

REPORT OF THE STANDING COMMITTEE ON FISHING VESSEL SAFETY

1. Opening Remarks/Announcements (Mark Dolomount, Professional Fish Harvesters Certification Board of Newfoundland and Labrador (PFHCB) and Victor Santos-Pedro, Transport Canada (TC)).
2. Adoption of Agenda.
3. Industry Co-Chair Report (Mark Dolomount, PFHCB).
4. Industry Updates:
 - Safety Initiatives - Canadian Council of Professional Fish Harvesters (John Sutcliffe, CCPFH).
 - Fish Safe BC (Gina Johansen, Fish Safe BC).
 - Proposal for Standing Agenda Item – Update of Provincial Initiatives (Mark Dolomount, PFHCB).
5. Regional CMAC Fishing Vessel Safety Working Group Updates:
 - Atlantic (Lionel Comeau, TC).
 - Quebec (Simon Pelletier, TC).
 - Ontario (Michael Dua, TC).
 - Pacific (Andy Allan, TC).
6. Other CMAC Standing Committee Update – Navigation and Operations (Russ Renaud, TC).
7. Regulatory Update:
 - *Fishing Vessel Safety Regulations* (Kevin Monahan, TC).
 - Fishing Vessel Stability Study – Progress Report (Ayhan Akinturk, IOT).
8. National CMAC Working Group Reports:
 - Fishing Vessel Safety Certification and Training (Diane Couture, TC).
 - Fishing Vessel Safety Regulatory Issues (Ian Campbell, TC).
9. Government Updates:
 - TSB investigation into fishing vessel safety in Canada (Marcel Ayeko, TSB).
 - TC Marine Safety updates (Victor Santos-Pedro, TC and Ian Campbell, TC).
10. Other Business / Tentative agenda items for the next CMAC meeting.
 - Development of Fishing Vessel Inspection Standards
 - National Fishing Vessel Safety Association
 - Election of Industry Co-Chair

The meeting of the Standing Committee, co-chaired by Mark Dolomount, PFHCB and Victor Santos-Pedro, TC, was held on Wednesday, November 3, 2010. Approximately 70 people were in attendance.

1. OPENING REMARKS/ANNOUNCEMENTS

Victor Santos-Pedro opened the meeting by welcoming those in attendance and noting that, as the agenda was quite full, time would have to be managed.

2. ADOPTION OF AGENDA

The Agenda was adopted with the following changes. There would not be a regional report from Prairie and Northern Region and the update from DFO Fisheries Management under item 9 was deleted. Three items: Development of Fishing Vessel Inspection Standards; National Fishing Vessel Safety Association; and Election of Industry Co-Chair, were added under Other Business, the third being added later in the day.

3. INDUSTRY CO-CHAIR REPORT

Mark Dolomount, Industry Co-Chair, noted that it has been three years since the entry into force of the *Canada Shipping Act, 2001* and that he was both pleased with and proud of the engagement of the fishing industry in moving forward with the new Act. Mark Dolomount noted that while there are still issues with certain provisions of the *Marine Personnel Regulations*, Transport Canada has demonstrated a willingness to listen and make reasonable adjustments where required. He noted that compliance with regulatory requirements would not be where it is now without the hard work of the Transport Canada representative of the Standing Committee who help explain the requirements to their participants, and he congratulated them on their continued efforts.

Mark Dolomount also noted that regulations are not the “be all and end all” of safety and that there has been significant change in the industry, driven from within, to promote safer operations beginning before Transport Canada’s Regulatory Reform initiative and continuing unabated.

4. INDUSTRY UPDATES

The participants received updates on industry initiatives from the Canadian Council of Professional Fish Harvesters and Fish Safe BC.

Canadian Council of Professional Fish Harvesters (CCPFH) Safety Initiatives

Roy Gibbons, Marine Institute, and Tony Patterson, Virtual Marine Technology, provided a progress update on the stability training tool commissioned by the Canadian Council of Professional Fish Harvesters. Previous updates had explained the structure of the tool, broken into modules that explain stability principles using graphics, and video without mathematics, culminating in real time simulation of a fishing voyage. The demonstration gave an overview of how the user would be taught, as well as a look at how the real time simulation would look when the tool is completed – currently scheduled for March 2011.

Discussion took place on whether additional training, such as that offered by the simulator, would be of benefit to someone who had already been operating a vessel for a period of time. While the opinion was expressed that there was little benefit to be gained, as an experienced operator already knew what to expect from the vessel and how to operate it, others felt that training in the principles of stability would enhance the experience.

In response to questions, the participants were advised that the simulator could be used as a loading simulator to a certain extent, but that it would not be exact and that vessels “growing in weight” over time could be factored in.

Fish Safe BC

Gina Johansen, Fish Safe BC, provided an overview of activities that have been or are being undertaken by the organization, including: stability education; expansion of stability education to include a human factors workshop; development of a labour market profile in conjunction with the Province of British Columbia; participation in a safety forum organized by the United States National Transportation Safety Board (NTSB); and facilitating development of a new three year action plan for enhancing safety in the British Columbia fishing industry.

