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**REPORT FROM THE COMMISSION TO THE COUNCIL, THE EUROPEAN
PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND
THE COMMITTEE OF THE REGIONS**

**on the practical implementation of Health and Safety at Work Directives 93/103/EC
(fishing vessels) and 92/29/EEC (medical treatment on board vessels)**

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1. INTRODUCTION

This Report follows up a Commission undertaking,¹ to assess the implementation of the regulatory framework with a view to improving it. It focuses on the transposition and application of the two Council Directives 93/103/EC of 23 November 1993, concerning the minimum safety and health requirements for work on board fishing vessels,² and 92/29/EEC of 31 March 1992, on the minimum safety and health requirements for improved medical treatment on board vessels³.

This Report is concerned solely with those two Directives and with the situation in EU-15, although the Commission believes that it will yield useful information for the twelve new Member States too. It does not address aspects dealt with in international instruments⁴.

It is based mainly on national reports supplied by the Member States⁵ and a report by independent experts evaluating the practical implementation of the two Directives on the ground, including case studies conducted in Spain, France, Italy and the UK. Other sources of information are European statistics on accidents at work and the Commission's experience in monitoring the transposition and application of the Directives.

2. LEGAL EFFECTS

2.1. Directive 93/103/EC

Prior to the adoption of the Directive, the majority of the Member States already had legislation in place specifically governing health and safety on board fishing vessels. Certain Member States have reported that the Directive did not require major changes to their legislation. Others take the view that the Directive has enabled them to introduce a coherent body of minimum safety and health rules specifically applying to work on board fishing vessels.

¹ In the Communication *Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work*, COM(2007) 62 final of 21.2.2007.

² OJ L 307, 13.12.1993, p. 1.

³ OJ L 113, 30.4.1992, p. 19.

⁴ E.g. the International Convention for the Safety of Life at Sea (SOLAS), the Maritime Labour Convention and the Work in Fishing Convention. Neither does the report cover Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC (OJ L 124, 20.5.2009, p. 30).

⁵ Sent to the Commission under Articles 13(3) and 9(3) of the two Directives (subsequently repealed by Directive 2007/30/EC).

However, in some Member States, where the existing rules had been in force for a long time, the Directive has had a considerable impact on legislation, and new laws have had to be adopted. The transposing legislation has also introduced certain new fundamental principles of risk prevention, such as worker information, training and consultation and risk assessment.

2.2. Directive 92/29/EEC

Most Member States with a fishing and merchant fleet already had legislation setting a high level of requirements regarding the availability of medical supplies and medical assistance on board, and therefore the transposition of the Directive required only its revision and updating. In some Member States⁶, compulsory training in health issues on board was already regulated, and radio-consultation services were already in existence.

3. AWARENESS-RAISING AND FLANKING MEASURES FOR DIRECTIVES 93/103/EC AND 92/29/EEC

After the two Directives were adopted, a number of information and awareness-raising measures were set in motion at EU level. Thus, the European Agency for Safety and Health at Work⁷ launched the fisheries web feature on good practice in the fisheries sector covering such aspects as risk assessments for small fishing vessels⁸.

At national level, the authorities, employers, workers and their organisations held information and awareness-raising campaigns, meetings, workshops and training sessions. Some Member States have drafted new guidelines — or have amended existing ones — e.g., on risk assessment and prevention, and safe working practice. The usual range of print media was used for publicity, with webpages supplementing the conventional media.

Nonetheless, activities to publicise the new provisions are judged inadequate by the social partners in most Member States. Workers seem to have difficulty in accessing these provisions via conventional or new media⁹, given the traditions in the sector, its fragmentation, the predominance of small businesses and high worker turnover. Rather than organising unconnected activities, some Member States¹⁰ have implemented sector-specific prevention plans with a more closely defined and fully integrated strategy. Several Member States¹¹ have also established funds to finance security measures on board vessels and protection equipment for fishermen. To a large extent, the fishing sector's small numerical and economic scale in some Member States justifies or explains the lack of attention given to developing instruments to publicise the provisions. In other Member States with bigger fishing sectors, the authorities responsible for publicising the provisions need to invest more resources and show more commitment.

⁶ France, Spain, Finland, the Netherlands, Germany and Ireland.

⁷ Council Regulation (EC) No 2062/94 (OJ L 216, 20.8.1994, p. 1)

⁸ http://osha.europa.eu/en/good_practice/sector/fisheries/risk_assesment.php.

⁹ As demonstrated by the French case study. The Spanish case study notes resistance to improvements from outside, including awareness campaigns by the authorities.

¹⁰ Such as Belgium and Finland.

¹¹ Belgium, Finland and France.

4. TRANSPOSITION

Both Directives were affected by delays in transposition, and infringement procedures were initiated against the Member States concerned¹².

4.1. Directive 93/103/EC

The main compliance problems concerned definitions, the owner's responsibility, regular checks by the authorities, and worker information, training, consultation and participation. An infringement procedure was initiated against one Member State with regard to the definition of 'owner', the obligations to report occurrences at sea, to make regular checks and worker information, and the provisions on first-aid equipment in the Annexes.

