

# Torremolinos International Convention for the Safety of Fishing Vessels (1977): authorising Member States to sign, ratify or accede to the Cape Town Agreement of 2012 on the implementation of the provisions of the 1993 Torremolinos Protocol

2013/0020(NLE) - 31/01/2013 - Preparatory document

**PURPOSE:** to authorise Member States to accede to the Cape Town Agreement of 2012 on the implementation of the provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.

**PROPOSED ACT:** Council Decision.

**RÔLE OF THE EUROPEAN PARLIAMENT:** Council may only adopt the act if approved by the European Parliament.

**BACKGROUND:** the Torremolinos Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels 1977, was adopted in 1993 but has not entered into force, given that the necessary minimum requirements in terms of ratification have never been achieved. However, Council Directive 97/70/EC has laid down safety standards that are based upon the Torremolinos Protocol.

In order to establish the highest practicable standards for the safety of fishing vessels that can be implemented by all the states concerned, a draft Agreement, to be read in conjunction with the Torremolinos Protocol, was adopted at a Diplomatic Conference in Cape Town on 11 October 2012. This Agreement will be open for signature from 11 February 2013 to 10 February 2014 and thereafter remain open for accession.

Whilst the provisions of the Agreement **fall under the exclusive competence of the Union**, the EU cannot become a party to the Agreement, as it does not include a Regional Economic Integration Organisation clause. The Council should therefore authorise Member States to accede to the Agreement in the interests of the Union.

**IMPACT ASSESSMENT:** no impact assessment was undertaken.

**LEGAL BASIS:** Article 100(2), in conjunction with Article 218(5), 218(6)(a)(v) and the first subparagraph of Article 218(8) of the Treaty on the Functioning of the European Union.

**CONTENT:** the draft decision proposes that the Council authorise Member States sign, sign and ratify, or accede to, as appropriate, the Cape Town Agreement of 2012 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.

However, in order to safeguard the current safety levels provided through Council Directive 97/70/EC, **Member States will issue a declaration** to the effect that the exemptions provided by the Agreement in

relation to annual surveys and a common fishing zone or exclusive economic zone respectively shall be excluded from application, and that third country fishing vessels of 24 meters in length and over operating in their territorial or internal waters or landing catch at their ports will be subject to the safety standards laid down in the Directive.

**Purpose of the Agreement:** the Agreement provides for the entry into force of the Torremolinos Protocol 12 months after the date on which not less than 22 States the aggregate number of whose fishing vessels of 24 m in length and over operating on the high seas is not less than 3,600 have expressed their consent to be bound by it. This is a considerable reduction in the fishing vessel threshold relative to the 1993 Protocol, which now has a realistic prospect of being met.

**Scope:** the Agreement's provisions apply to new vessels, unless specifically provided for otherwise. Certain flexibilities have been added through the Agreement to facilitate wide acceptance. Administrations may progressively implement the provisions:

- on radiocommunications over a period of no more than **10 years**; and
- on life-saving appliances and arrangements, emergency procedures, musters and drills and shipborne navigational equipment and arrangements over a period of no more than **five years**.

**Exemptions:** whilst the provisions of the Agreement allow for certain specified exemptions regarding safety requirement and the place of operation, **Member States are required to issue a declaration with regard to the exemptions** (see above).

**The Survey regime:** this includes an annual survey, a compulsory intermediate survey between years two and three and a renewal survey after no more than five years, reflecting the fact that a 5-year gap was already an option under the current regime. Whilst the Agreement provides that an Administration may exempt a ship from the annual survey, if its application is deemed to be unreasonable or impracticable, Member States must **issue a declaration** excluding the application of this exemption.

**BUDGETARY IMPLICATIONS:** the proposal has no implications for the EU budget.