Gina Johansen advised that the complete proceedings and papers from the NTSB forum were available at www.nts.gov and noted that it was agreed by the forum attendees that there are certain essential components necessary to make fishing safety programs work. These are:

- Accessibility – remote locations.
- Fishing Relevant.
- Adult Education Principals.
- Funded.
- Hands on, indirect instruction, designed for ease of transferability.
- On the dock outreach.
- Fishermen trained or fishing.
- Include crew members.

John Krgovich, coordinator for the Safest Catch program, reported that Fish Safe was six months into the second year of the program, which is intended to help vessels develop and validate on-board safety programs. John Krgovich advised that 137 vessels have requested visits, 90 vessels have been visited, and 36 have fully completed the program.

He also noted that a change in attitude can be noticed among some fishermen, moving away from a fatalistic approach of “what happens, happens” to adoption of safety measures and procedures through education and awareness and cited the example of a long-time fisherman who had previously refused to wear a flotation device because he thought they were uncomfortable and increased his risk. After examining and trying on different models, he found one that he felt was suitable and now wears it, thereby sending a message to others.

Proposal for Standing Agenda Item – Update of Provincial Initiatives

Mark Dolomount noted that while reports on fishing vessel safety activities from Transport Canada Regions are on the agenda as a matter of course, reports on industry initiatives are presented on an ad-hoc basis. With a view to sharing other industry successes, he proposed that the Standing Committee Agenda include reports on industry initiatives from across the country as a standing item. It was agreed to start this on a trial basis beginning at the next National CMAC in April.

5. REGIONAL CMAC FISHING VESSEL SAFETY WORKING GROUP UPDATES

The participants received the following reports.

Atlantic Region (Lionel Comeau)

Very little activity reported during the summer period. There has been a flurry of activity in the fall period as Associations meet to discuss items of concern. It had been reported at the last CMAC meeting that Transport Canada had been requested to participate in numerous fishery advisory meetings in conjunction with the Department of Fisheries and Oceans. No meetings of this nature have occurred over this reporting period and there are none currently planned.

Joint activities with the Department of Fisheries and Oceans have however occurred at the two Regional CMAC meetings that were held in Dartmouth, Nova Scotia and St. John's, Newfoundland in September. These meetings have been renamed "Marine Day" and are jointly hosted by Transport Canada and the Department of Fisheries and Oceans. Topics of mutual concern and interest have been discussed at these sessions.

Transport Canada participated in the following meetings and events over the reporting period:

- **May 26, 2010** – Scotia Fundy Professional Fisherman's Association, training session for local coordinators. Presentation on Transport Canada current requirements and planned regulatory initiatives - Dartmouth, Nova Scotia (Lionel Comeau).
- **September 27, 2010** – Marine Day (Regional CMAC meeting) presentation on Small Fishing Vessel Regulatory update and participation in round table discussions on fishing vessel stability issues - Dartmouth, Nova Scotia (Lionel Comeau).
- **September 29, 2010** – Marine Day (Regional CMAC meeting) presentation on Small Fishing Vessel Regulatory update and participation in round table discussions on fishing vessel safety issues chaired by Mark Dolomount - St. John's, Newfoundland (Lionel Comeau).
- **October 7, 2010** – Presentation to the New Brunswick Salmon Growers Association on regulatory reforms and the *Marine Personnel Regulations*. Input into industry developed Safety Manual requested - St. George, New Brunswick (Lionel Comeau).
- **October 14, 2010** – Attendance at the Quarterly meeting of the board of directors of the Eastern Fishermen's Federation (EFF) to provide local input into regulatory matters concerning Transport Canada - Moncton, New Brunswick (Victor Santos-Pedro and Lionel Comeau).
- **October 20, 2010** – Presentation to the Grand Manan Fisherman's Association on the *Marine Personnel Regulations* and small fishing vessel initiatives - Grand Harbour, New Brunswick (Enser McNeill and Lionel Comeau).
- **October 21, 2010** – Presentation to Bay of Fundy Fishermen (Deer Island and Campobello Island) on the *Marine Personnel Regulations* and small fishing vessel initiatives - Calders Head, New Brunswick (Lionel Comeau).
- **October 27, 2010** – Presentation to the Maritime Aboriginal Peoples Council on regulatory issues regarding licensing, registration, and Regulatory Reform Project as well as small fishing vessel initiatives - Truro, Nova Scotia (Frank Ritchie and Lionel Comeau).

- **October 28, 2010** – Presentation to the Atlantic Canadian Transport Canada Small Vessel Inspectors annual meeting regarding small fishing vessel initiatives - Dartmouth, Nova Scotia (Lionel Comeau).