In some Member States, however, the legislation went further than the minimum requirements in the Directive, e.g. by extending its scope to vessels under 15 m in length (the UK and Ireland) and making its provisions applicable to new or refurbished vessels under 12 m in length (Portugal).

4.2. Directive 92/29/EEC

The Annexes were transposed almost verbatim in many Member States, but shortcomings remain in some. An infringement procedure was initiated against one Member State concerning the need to ensure that every vessel flying its flag or registered under its plenary jurisdiction always carries on board the appropriate medical supplies. The case was closed after the Member State brought its national provisions into line with the Directive. Another infringement procedure was initiated against a Member State concerning the definitions of 'vessel'/'fishing vessel' and 'owner' in national law.

Other major problems of compliance concerned training, radio consultation, and the confidentiality of medical data.

An additional non-binding EU instrument may help to address the extremely high rate of accidents in the fishing sector and the fact that many vessels fall outside the scope of Directive 93/103/EC. The Commission, in close cooperation with the Advisory Committee on Safety and Health at Work¹³ (hereinafter 'the Advisory Committee'), therefore intends to draft a non-binding guide covering these small vessels and focusing primarily on good practice to improve prevention.

¹² Nine procedures for non-communication were initiated as regards Directive 92/29/EEC, one of which resulted in a judgment by the Court of Justice (Case C-410/97 *Commission v Luxembourg* [1998] ECR I-6813) and nine as regards Directive 93/103/EC, two of which resulted in judgments by the Court of Justice (Case C-364/97 *Commission v Ireland* [1998] ECR I-6593 and Case C-362/98 *Commission v Italy* [1999] ECR I-6299).

¹³ Council Decision of 22 July 2003 setting up an Advisory Committee on Safety and Health at Work (OJ C 218, 13.9.2003, p. 1).

5. ACTION IN THE FIELD: THE PRACTICAL IMPLEMENTATION OF DIRECTIVE 93/103/EC

5.1. General issues

Although only a very small percentage of the total fishing fleet falls within the scope of Directive 93/103/EC¹⁴, the 'Framework Directive'¹⁵ including, where relevant, its individual Directives, applies to the whole sector.

Assessing the practical implementation of Directive 93/103/EC is compounded by big geographical differences, e.g. between fleets in the Mediterranean and the Atlantic: the former consist of smaller vessels that generally return to land every day or every few days, while the latter comprise larger vessels that are more profoundly affected by the Directive.

Meanwhile, social and economic factors, such as stiffer competition, dwindling fish stocks, and high fuel costs, are reducing the income of ship-owners, skippers/captains and workers, and piling on the pressure to catch as much fish as possible in the shortest time.

As a result, crews have been reduced to a minimum¹⁶, working hours have increased and shifts are longer, although technological improvements may eliminate much of the drudgery. Smaller crews are under particular pressure at times of greater activity. A study conducted in Spain¹⁷ shows that fishermen see their job as exhausting rather than dangerous, while in the Netherlands it is estimated that one quarter of accidents that take place are not reported. These factors make it even more difficult to assess the impact of the new measures.

Working conditions on board (pay, time spent away from home, long working hours, etc.) discourage new recruits among the younger generation, which in turn makes the changeover to a prevention culture difficult, at least in the short run. Overfishing and excess of fishing capacity result in poor economic performance, which prevents adequate vessel maintenance and operation, and pushes fishermen to take higher risks.

From the viewpoint of the ship-owners and skippers/captains, the new provisions bring no direct benefits, and the involvement of the labour authorities has been slight. Only a few Member States seem to have made provision for financial support for investing in safety equipment and crew training.

While the Directive has put more emphasis on safety in the sector and there have been improvements in safety requirements and the safety training of crews, the impact has been limited because it applies only to larger vessels, which are fewer in number and where safety

¹⁴ According to the European Parliament report *Fisheries: safety and causes of accidents* (12 March 2001), the Directive is estimated to cover only 8% of vessels operating.

¹⁵ Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1)

¹⁶ The French case study describes how crew size has fallen from nine to five workers in vessels approximately 24 m in length.

¹⁷ *Penosidad y Riesgo en las actividades pesquera. Las condiciones de trabajo y de salud de los trabajadores de la pesca en Cantabria* (Harshness and Risk in fishing activities. Work and health conditions in fisheries workers in Cantabria), Labour Asociados, 2003. The causes of exhaustion mentioned are physical effort, long working hours and the need to adopt uncomfortable positions frequently.

conditions are better anyway, and little attention has been paid to working conditions that might increase the risk of occupational diseases and unhealthy lifestyles.

