# Harmonised safety regime for fishing vessels of 24 metres in length and over

1996/0168(SYN) - 30/06/1997 - Council position

The common position retained the key points of the European Commission's proposal, adding a number of further provisions. The common position applied to fishing vessels of 24 metres in length or over that: - flew the flag of a Member State and were registered in the Community, or - operated in the internal or territorial waters of a Member State, or - landed their catch in the port of a Member State. The text set out the general requirements to be met by the vessels involved: - fishing vessels must comply with the provisions of the Torremolinos Protocol, with the exception of those provisions that are contrary to Annex I of the draft directive; - new fishing vessels of between 24 and 45 metres in length must comply with the requirements set out in the Protocol for vessels of 45 metres in length and over (Annex II covers adaptations for these vessels); - fishing vessels operating in specific areas must comply with the regional and local provisions that apply in those areas ('northern' and 'southern' provisions respectively, defined in Annex III); - fishing vessels must meet additional safety requirements (Annex IV). However, the draft directive also provided for the possibility of bypassing the general rules. Subject to control under the comitology procedure, a Member State or a group of Member States may adopt: - specific safety measures, which must be added to Annex III of the directive, in order to take account of specific local circumstances; - measures containing exemptions, under certain circumstances, for vessels engaged only in fishing near their coasts; - measures allowing equivalents for a particular fitting, material, appliance or apparatus which are at least as effective as those required by the directive. The common position also required new and existing fishing vessels to comply with the standards of recognised organisations on the design, construction and maintenance of the hull, main and auxiliary machinery, electrical and automatic plants or with the equivalent rules used by the national administration. Furthermore, the Member States must carry out surveys to ensure that fishing vessels meet the requirements of the draft directive, and issue and renew certificates of compliance, records of equipment and exemption certificates in accordance with the format laid down in Annex V. Fishing vessels will be subject to port state control. Finally, Member States were required to lay down a system of penalties for violations of the national provisions adopted pursuant to the directive. The new provisions added by the Council related mainly to the following points: - Purpose of the directive: the Council replaced 'internal or territorial waters' with 'internal waters or territorial sea' in order to conform to the terminology used in the United Nations Convention on the Law of the Sea. The Council also explicitly excluded recreational craft engaged in non-commercial fishing from the scope of the draft directive; - Definitions: the definition of 'fishing vessel' was amended in several paragraphs so as to ensure, in particular, that the directive applied equally to fishing vessels having fishing gear but not engaged in fishing. Moreover, the Council replaced '1 January 1998' with '1 January 1999' with respect to the definition of 'fishing vessel'. - Application of general requirements: the common position provided for different dates of implementation for new and existing vessels, namely 1 January 1999 and 1 July 1999 respectively. The Council also proposed several safety requirements further to those included in the Torremolinos Protocol (new Annex IV); - Specific requirements, exemptions and equivalents: the common position allowed a 'group' of Member States to adopt specific local safety measures, since local circumstances might not be confined to one Member State. It added that any Member State wishing to adopt specific local requirements should clearly demonstrate the need for them; - Standards for design, construction and maintenance: the Council made a distinction between new and existing fishing vessels. Existing vessels should comply with the rules in force at the date of their construction whilst for new fishing vessels the administration should lay down rules complying with Directive 94/57/EC; - Surveys and certificates: the Council laid down provision for the administration of a Member State to carry out a survey of fishing vessels flying the flag of another state, if authorised by the flag state; - Controls: the common position made a distinction between fishing vessels flying the flag of another Member State or of a third country and vessels flying the flag of that Member State, which were not subject to control by the port state's own administration. Amendments were also made in respect of

port state control in order to ensure that the Torremolinos Protocol was complied with by fishing vessels flying the flag of a third country that were not operating in the internal waters or territorial sea of the Member States but used their ports without landing their catch; - Comitology: the Council replaced the advisory committee procedure with the type IIIa regulatory committee procedure; - Implementation: the Council changed the date of implementation from 1 January 1998 to 1 January 1999. The system of penalties should also be implemented at the same time as the directive. Finally, the Council also made substantial amendments to the annexes.