Items of greatest interest continue to be the implementation of the *Marine Personnel Regulations* and the impact on current operations. Mandatory 2 person operations on Near Coastal voyages, Class 2, hours of rest restrictions and watchkeeping mates are main areas of concern. Small fishing vessel initiatives appear to be waiting for detailed Transport Canada proposals on stability criteria (new Transport Canada standard “Fishing Vessel Stability Standard”) and information on designating certain fleets as traditional vessels.

It was noted the number of events that Transport Canada had attended in the Atlantic Region and it was stressed the importance of having Transport Canada personnel deliver the message to stakeholders.

Quebec Region (Simon Pelletier)

At the Transportation Safety Board workshop on fishing vessel safety held in Rimouski last February 25th, the Department of Fisheries and Oceans and Transport Canada established a working group in order to analyze various subjects that influence fishing vessel safety in relation to fishing license conditions policies of the Department of Fisheries and Oceans.

The following subjects, were raised by fishermen at that workshop:

- Department of Fisheries and Oceans fishing vessel length limitations.
- Time limitation to recover fishing gear after closing of a fishing zone or fisheries.
- Pressure imposed on fishermen by competitive quotas.
- Too short a delay between the announcement and the opening of fisheries.

The first meeting of the working group was held last September 28th and the following communication and cooperation subjects between the two organizations were also raised:

- Participation of Transport Canada and Canadian Coast Guard Search and Rescue to Department of Fisheries and Oceans consultative meetings on fisheries management plans.
- Harmonization of overall length definitions between Department of Fisheries and Oceans and Transport Canada.
- Setting up of joint committees to advise on the opening of a fishery.
- Transfer of information between Department of Fisheries and Oceans and Transport Canada about fishing licenses in order to validate vessel’s aptitude.
- Capacity of fishing vessel to carry fisheries observers.
- Fishing license on passenger vessels.

Marcel Boudreau, Raynald Gosselin, and Marcel Picard of the Department of Fisheries and Oceans Stacy Dufour, Canadian Coast Guard Search and Rescue, Guy Bussierre and Bernard Breton of Transportation Safety Board, and Robert Fecteau and Simon Pelletier from Transport Canada attended the meeting.

Analysis, proposed solutions, actions, and follow-ups of those subjects will be presented at the next Quebec Region Standing Committee on Fishing Vessel Safety in February 2011.

An MOU between the Occupational Health and Safety Commission, Quebec and Transport Canada is in the process. A meeting was held with the Commission about protection against falling overboard, height of bulwark or railing, safe work procedures, and the obligation under certain circumstances to wear a personal floating device. The Commission requires workers to wear a PFD when working near water with a less than 1 meter protective railing.

Further to the question of Marilyn French-St. Georges, Transportation Safety Board, at the last CMAC meeting on the high rate of participation in the Quebec Region self-verification program for small fishing vessels not exceeding 15 GT. The program, which is voluntary, started in 2006 after a pilot program in 2003. At this time, 356 small fishing vessels are registered in the self-verification program and the rate of participation is still 50% for the 2010 season.

According to Bernard Leclerc, marine safety inspector in charge of the program, the high rate of participation is due to the continuous fieldwork of our inspectors, regional management priorities, and good collaboration with the fishermen since the start of program. Since 1999, more than 725 first inspections of those vessels by Transport Canada were made.

Fishermen were then informed on the applicable regulations, requirements and safe working practices helping forging a new safety culture adapted to the operation of those small vessels. A comment was made following the report by the Quebec Region, on the connection between the Department of Fisheries and Oceans licensing policy and safety issues and the need to continue to make progress in linking the two.

Ontario Region (Michael Dua)

It has been another flat year in Ontario Fishery due to quotas and flat prices. Transport Canada records indicate that of 142 fishing vessels over 15 gross tonnage registered in Ontario, only 71 will be in possession of an inspection certificate at the end of this year, which supports the foregoing. It is recognized that several vessels have recently been transferred to first nation owners. Recent increases in staffing levels have allowed the Region to start consultation with the native fishers and Ontario anticipates being able to:

- Produce a safety checklist.
- Work with the First Nations Police to identify the requirements.
- Establish a partnership with First Nations Fishing Operations.
- Conduct a pilot project with a native fishing vessel.
- Promote the success of the pilot project.

These staffing levels will also allow the Ontario Region to more closely monitor the commercial fleet to ensure compliance with requirements of the *Canada Shipping Act, 2001* and to hold further consultative fora to discuss the implications of the new proposed *Fishing Vessel Safety Regulations*. The Ontario Region has also implemented a program to embrace the small fishing vessels of 15 gross tons and less that are not required to hold an inspection certificate, but nevertheless must still comply with the CSA 2001:

- Difficulties encountered with trying to identify/locate the commercial fishing vessels that are 15 gross tons and less, as this class of vessel was not required to undergo a mandatory inspection and therefore no database exists within Transport Canada to identify them.
- It is believed these vessels are not aware of the requirement to transfer the pleasure craft licence over to the Small Commercial Vessel Registry, thus adding to the difficulty in identifying them.
- Over late summer/early fall, through partnership with the Ministry of Natural Resources and reviewing Transport Canada's Vessel Registry Query System, 44 possible commercial fishing vessels less than 15 gross tons were able to be identified in Ontario Region.