The poor state of some fish stocks combined with an excess of fishing capacity constitute incentives for vessel owners to maximise catching efficiency within the limitations defined by EU law and Member States' regulations; sometimes this is done at the expense of vessel safety and living conditions and working conditions on board.¹⁸

5.2. Risk assessment

Under Article 1(2) of Directive 93/103/EC, the provisions of the Framework Directive are fully applicable to vessels falling within the scope of Directive 93/103/EC. Article 9(1) of the Framework Directive stipulates that the employer must be in possession of a risk assessment. Risk assessments may well be the most significant legal innovation under the safety and health Directives, but they are hardly ever carried out in respect of work on board vessels. Where they are performed, they have been reported as encouraging discussion of risks, their consequences and preventive measures. Small vessel owners are reported to be discouraged by the costs.

Another problem is that a simple check-list is often used to meet the risk assessment requirement, and this has no effect on working conditions on board. As a result, fishermen lack expert advice on how to adopt safe procedures to avoid dangerous situations arising on board.

5.3. Enforcement

Article 3(2) of Directive 93/103/EC requires vessels to undergo regular checks by specifically empowered authorities.

The implementation of the Directive has brought no change in the type or role of inspections in the fisheries sector¹⁹. Almost every Member State already had specific inspection systems to verify conditions of flotation, seaworthiness and capacity to cope with emergencies.

In most Member States there are two types of inspection. The first is technical: inspections generally performed by maritime authorities, who have long experience and adequately trained staff. They are carried out while the ship is being built and thereafter periodically (generally once a year), to renew its licence and allow it to continue sailing²⁰. The second relates to work organisation, training and qualifications, working hours, health and safety issues, living conditions on board, etc., which are the responsibility of the labour authorities. In some Member States there is also a third type, which is normally a health inspection to check the capacity of the vessel and of those in charge to attend to any medical emergencies at sea.

¹⁸ Described in the British case study.

¹⁹ A new public body responsible for the safety of fishermen has been set up only in Ireland, while no significant changes have been made to the existing institutions in the other Member States. The independent experts' report states that many parties, not only trade unions, consider labour inspection systems to be inadequate and barely qualified to oversee the health and safety of fishermen.

²⁰ The most common inspection method is the preparation of control lists on the vessel's technical aspects rather than its suitability as a workplace.

As a result, in many Member States fishing vessels undergo inspections by two or even three authorities, sometimes with very little coordination. In general, priority seems to be given to conditions of stability, flotation and safety of equipment, while living conditions, comfort, ergonomic aspects, risk prevention and working hours of fishermen are often neglected, although the ‘human factor’ is acknowledged as the biggest factor contributing to accidents.

The coexistence of technical and labour inspections may cause confusion amongst ship-owners, skippers/captains and workers. The specialised technical competence of the labour inspection is frequently called into question, especially in Member States with general inspections, while in Member States with specialised inspections, the most frequent criticism concerns the lack of inspectors.

It would seem that only workers or their representatives are in a position to make effective checks on board, which is an unsatisfactory situation since most Member States lack trade union representation in fisheries. This is generally due to the frequent changes in crew and the presence of both self-employed and employed workers, in addition to the ‘shared-wage’ system,²¹ which, given the crew’s economic interest in maximising catches, discourages workers and their representatives from taking any initiative that may reduce time at sea or increase costs. Under these conditions, it is difficult to foster a deep-seated safety culture.

As a result, technical requirements affecting vessel safety are checked effectively by the technical authorities, but checks by labour authorities seem to be inadequate. Nonetheless, some Member States note that inspections are being carried out more frequently, and according to the Netherlands, the falling national accident rates are probably due to its systematic inspection system²².

As the causes of the frequent accidents on board are not properly checked, the impact of injuries and diseases resulting from fishing work is underestimated.

In some Member States, according to the independent experts’ report, the division of responsibility between national and regional authorities, labour and maritime authorities makes inspections less efficient, though the difficulty of performing inspections under actual working conditions is the major practical problem: these are seldom carried out at sea, when the fishermen are actually working²³.

5.4. Information and training

Articles 8 and 9 of the Directive concern information and training. Very few data have been collected to date on the issue of information for workers, but this area appears to be beset by the same problems as training²⁴.

²¹ The traditional system of remuneration in the fishing industry is the sharing of the catch or a share of income less costs, or a share-plus-wage system (source: ILO: *Fishermen’s conditions of work and life*, Geneva, Doc. CFI/4/1988/1). In order to maximise their share of the proceeds, fishermen tend to operate with as few crew members as possible.

²² Inspections appear no less strict when a vessel is close to the date of scrapping, though skippers/captains are reportedly less inclined to make investments in safety in such cases.

²³ Inspections at sea are only carried out on ships over 24 m, as smaller vessels seldom notify their intention of putting out to sea.

²⁴ The Spanish case study noted that engaging an outside firm failed to make fishermen more aware of their responsibility for their own and other persons’ safety and health.

As regards training, the Member States mention the difficulty of accessing fishermen as a body, given the little time that they spend on land and which is meant for rest²⁵. This problem is aggravated when they work in distant fishing grounds — a factor which is not always taken into account — and by the sector's structural problems (which are closely linked to the precarity of work, especially in SMEs working in such fishing grounds).

