training.

11 Having noted that in a number of countries in the region, those responsible for fisheries administration, as well as, the fishing industry, are often not aware of the existence of the Protocol or the Asian Guidelines, the group considered that:

- .1 as a matter urgency, those States represented at the Seminar should promote consultation with all stakeholders; and



- .2 the matter of ratification of the Protocol and the role of the Asian Guidelines should be brought to the attention of ASEAN by Member States present at the Seminar.

## **Other Issues**

12 The group stressed the need to draw to the attention of IMO, that certain chapters of the Protocol might be redundant as a consequence of new technology that has been introduced since 1993. Thus, in considering ratification of the Protocol, the States concerned should seek assurance that there would be no conflict of interest between the Protocol and other IMO instruments, for example as set out in Resolution 10 of the Torremolinos Conference in 1993 in relation to chapter V of SOLAS, 1974.

13 The group noted the need for a clear interpretation of surveys to be undertaken by administrations in relation to port State control, as well as, related training and the links between surveys for:

- .1 security;
- .2 safety; and
- .3 fisheries management.

14 The subject of training was also discussed and this was considered by the group to be an important element within any safety programme. Consequently, all of the participating countries to the Seminar were urged to look closely at the relationship between the Protocol and the STCW-F Convention.

15 Illegal, unregulated and unreported (IUU) fishing was of concern to the participants. The Group noted that IMO and FAO were co-operating to address the issue and were of the opinion that an early entry into force of the Protocol would enhance measures being developed to combat IUU fishing.

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## ANNEX 3

## LIST OF RECOMMENDATIONS

1 Having considered in detail the outcome of the discussions held in the working groups, the Seminar identified technical issues which might be relevant for further consideration by the Organization, the Seminar recommended that the following matters be reported to the proposed relevant IMO bodies after review by the Maritime Safety Committee:

- .1 with regard to regulation III/12 of the Protocol on bow height and recommendation 4 of attachment 3 to the Final Act of the 1993 Torremolinos Conference, it is recommended that a study be carried out on the sea states in the region in order to develop criteria for bow height, that would be alternative to the ones contained in recommendation 4. This study should take into account the operation in the summer and winter zones (as they are specified in the Load Lines Convention), respectively. The Seminar identified the SLF Sub-Committee as the relevant IMO body to be tasked with this work;
- .2 with regard to vessels of glass reinforced plastic (GRP) construction and to which chapter V of the Protocol applies, it is recommended that the provisions of that chapter be amended and that where possible, chapter 3 of the Asian Guidelines should be used as a basis for the revision. On the same issue, one of the participating countries considers that a further study of fire protection provisions applicable to vessels of glass reinforced plastic (GRP) construction needs to be carried out. The Seminar identified the FP Sub-Committee as the relevant IMO body to be tasked with this work;
- .3 the provisions of chapter IX of the Protocol in general, as well as, chapter 5 of the Asian Guidelines were considered to be too stringent to for individual fishing vessels working in a group where the vessel-in-command of the operation is fully equipped in accordance with chapter IX of the Protocol. It is recommended that such vessels should only be provided with radio equipment as provided for in paragraph 5.2.3 of the Asian Guidelines. The Seminar identified the COMSAR Sub-Committee as the relevant IMO body to be tasked with this work;
- .4 with regard to regulation IX/14(7) of the Protocol, which applies to sea areas A3 and A4, it is considered that the requirement for maintenance is too stringent. It is recommended that the minimum number of maintenance methods should be to the satisfaction of the Administration. However, the minimum number of methods should be at least one. The Seminar identified the COMSAR Sub-Committee as the relevant IMO body to be tasked with this work;
- .5 regulation IX/15 of the Protocol requires that the radio personnel shall be holders of certificates specified in the Radio Regulations. These regulations require that the holders are able to communicate in English. In case of fishing vessels that operate in coastal waters of the flag State, the Seminar considered this requirement to be too stringent and recommended that this requirement should only apply for fishing vessels engaged on voyages in sea areas A3 and A4. Two of the participating countries were, however, of the opinion that this should be for the Administration to decide as is provided for in paragraph 5.14 in the Asian Guidelines. The Seminar identified the COMSAR Sub-Committee as the relevant IMO body to be tasked with this work; and

- .6 with regard to regulation X/3(9) on the echo-sounding device, a reference should be made to fish-finding devices in the event that they could be used as an echo-sounder for the purpose of measuring the depth of water under the vessel. It is recommended that a sentence, similar to the one contained in paragraph 10.1.6 of the revised Code of Safety for Fishermen and Fishing Vessels, Part B, be added at the end of regulation X/3(9) of the Protocol. The sentence in paragraph 10.1.6 of the revised Code states that: "Where fish-finding devices are fitted they could be used for that purpose". The Seminar identified the NAV Sub-Committee as the relevant IMO body to be tasked with this work.
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