Eighteen (18) of these vessels have been sent letters containing:

- Authorized Representative/Owner responsibilities under 106 of the CSA 2001.
- Requirements and forms to Register in the Small Vessel Registry.
- Part II of the *Small Fishing Vessel Inspection Regulations*.
- Small Fishing Vessel Safety Manual.

Three (3) owners have responded.

Pacific Region (Andy Allan)

Two hot issues exist on the West Coast. They are:

- The Officer of the Watch requirement for small fishing vessels that comes into force on November 7, 2010. The lack of funding for training, accumulation of sea time and the accumulation of sea time for certificate renewal means it is not possible in most fisheries to meet this requirement due to contracted fishing seasons.
- There is considerable concern over the stability assessment triggers, which would require a full stability assessment of approximately 90% of the West Coast Fleet, with only a handful of gillnetters and trawlers requiring a simplified version.

Following a presentation of the consultation paper for the proposed *Fishing Vessel Safety Regulations* at the Regional CMAC meeting in September, Transport Canada convened a meeting in response to requests from industry to discuss the proposed Regulations in greater detail. With representatives from Headquarters and the Pacific Region in attendance, many industry participants took part in a lively discussion.

Since the spring CMAC meeting, 120 commercial fishing vessels were inspected in the Pacific Region.

The Fishing Vessel Stability Questionnaire and Modifications form are being used extensively throughout the Region. Wherever required, as a result of the assessment, the vessel owners have been asked to have their stability re-assessed.

The Pacific Region has developed an Inspection Booklet for the information of fishermen regarding the inspection process. This has been done in collaboration with Fish Safe and the Transport Canada Regional Communications Department.

Pacific Region representatives have participated in meetings with Work Safe BC, Fish Safe, the Department of Fisheries and Oceans, Mutual Marine, etc.

A guide for fishermen has been developed which outlines the most common deficiencies found by Pacific Regional inspectors during annual and quadrennial inspections.

Lastly, to close on a high point, the Fraser River Sockeye Salmon run was the largest in 100 years, with over 35 million fish returning to the Fraser River. Gillnets and seines involved in the fishery enjoyed a good season as compared to recent years.

6. OTHER CMAC STANDING COMMITTEE UPDATE - NAVIGATION AND OPERATIONS

Russ Renaud, Transport Canada, provided the participants with an overview of items discussed at the meeting of the Standing Committee on Navigation and Operations.

He noted that:

- Mandatory reporting for vessels in the Canadian Arctic waters over 300 gross tonnage, including fishing vessels, had entered into force in July 2010.
- *Voyage Data Recorder Regulations* will soon be pre-published for comment and advised that only a few very large trawlers may be affected.
- The proposed *Navigation Safety Regulations* were undergoing prioritization.
- Presentations on e-navigation and satellite detection of Automatic Identification System Search and Rescue Transmitters (AIS SARTs) had been provided for information.

7. REGULATORY UPDATE

Fishing Vessel Safety Regulations

An update on the status of the proposed *Fishing Vessel Safety Regulations* was provided by Kevin Monahan, Transport Canada. Drafting instructions for Parts 1 & 2 of the proposed Regulations had been distributed by email in advance of the meeting and these were reviewed at the meeting of the Working Group on Fishing Vessel Safety Regulatory Issues. Part 1 contains definitions, general provisions, and provisions for stability. Part 2 contains construction requirements for fishing vessels that are less than 9 metres in length overall or that are propelled by inboard gasoline engines or outboard motors.

These drafting instructions are a significant change from previous versions. They are shorter because they do not include guidelines or material relocated to technical standards. They also contain more detailed proposals for stability, including documentation and records, and they have an increased emphasis on owner responsibility. Drafting instructions for Parts 3 & 4 of the proposed *Fishing Vessel Safety Regulations* were not available for this National CMAC meeting, however they will be distributed by email when they are ready. Not much difference from previous versions is expected for Parts 3 & 4.

Discussion on the Cost/Benefit Analysis being carried out took place, and it was noted that certain provisions may need to be revisited depending on the results of the analysis. Queries on specific clauses in the drafting instructions were posed and members were urged to forward any such queries, and any supporting information or proposals, in writing to Kevin Monahan in order that they can be properly considered.

With respect to mandatory maximum draft marks and penalties for submerging the marks, Kevin Monahan explained that while it is proposed that the marks be mandatory, there is nothing in the proposal that makes failure to observe the marks an offence. The intent is to that by having the marks on the vessel, the master will more readily use them as guidance.

Kevin Monahan noted, as previously advised, that it is proposed to require existing vessels to comply with critical safety measures.