The 'shared-wage' system referred to above is another obstacle to training, which must take place on land and therefore is not remunerated. Despite this, the Member States consider that the increase in training has been one of the most outstanding outcomes of the Directive.

6. ACTION IN THE FIELD: THE PRACTICAL IMPLEMENTATION OF DIRECTIVE 92/29/EEC

6.1. General issues

In general, the Directive has been implemented as required, thanks to the broad measure of acceptance among professionals and their cooperation with the authorities, as well as to inspections carried out by the latter. This has been facilitated by the precise drafting of the Annex to the Directive, which leaves no room for interpretation.

Bearing in mind the difficulty of separating out the impact of the new provisions and of identifying and obtaining reliable statistics, the general assessment is that medical treatment on board vessels has improved. Stakeholders have managed to incorporate the provisions into their prevention routines, including training and provision and maintenance of medical supplies and the survival kit.

However, there is a difference between the merchant navy and fishing fleets. Whereas the Directive has been implemented without problem in the merchant navy, the requirement to carry medical supplies has been more difficult to implement in the fishing fleet, and especially in small businesses.

The introduction of a better organised system for providing medical advice to vessels has been claimed as the Directive's major outcome. Radio medical centres have also proved very effective: data are now available on the number of calls made by vessels, the most common types of injuries and the action taken.

Training programmes have in most Member States generated growing confidence among workers as regards the responsibilities for health matters on board.

The fact that captains often prefer not to administer the medicines in the medicine chest lessens their impact on the medical treatment provided on board. In most situations doctors also appear to prefer to evacuate patients rather than to prescribe medicines available on board. The carriage of medicines also seems to have had no major impact on economic costs, even if some Member States do mention these.

The most critical assessments of the impact of the Directive come from trade union sources and relate to non-compliance as regards the theoretical and practical training for first-aid kit

²⁵ The Spanish case study mentioned that the fishermen had received no specific training even from their trade union.

resources and the radio-consultation service, and the lack of resources for training workers in their use at sea.

Special difficulties in access to training are noted among self-employed workers and fishermen's cooperatives, whose remuneration is closely dependent on the daily catch.

6.2. Medical supplies

Article 2 of the Directive stipulates that every vessel must always carry on board medical supplies appropriate to the category of vessel and the type of voyage, work, cargo and the number of workers. Larger vessels making a voyage of more than three days must have a sick-bay, and vessels with a crew of 100 or more on an international voyage of more than three days must carry a doctor.

Generally speaking, the legislation is applied and medical supplies are carried on board. However, some problems persist, in particular as regards the contents of medicine chests, which do not always correspond to all of the Directive's requirements, and the replacement of drugs and medical supplies that have passed their expiry date. This would seem to be due in some cases to the inspectors not having the necessary specific training.

The medical supplies situation seems to be better in large companies and on merchant ships, whereas the requirement to check and replace supplies is not carried out strictly in small companies and on fishing vessels.

Self-employed fishermen find it hard to understand the legislation on medical supplies.

Some problems have been observed as regards narcotic substances, owing to the lack of awareness on the part of the suppliers.

The need to replace the contents of medicine chests that have passed their expiry date should be evaluated. A working group of the Advisory Committee could be set up to assist the Commission in this task.

6.3. Allocation of responsibilities

Article 4(1) of the Directive stipulates a division of responsibilities for the provision and replenishment of medical supplies between the owner and the captain or the person delegated.

This division does not seem to be a problem. Responsibility for the provision and replacement of medical supplies, on the one hand, and for their management and maintenance, on the other, is properly apportioned. A lack of clarity is mentioned by Spain, which reports that responsibilities are divided less clearly in the fishing fleet — where the captain and ship-owner is often the same person — than in the merchant navy.

6.4. Training

The training requirements set out in Article 5(2) and 5(3) of the Directive raise two main questions: first, whether or not basic training on emergency medical treatment is sufficient and adequate and, secondly, whether or not the captain and officials attend refresher courses at least every five years.

The situation varies according to the Member State and the type of fleet. In some Member States, basic training in the fishing industry is considered insufficient. The situation regarding refresher courses at five-yearly intervals also varies. In many Member States, training every five years is compulsory. In Finland, such training is a prerequisite for obtaining the book of compliance and be able to work as a maritime professional. In Germany, proof of attendance is compulsory for the renewal of a captain's/officer's certificate.

Some Member States have compulsory specialist training in first aid/medical emergency treatment/basic training in medical emergency assistance for all persons who take a professional maritime course, and captains have special training in medical emergency assistance. However, medical emergency assistance training is sometimes considered inadequate. Specific training for captains is sometimes lacking, e.g. in the use of syringes and giving injections. In the fisheries sector, the smaller the fishing vessel, the less likely the captain or any other crew member is to have undergone any medical training, or any training at all.

6.5. Radio medical centres

The Directive's objective in Article 6 of establishing radio consultation centres with doctors specialised in living conditions on board has been satisfactorily attained, although pre-existing structures have been used in some Member States. In Denmark, numbers evacuated from vessels have fallen drastically since the radio medical services and the training of navigators and radio medical doctors were centralised. In general, these centres are considered to be functioning adequately, with some weak points.

The independent experts' report shows that, in some Member States, no doctors or specialist medical personnel are employed in the radio medical centres and calls are handled by a doctor on duty who is not trained in the conditions on board vessels. In others, the doctors are trained to give treatment via radio to persons on board vessels, and there is always at least one doctor on duty to assist seafarers.

The main weak point is not having a live picture of the patient, so the doctor has to rely on the captain's description of the patient's symptoms. The reliability of this information affects the reliability of the advice given by the doctor, with the result that more patients than necessary are likely to be evacuated.

In Denmark successful trials with visual examinations via web-camera have been conducted. A weakness, however, is the lack of a permanent Internet connection on some ships and the cost of the equipment and Internet connection.

Special virtual centres have been set up in Sweden, with doctors who have specific training for and knowledge of the conditions on board.

Ship-to-shore communication technology varies enormously from simple VHF radio to satellite telephone and e-mail.

Emergency situations are also dealt with by air transport and Spain mentions the existence of hospital ships.

6.6. Inspections

Article 7 of the Directive covers annual inspections of medical supplies.

The problems mentioned under point 5.3 (Directive 93/103/EC) are equally applicable here.

7. GENERAL ASSESSMENT

7.1. The main positive effects of the two Directives

7.1.1. Directive 93/103/EC

The Member States' national reports generally noted no major negative or positive effects, in some cases due to equally strict previous regulations. The general deterioration in fishermen's socio-economic circumstances over recent years has made it difficult to assess the situation. Improvements were found to be the indirect result of measures taken to improve the fleet rather than the result of attempts to improve working conditions on board.

However, the Member States have mentioned the following among the positive effects of Directive 93/103/EC:

- uniform minimum safety levels in all Member States;
- a coherent body of minimum safety and health rules specific to work on board fishing vessels has been introduced into national legislation and owners have to comply with it fully; this also makes monitoring easier for inspectors;
- more inspections;
- greater commitment to complying with national legislation in the area of prevention of risks at work;
- enhanced safety of fishing vessels and better working conditions, in particular as regards working-teams, workplaces, accommodation on board, and methods of handling cargo and fish-boxes;
- better structure and *modus operandi* of the occupational risk prevention system, and in particular training, information and inspection work;
- more training for workers and skippers/captains;
- some improvement in living conditions on board (albeit also due to technological improvements);
- the requirements in the Directive have been useful for devising practical provisions on the construction and equipment of fishing vessels;
- intensified professional debate within the sector.

7.1.2. Directive 92/29/EEC

Though the Member States have noted no major negative or positive effects of the legislation, some point to a generally increased awareness of health and safety. The retraining courses and the inclusion of new definitions have been mentioned as positive effects, and the minimum requirements for medicine chests and medical treatment on board have brought some changes in national legislation.

The Member States mention other positive aspects, e.g.

- the need for compulsory professional medical monitoring of seafarers is recognised;
- improvement in medical treatment on board vessels;
- medical supplies are ensuring medical care on board;
- inclusion of additional drugs in medical supplies (antidotes);
- medical supplies put to better use by the person responsible for medical care and guidance;
- more effective checks on medical suppliers, in particular as regards psychotropic drugs;
- refresher training at least every five years for the captain and the workers to whom the use of the medical supplies is delegated, leading to an improvement in those persons' medical knowledge;
- information campaigns (targeted at the crew, ship-owners and shipping companies) have led to greater awareness.

7.2. Main problems of implementation

7.2.1. Directive 93/103/EC

The Member States mention the following problems:

- the social partners in most Member States thought that dissemination and information activities covering the new provisions were insufficient;
- additional support was needed in view of the Directive's technical complexity;
- difficult for existing vessels of 18 m or more²⁶ to meet the requirements of the Directive in view of alterations;
- high cost of safety equipment (for employers);
- owners of small vessels reluctant to carry out risk assessments owing to the costs involved;
- risk assessments often a matter of filling in forms, with no impact on working conditions on board;
- lack of an integrated control and development plan for risk prevention policies in the maritime environment;
- no formal procedures for cooperation between competent authorities;
- lack of enforcement of provisions to prevent occupational diseases;

²⁶ France referred to difficulties in meeting certain requirements in Directives 2002/44/EC (vibrations) and Directive 2003/10/EC (noise) on fishing vessels.

- age of the fleet in some cases an obstacle to implementation;
- lack of strong representation of fishermen an obstacle to improving working conditions;
- non-smokers still subjected to tobacco smoke in the mess;
- lack of direct assistance for those involved in safety issues on vessels.

The specific case of small vessels: Directive 93/103/EC

Directive 93/103/EC is not applicable to vessels of less than 15 m in length, though the Framework Directive does apply to vessels which are not covered by Directive 93/103/EC.

Almost every vessel of less than 15 m in length is the property of the skipper/captain, who often works with other members of the family. There is thus a large percentage of SMEs in this sector: depending on the Member State, between 60 % and 90 % of fleets are made up of vessels that are less than 12 m in length.