An on-going area of concern, and one for which assumptions for costs and benefits will be scrutinized, is stability assessment of existing vessels.

Fishing Vessel Stability Study – Progress Report

Ayhan Akinturk, Institute of Ocean Technology, provided an overview of the methodology for developing a tool to determine whether certain fleets could be exempted from full stability assessments.

Ayhan Akinturk explained that the assessment is based on fleet history (duration, incident history, etc.) and design considerations. Human factors are not taken into account. He noted that while certain items will disqualify a fleet, some of these items, such as carriage of liquid cargo, need to be revisited. A review of the tool's structure was provided and it was noted that work on the project is on going.

8. NATIONAL CMAC WORKING GROUPS REPORTS

The report of the Working Group on Fishing Vessel Safety Regulatory Issues was provided by Ian Campbell and is attached as Annex A.

Some discussion took place with respect to mandatory wear of floatation devices or lifejackets on deck. Mark Dolomont encouraged all participants to discuss the issue with their associations and come to a position for the next CMAC meeting.

Diane Couture presented the report of the Working Group on Fishing Vessel Safety Certification and Training, which is attached as Annex B.

Throughout the day, concern with certain manning requirements was voiced, in particular requirements for a certified Officer of the Watch. Specifics of the difficulties being encountered by industry in meeting these requirements were discussed. Discussion on the issue of Canadian numbers to seafarers also took place.

9. GOVERNMENT UPDATES

TSB Investigation into Fishing Vessel Safety in Canada

Marcel Ayeko, Transportation Safety Board, provided an update on the TSB investigation into fishing vessel safety, prefacing his remarks with the proviso that the contents were preliminary and should be taken as personal opinion. Marcel Ayeko noted that the TSB has issued a Watchlist of items of concern, of which one is safety of small fishing vessels and added that there were 11 fishing vessel fatalities last year, with 10 fatalities in 2010 to the end of October.

Marcel Ayeko informed the participants that the TSB team has talked to groups of fish harvesters and other stakeholders across the country and is analyzing incident data in order to develop an overall picture of the elements, such as economic conditions, regulatory framework, and fisheries resource management programs, that impact upon fishing vessel safety. Marcel Ayeko highlighted findings of TSB investigations into fishing vessel incidents (below) and indicated that TSB would also be considering the economic context of the industry on safety:

- Stability related issues.
- Inadequate life saving equipment.
- Training and awareness.
- Unsafe loading and operating practices.
- Operating in extreme weather conditions.
- Fishery Resource management /Economic pressure.
- Inadequate inspection and enforcement.
- Work-Rest schedule and Fatigue.
- Watertight integrity / Opening and unsecured hatches.
- Unsafe operating procedures/practices - Code of best practices.
- Issues associated with inadequate vessel stability.
- Promotion of Safety culture.
- Carriage and use of life-saving appliances and equipments.
- Impact of fishery resource management plan and practices on the overall safety of fishing vessels.

Marcel Ayeko noted that the challenge of the report would be to articulate the various issues and considerations and see if there is a way to entrench safety objectives alongside fisheries sustainability and business objectives in the decision-making process. The next steps are: preparation of the initial report; internal and external review; then approval by the Board. The report is expected to be published in the first quarter of 2011.

TC Marine Safety Updates

Brief updates on fishing vessel safety activities by Transport Canada Headquarters staff were provided. Victor Santos-Pedro noted that he had attended the Annual General Meeting of the Eastern Fishermen's Federation in Moncton in October and Ian Campbell gave an update on participation in the IMO Working Group on Fishing Vessel Safety Issues.

Ian Campbell reminded the participants that Canada, in order to keep abreast of and influence developments at the international level, participate in various international fora, including the International Maritime Organization. He advised that he had attended a meeting of a working group of the IMO Sub-Committee on Stability, Load lines and Fishing Vessels (SLF) established to deal with fishing vessel safety issues. The working group is preparing the way to implementing the 1993 Torremolinos Protocol on the 1977 Torremolinos International Convention for the Safety of Fishing Vessels and at the last meeting concentrated on the issues relating to the implementation of the Protocol. The main issues discussed were the scope of domestic vessel exemption (i.e. inside the Exclusive Economic Zone), length to tonnage equivalencies, and possible amendments to the formula for bringing the protocol into force.

10. OTHER BUSINESS / TENTATIVE AGENDA ITEMS FOR THE NEXT CMAC MEETING

Development of Fishing Vessel Inspection Standards

Ryan Coates, Transport Canada, gave the participants a status update on a project recently kicked off to develop inspection standards for fishing vessels up to 24 metres in length. The aim is to provide a tool that can be used – by industry as well as inspectors – that will help determine compliance and maintain compliance.

National Fishing Vessel Safety Association

At the request of some participants, Merv Wiseman, Canadian Coast Guard Search and Rescue, spoke about his experience with national safety associations. Merv Wiseman has been involved, over a period of some years, with the Canadian Agriculture Safety Association (CASA) and is currently Chair of the National Sector Council for Agriculture.