According to the independent experts' report, small vessels have difficulties in complying with the health and safety requirements, and the high cost of safety equipment discourages small ship-owners from acquiring it.

Accessing safety information is more difficult for skippers/captains and crew members of smaller boats, especially when public information authorities use new technologies, such as the Internet.

Family businesses often operate with old vessels, and their workers have hardly any qualifications.

The practical guide for small vessels mentioned under point 4.2 should address problems in wooden vessels, e.g. emergency routes and exits.

7.2.2. Directive 92/29/EEC

The Member States' national reports mention the following problems with practical implementation:

- finding a suitable place for the medicine chest²⁷;
- cost of purchasing and maintaining the new medical supplies;
- difficulty in securing supplies of certain medicines, particularly antimalarial drugs (which need to be imported)²⁸;
- imbalance between the size of the vessel and the medical supplies it is obliged to carry;
- having drugs on board that should only be administered by a qualified doctor;

²⁷ Denmark solved this problem by designing backpacks for the smaller medicine chests.

²⁸ Denmark reports that outside Europe it may be extremely difficult to buy medicine due to restrictive national legislation.

- in the fishing industry, the medicine chest is used mostly for minor problems, such as headaches;
- setting up the radio medical centres was a challenge, due to doctors being unfamiliar with the maritime environment, a lack of experience in radio communication technologies, and the infrequency of this type of emergency call;
- in some sectors, doctors could be replaced on board by paramedics with special training; it was suggested that the decision be left to the Member State.

The specific case of SMEs: Directive 92/29/EEC

It was generally felt that the Directive had been designed for larger vessels and not for the Community fleet as a whole, with its implementation by SMEs causing most problems.

The medicines to be carried on board under the Directive are considered suitable on large vessels, but too burdensome for medium-sized ones.

The clauses regarding the distance from shore have created particular difficulties for some sectors of the industry.

8. SUGGESTIONS FOR IMPROVEMENT

8.1. Directive 93/103/EC

Most Member States do not consider it necessary to amend the Directive, but rather that certain difficulties identified during implementation could be resolved by means other than legislative action, i.e. by inspections focusing on specific issues and additional information.

Some Member States, however, consider that the Directive should also cover vessels less than 15 m in length, as the bulk of the Member States' fleets fall within this range and statistics show that a significant number of accidents occur on small vessels.

The national reports show that the major challenge is to improve the safety culture among fishermen, which demands information and training. The Member States consider that information could be planned more systematically and that safety training needs to be more adapted to the circumstances of fishermen in terms of level of education, availability, traditions and culture, etc. and should include more practical exercises.

More cooperation is also needed at EU level in terms of studying and circulating best practice, and the strategic objective of humanising work in the fishing sector needs to be incorporated into the common fisheries policy (CFP), e.g. through social dialogue.

8.2. Directive 92/29/EEC

The Member States made several proposals on the Annexes to the Directive, i.a. that the medical supplies required under Annex II be reviewed, depending on the region and category of vessel, to ensure that the list reflected the needs and conditions applying on board. The Annexes need to be adapted to technological and medical developments in medical supplies.

Other proposals concerned information and training²⁹ and the inspection system.

It was also suggested that the Commission should foster a better understanding of the Directives by guides covering the various operations, vessel sizes and conditions in which EU fleets work.

9. EFFECTIVENESS

9.1. Directive 93/103/EC

9.1.1. Effects on accidents at work and occupational diseases

9.1.1.1. Accidents at work

There is a basic problem in assessing the impact of national implementing measures, as it is difficult to ascribe effects to a particular cause. Before the Directive, there were already national provisions. Technological development is also a factor in the improvement of working conditions³⁰.

Although Eurostat produces statistics at EU level³¹, there are no reliable data available specifically on the maritime sector. However, reference may be made to the most recent EU ad hoc survey of accidents at work available for EU-15, namely the 1999 Labour Force Survey³², which indicates that the fishing sector had the highest incidence of non-fatal occupational accidents, at 2.43 times the EU average.

In most Member States, there is also a lack of reliable data on the effect of the new legislation, even though statistics on accidents involving seafarers are normally monitored at national level.

However, many Member States have reported that the number of accidents at work has declined, possibly as a result of implementing the new provisions, training or information campaigns. With some exceptions, the number of accidents in most Member States appears to have fallen more steeply than the number of fishermen, implying that incidence rates were falling prior to the transposition dates. At all events, accident statistics are poor in most Member States. One explanation is that cuts, scratches, injuries, lashes and bruises are generally not even considered as accidents, but simply as part of the job.

While accidents may have decreased in number, their seriousness may have increased, in particular due to the length of time spent on board, the fall in crew sizes and the scarce time

²⁹ For example, the Commission should propose detailed objectives for training for persons providing medical treatment.

³⁰ A problem arises, nonetheless, when technological improvements are not followed up with the relevant worker training.

³¹ ESAW-European statistics on accidents at work, and EODS-European occupational disease statistics. The data are not entirely comparable because the data-collection criteria are not completely compatible. The actual scope of the problem continues to be underestimated in voluntary systems for the recording of accidents at work. However, Regulation No 1338/08 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work (OJ L 304, 31.12.2008, p. 70) is to improve the harmonisation of reporting.

³² The 2007 Labour Force Survey does not cover accidents and health problems in the fishing sector as the reliability criteria are not met.

available for training on land. In most cases, safety conditions on board seem to have improved prior to the transposition date, which may explain why the incidence rate has fallen more steeply than the size of the work force. Nonetheless, it should be borne in mind that that Directive 93/103/EC applies solely to vessels making up a small percentage of the EU fishing fleet³³. Since there is a big difference in the risks on board small vessels as compared with large vessels, it is logical that national reports assess the direct impact of the Directive's new requirements on accident figures as low.

9.1.1.2. Occupational diseases

Since national systems for recording occupational diseases show even greater shortcomings than those for accidents, establishing a link between the new provisions and the development of occupational diseases in the sector is even more difficult. Nevertheless, indirect data show that ill health is an important factor in fishermen giving up the trade. The ageing factor is aggravated by the fact that fewer workers are entering the occupation, mainly because of the harsh conditions. This affects the working population's ability to take on a heavy workload in a gruelling working environment.

The most important risk and harshness factors in fishing stem from the weather, the heavy manual work, the psychological and social problems due to prolonged isolation, the pressure to work fast, and the long working hours unevenly divided between periods of intense activity and monotonous waiting, as well as the interaction between these risks.

Keener competition, due for instance to falling catches, is jeopardising the conditions for prevention measures. In particular, the 'shared-wage' system on most small vessels may lead to longer working hours, more time spent on board and greater exertion. Effective prevention measures are not likely to be a priority under such working conditions and this lack may lead to more occupational illnesses and disorders.

Muscular problems seem to be the main source of ill health among fishermen, probably as a consequence of ageing and the gruelling working conditions.

9.1.2. *Impact on productivity, employment and competitiveness*

Generally speaking, Member States do not provide information on the impact of the new legislation on productivity, employment and competitiveness.

9.2. **Directive 92/29/EEC**

9.2.1. *Impact on accidents at work and occupational diseases*

Prior to the transposition of the Directive, which coincided with a reduction in fishing fleets and thus a decrease in the number of workers and accident rates, some Member States already had national provisions laying down equivalent or stricter requirements. As for Directive 93/103/EC, measuring the impact of Directive 92/29/EEC in quantitative terms is therefore extremely difficult. The Member States struggle to explain the fall in accidents and cases of occupational disease, and their assessments of the impact of Directive 92/29/EEC are, in some cases, contradictory and, in others, only barely positive. In general, the Directive's impact

³³ For example, vessels over 12 m in length make up no more than a quarter of the fleet in any Member State.

appears to have been slight, even though the guidelines concerning medical care, medicine chests and training must have improved the crew's access to medical care.

9.2.2. Impact on productivity, employment and competitiveness

The Member States generally provide no information on the impact of the new legislation on productivity, employment and competitiveness.

10. CONCLUSIONS

10.1. Directive 93/103/EC

Though the level of risk in fishing seems to have decreased more sharply than the size of the labour force in most Member States, it is still one of the most dangerous occupations in the EU, with 80 % of accidents on vessels being due to human error.

The views of the Member States and the social partners and the results of the independent assessment have given rise to the following suggestions.

10.1.1. Better knowledge

More information on accidents and cases of disease in fishing is vital. While it is important to determine the major risks, recording less serious accidents via improved electronic communication and drawing up an indicative list of frequent diseases and their causes could also be useful. This could be discussed within the sectorial social dialogue or the Advisory Committee. The implementation of Regulation No 1338/08 on Community statistics on public health and health and safety at work may improve the reporting of occupational accidents and cases of disease in general.

10.1.2. Better communication, information and training

The fragmented structure of the fishing sector, weak trade union representation and a fatalistic attitude, i.e. acceptance of the traditional view of the sea as a dangerous and unpredictable place and of risk as part of the job, make effective provision of information difficult. The distance to the workplace and the scant time that many fishermen spend on land are also real impediments to participation. Campaigns, seminars, publications, webpages and the like are seldom effective in this sector. This is confirmed by the Member States and the social partners in most countries, especially as regards smaller enterprises.

The development of new and better systems for communicating with people in the sector is indispensable. It is also crucial to involve the social partners at EU, national and, even more importantly, grassroots level, and to try to make the cultural change stick. In this area too, the sectorial dialogue and the Advisory Committee could play an important role.

Greater efforts are also needed in terms of training, focusing on adapting training material and courses to fishermen's profile and possibilities, and not just on how to survive in the event of maritime disasters.

The UK highlighted that course attendance seemed to depend on courses being compulsory (or about to become so) and free of charge, and that consideration had to be given to ensuring that the course had been understood.