Merv Wiseman advised that CASA has proven to be very effective as a stand-alone NGO with a mandate to address safety issues that are common in the agriculture industry. He noted that if such an association were to be proposed for the fishing vessel industry, grassroots interest and support would be essential. He also noted that the association would have to be based on certain principles and advised that some of the benefits that had come out of CASA include: promotion of collaboration among provincial and regional agencies and organizations; a national database; national safety week; safety information dissemination; and research projects.

A brief discussion followed, with comparisons to the work that is carried out by the Canadian Council of Professional Fish Harvesters. It was suggested that a concept paper would assist if the matter were to be discussed further.

Election of Industry Co-Chair

Victor Santos-Pedro advised that Mark Dolomount's two year term as Industry Co-Chair was expiring this CMAC meeting, and that accordingly, industry representatives should consider electing a new Co-Chair.

Gina Johansen nominated Mark Dolomount, seconded by Ronnie Heighton. There were no other nominations.

With a show of hands indicating great support, Mark Dolomount was re-elected for a further two-year term.

Approved by:

*Mark Dolomount, Professional Fish Harvesters Certification Board of Newfoundland and Labrador,
Standing Committee Co-Chair*

Victor Santos-Pedro, Marine Safety, TC, Standing Committee Co-Chair

ANNEX A
REPORT OF THE WORKING GROUP ON FISHING VESSEL SAFETY
REGULATORY ISSUES

The Working Group met on November 2, 2010 all day in order to allow full discussion of a busy agenda.

The Agenda was approved with the addition of a new item under Other Business - a review of comments received following the recent meeting of the BC Fish Safe Advisory Committee.

Kevin Monahan, Transport Canada, provided an update on the status of the new proposed *Fishing Vessel Safety Regulations*. The proposed Regulations are anticipated to be pre-published in Part I of the *Canada Gazette* the spring of 2012. The independent Cost Benefit Analysis is nearing completion and a presentation will be made available when complete.

The next item on the Agenda was a comprehensive review and discussion of the revised drafting instructions dealing with Part 1 and Part 2 of the new proposed *Fishing Vessel Safety Regulations*. The discussion included new items from the floor, as well as items submitted and accepted under the adoption of the Agenda. Questions and comments can be summarized into main areas of concern including:

- the future of the inspection regime;
- safety equipment standards;
- safe operating procedures; and
- vessel stability requirements.

On the matter of fishing vessel inspection regime, it was explained that this will not be found in the proposed *Fishing Vessel Safety Regulations*, rather it will be dealt with separately as part of Transport Canada's overall plan for domestic vessel regulation oversight. The industry noted its concern on how this will work for fishing vessels and when the inspection plan will take effect. It was agreed that the previous work and recommendations of the Fishing Vessel Working Group regarding inspection received would be forwarded to the appropriate Transport Canada OPI and the CMAC Working Group of domestic industry issues for their consideration and response.

On the matter of foreseeable safety equipment standards such as lifejackets, PFDs, immersion suits, etc., all comments were noted and it was explained that the standards for such equipment relating to product approval were beyond the scope of the Working Group to change directly, however questions and comments were forwarded to the appropriate OPI and Chair of the CMAC Working Group on equipment. Serge Théorêt attended the meeting to answer questions regarding the acceptance of SOLAS safety equipment and alternate measures such as substitute safety equipment. Clauses in all of the proposed Regulations, which allow for review by an expert group of submissions. One-question remains regarding the anti-exposure work suit standards on which Serge Théorêt will report back to the group.

On the matter of safe operating measures, many good comments were received and will be duly considered based on the experiences of those within the industry, who know well. The industry was commended in general and the Working Group in particular for its support of the importance of using PFDs or lifejackets while on deck where there is a risk of falling overboard and drowning. A proposal to amend the wording of the proposed regulatory text was discussed and further comments will be provided. Questions related to towing operations and emergencies were assessed and Section 521 of the *Small Vessel Regulations* is incorporated by reference for fishing vessels. It was recommended that the proposed regulatory text be revised to include the provisions of 521.

On the matter of fishing vessel stability, which has been identified as a matter of major importance and risk by the TSB in numerous recommendations, Ayhan Akinturk, Institute of Ocean Technology, provided an update of the project dealing with the stability of very low risk fishing vessels. Following the presentation, there were many questions and comments mostly about concerns that the tool would not be inclusive enough to cover many fishing vessel fleets. It was explained that the tool is not yet finalized and that the presentation was about the methodology and logic model. Details such as automatic disqualifiers, acceptance range, and limitations are still under review and discussion and can be revised. However, it was explained that there is a reality that not all fishing vessels or operations can be considered traditional or very low risk. The industry recommended that the tool be validated by means of a field trial. The suggestion was taken under advisement. On the relationship of the study to the regulatory requirements, it was re-iterated that exclusion from using the tool based on whatever reason, did not automatically mean a particular sort of vessel would require a full stability assessment. The simplified stability assessment will also be an option for some vessels. There was discussion as to what constitutes a fleet for the purposes of the very low risk tool, and it was explained that it is not meant to cover only identical vessels/operations. Each type however must be looked at from a risk perspective. There will be a range of acceptability. There were several questions related to draft markings on fishing vessels that will be taken into consideration by the Transport Canada Project Team: such as colour, location, etc., and reported back.

Much discussion took place regarding the treatment of vessels carrying liquid cargo as it relates to the requirement for stability assessments and this will be looked at closely by the Institute of Ocean Technology.

James Craig, Naval Architecture Engineering Co-op Student on assignment from Memorial University, provided a presentation on the comparison of the existing *Large Fishing Vessel Regulations* to the 1993 Torremolinos Protocol and International Convention for the Safety of Fishing Vessels 24 metres in length and more.

ANNEX B
REPORT OF THE WORKING GROUP ON FISHING VESSEL SAFETY
CERTIFICATION AND TRAINING

The Working Group on Fishing Vessel Safety Certification and Training was held on November 1, 2010. Diane Couture, the Chair, introduced herself and the other members of the team from headquarters. She also mentioned that Denis Bélanger would be assisting her during the meeting.

At the outset of the meeting, Diane Couture remarked that since the last meeting in April 2010, Marine Safety Standards and Pilotage have moved forward on two outstanding items. She mentioned that these items are outlined in the program and further information will be provided during the discussions of the relevant agenda items. She further remarked that they would be working on developing new standards and requirements as well as making the necessary adjustments to the *Marine Personnel Regulations* so that it would be compatible with the STCW-F Convention.

The agenda was approved with a minor modification. Mark Dolomont, Professional Fish Harvesters, wanted to have some clarification regarding the watch keeping requirements during the discussions of vessels of up to 15 tonnage and not more than 12 meters. The Chair agreed to the suggestion. Also, a request to increase from 100 to 150 GT the limitations of the certificate of service as Watchkeeping Mate of the watch keeping was added for discussion.

Update on STCW-F Convention

The Chair mentioned that during last two CMAC meetings, they presented the new certification structure under the STCW-F Convention, and she has tabled copies of said presentation for the benefit of those who were not present during the last meetings.

It was further mentioned that they are now in the process of working on the new elements and modifications necessary to make the *Marine Personnel Regulations* compliant with the provisions of the STCW-F Convention. She provided a brief description of items they are working on currently. The necessity to establish new standards for the Simulated Electronic Navigation training course in keeping with the STCW-F Convention was mentioned. In addition, the necessity to add certain new competencies in appropriate vital subjects was mentioned. Certain modifications to some exams were also mentioned. Establishing the new format and the content of the new certificate of competency issued under the STCW-F Convention is also a priority.

Bob Kitching, Maritime Education Associates/Western Maritime, wanted to know the status of the current certificate holders after the new certification process and new competencies come into effect. The Chair responded by stating that the existing certificate holders do not have to satisfy the new requirements during the renewal process, but if they want to obtain a superior certificate they may have to satisfy the new requirements and acquire the new competencies. Chris Cue, Canadian Fishing Company, wanted to know why persons who work only in domestic waters have to obtain these new competencies when they are not really relevant for their work. The Chair responded by stating under the new process all certificates are STCW-F compliant and therefore they need to acquire the knowhow and the competencies even though they may not use those competencies on a daily basis.

Update on Policy: Masters and Officers of fishing vessels of up to 15 GT or not more than 12 metres in overall length engaged in a near coastal voyage, class 1

The policy was submitted to the Marine Safety Executive Committee on October 25, 2010 and they approved the policy. Therefore, the people who were operating in near coastal 1 within 50 miles prior to 2007 will be able to continue operating in those waters in which they acquired their experience with a SVOP. There will be a Ship Safety Bulletin published to inform the industry. The Chair specifically pointed out slides 5, 6 and 7 of the presentation, which gave more specific details.

The question was asked whether some consideration could be given to those vessels which are marginally under 15 tonnage or slightly under 12 meters to take the certificate of service as a master if they qualify with 7 fishing seasons or with one year of sea time. The response from the Chair was that it is not possible, as one should operate within limits already established. The contention was that in the West Coast, most vessels fish as a part of a fishing fleet and some vessels could be slightly over or below the established guidelines and this slight difference could make a substantial difference in where they could operate.

It was mentioned that these provisions relating to vessels of less than 15 T and less than 12 M will enter into force on November 7th, 2015, although some vessels will be affected in 2012. A brief explanation of the documentation required such as Testimonial of Sea Service or declaration of 7 fishing seasons as a master of a fishing vessel less than 15 T or 12 M followed.