10.1.3. Better inspections

The Member States are under an obligation laid down in Article 4 of the Framework Directive to ensure that EU legislation in the field of health and safety at work takes full effect, in particular by ensuring adequate controls and supervision. The effective enforcement in all Member States of Directive 93/103/EC and other EU directives in this field is essential to improve compliance with EU legislation which will effectively contribute to reduce the number of accidents at work and occupational illnesses on board fishing vessels.

Some Member States want to encourage more worker representation and establish representation systems in each dock, with a view to including smaller vessels and encouraging collective bargaining in the sector as a way of improving working conditions. Trade unions, and non-unionised workers, must be involved.

At the EU level, practical, realistic ways must be found to improve the situation regarding inspections, which seem unsatisfactory. This might involve finding out what the Member States are doing in terms of inspections, consultation and training, with a view to sharing best practice, involving the Senior Labour Inspectors Committee (SLIC),³⁴ and encouraging national labour inspectorates to focus on the sector and to consider forms of cooperation with other inspectorates, in particular technical and health inspectorates, where applicable.

10.1.4. Financing

Many of the difficulties mentioned, especially by small vessel owners, concern the cost of improving equipment on board vessels. Experience in several Member States has shown that support measures to finance improvements are effective. The Member States are therefore invited to exchange good practice in this field. The European Agency for Health and Safety at Work could promote such exchanges of experience. The UK suggested that it should be ensured that, if the resources for improving vessels' equipment come from a body with no safety remit, the safety body should first approve those changes.

10.1.5. Common fisheries policy

Healthy fish stocks and environmentally sustainable fishing are a pre-condition for long-term economic sustainability. A profitable fishing activity is the best guarantee of high standards in vessel safety and working conditions.

The current review of the CFP³⁵ offers an opportunity to better integrate the objective of improving safety and living standards on board for fishermen with the overall objective of sustainable fishing practice from the environmental, social and economic point of view.

10.1.6. The scope of Directive 93/103/EC

Vessels under 15 m in length account for a majority of the fleet and have higher accident rates. As for extending the scope of Directive 93/103/EC to cover these smaller vessels, so

³⁴ Commission Decision 95/319/EC of 12 July 1995 setting up a Committee of Senior Labour Inspectors (OJ L 188, 9.8.1995, p. 11).

³⁵ The review of the CFP to make it more efficient in ensuring the economic viability of the European fleets, conserving fish stocks, integrating with the Maritime Policy and providing good quality food to consumers was launched in 2008, see http://ec.europa.eu/fisheries/cfp/review_en.htm.

that a greater number of vessels and fishermen are included, the Framework Directive and relevant individual Directives apply in full to all vessels, including those under 15 m in length. The application of the Framework Directive and individual Directives should therefore be improved. Greater economic pressure on the fishing industry, stemming e.g. from dwindling stocks, stricter quotas and rising fuel prices, brings a need to develop instruments that could help small vessels to implement the existing safety and health measures effectively at little extra cost.

One way to improve the implementation of these Directives is to draw up a practical, non-binding guide for vessels under 15 m in length at EU level in order to clarify certain key concepts and to help all players to meet their obligations under the Framework and individual Directives.

In parallel, an Advisory Committee working party should be set up to provide advice if measures in addition to those to improve the application of the existing Directives with a view to improving health and safety protection on small fishing vessels are to be considered, and in particular the amendment of Directive 93/103/EC in order to extend its scope to cover also vessels under 15 m in length.

To sum up, the following measures are needed at national and/or EU level:

- non-binding instruments (guidelines) for small fishing vessels should be formulated by the Commission in conjunction with the Advisory Committee;
- an Advisory Committee working party should be set up to provide advice if further measures to improve protection on small fishing vessels, and in particular an amendment of Directive 93/103/EC, are to be considered;
- the working party could also study ways of improving communication with fishermen as regards information and training on health and safety at work;
- the SLIC could consider launching an EU inspection campaign on fishing and medical treatment on board vessels in all 27 Member States and exchanges of best practice between inspectorates; the campaign could also contribute to enhanced cooperation between technical and labour inspectorates;
- the European Agency for Health and Safety at Work should consider awareness-raising measures on accident and disease prevention in the fishing sector, with the focus on small fishing vessels;
- the Member States should consider specific information initiatives for self-employed workers in the fishing sector as part of their national strategies for health and safety at work.

10.2. Directive 92/29/EEC

The assessment clearly shows that new e-technologies can be applied to distance consultation when it comes to improving accident and disease prevention and protection of workers' health.

With a view to the strictly technical adaptation of the Annexes to the Directive in the light of technical progress, the Commission will, in accordance with the procedure laid down in

Article 8 of Directive 92/29/EEC, submit a draft of the proposed measures, in line with the Member States' suggestions in their national reports, to a committee comprising representatives of the Member States.

To sum up, the following action needs to be taken at national and/or EU level:

- development of e-technology on a voluntary basis;
- convening of the Technical Progress Committee with a view to adapting the Annexes to Directive 92/29/EEC.