Questions were asked as to whether the documentation necessary is available in Regional Offices and if not, when would they be available. It was explained that as the policy was approved only two weeks ago, the forms are a work in progress. It was further explained that once the documentation is finalized it would take some time to format the documents in accordance with the Transport Canada standards. Another question was posed regarding a vessel less than 15 T but more than 12 M long; the person wanted to know whether the policy still applied to such a vessel. The answer was yes, because according to the policy, it's 15 T or 12 M, which means either aspect could qualify the vessel for the purpose of the policy. A clarification was also sought as to the definition of the term fishing season. It was mentioned that a fishing season could be a day, a month or a week. It seems there is no strict definition as to the time duration.

New Testimonial of Sea Service for Fishing Vessels

Before discussing this item of the agenda, a presentation was made about a tool developed by the Quebec Regional office. The tool was designed on the basis of answering a series of yes and no questions; one could this way obtain information relating to certification required. The presenter explained the rationale for developing the tool to assist the fisherman with identifying the required certification process by stating that during the last year they received many phone calls from fishermen asking about the needed certificates and the process to obtain them. Therefore, the need to create a simplified process by which the fisherman will be able to identify the requirements themselves was considered essential. He emphasized the fact that the tool is still a work in progress, and as such, nothing is finalized yet but when it is implemented it will benefit many fishermen. He demonstrated the use of the application to the participants.

There was a very enthusiastic reception to the proposed application; a few remarked that such a tool should have been available sooner. A few suggestions were made to further develop the application; for example, Mark Dolomount suggested that by including the ability to print the relevant forms etc, one could improve the usefulness of the application further.

The presenter also mentioned that they are in the process of developing an information letter to their clients, which contains pertinent information regarding certificates of competencies, etc.

After the aforesaid presentation, the Chair made a brief explanation of the Testimonial of Sea Service. It was pointed out that this form should be signed by the master of the vessel or the owner of the vessel. A draft copy of the form was available for the perusal of the participants. A copy of the Statement of Qualifying Service and a copy of the application for fishing vessels Certificate of Service were also available.

A question was asked as to the reason why it is necessary to mention the fishing areas in the Statement of Qualifying Service. It was explained that a Certificate of Qualifying Service cannot be unlimited voyage and therefore one should explain where they acquired the experience. The Chair further remarked that the forms in their final format might look different, as they are still working on the final product.

Administrative Monetary Penalty System

Frank Ritchie, Transport Canada, made a detailed presentation regarding the Administrative Monetary Penalty System (AMPS). First, he explained the rationale for applying a system different to the normal judicial structure of the country. According to him, normal courts are not properly equipped to handle specialized matters such as violations under the *Canada Shipping Act, 2001*. He also mentioned that a civil penalty is not a fine, it is a means used to enforce a regulatory system, such as compliance with a safety regulation. It is a less expensive process and less time consuming.

Then he went on to detail various steps of the process such as the initial notice of violation, compliance with the initial notice or demand for a review by the TATC, hearing before the Tribunal, etc. He also mentioned that the proof of liability before the Tribunal is a balance of probability and not beyond reasonable doubt as in criminal prosecutions. He also talked about the Assurance of Compliance. According to him, this is an alternative to the notice of violation, where the violator agrees to remedy the situation in accordance with terms and conditions contained in an agreement, which he enters into with the government. He pointed out that if the violator does not remedy the situation in accordance with the agreement, the penalty would be twice the amount of the original penalty. He highlighted sub-section 238(2) of the *Canada Shipping Act, 2001*, which hold the agents, employers, and owners of the violators liable under the AMPS.

Some of the participants wanted to know whether there is a catalogue or a database of the decisions under AMPS. Frank Ritchie stated that he did not have the time or the resources to create such a repository although he realizes the need and the usefulness of such an attempt. However, another participant stated that the TATC website contains some decisions of the Tribunal.

Chris Cue, Canadian Fishing Company, expressed the concern that due to issues like sustainability and transformation of the nature of fishing etc, the fishing industry may find it difficult to comply with some of the regulations in the future. Another comment was made regarding the speech by the Director General during the morning session, where he emphasized the importance of working together with the private sector to achieve compliance; the person went on to state that he does not feel the friendly cooperation that the Director General talked about.

Radio Certificates

The Chair mentioned at the outset that the reason for this discussion was a request from the industry to know about various certificates required on board vessels and with different certificates of competencies. The Chair used a PowerPoint presentation to explain various types of radio certification required by the *Marine Personnel Regulations*. She also discussed the validity periods and which certificates are superior to others. It was mentioned the type of certification required depends on the type of voyage that the vessel is engaged in. The *Ship Station (Radio) Regulations, 1999*, was mentioned. The composition of a radio watch in the sheltered waters was discussed. Radio certification for passenger carrying vessels was also discussed as some of the fishing vessels also carry passengers during the off-season.

Reference was made to section 266 of the *Marine Personnel Regulations*. Section 266 applies regarding vessels engaged in voyages beyond the sheltered waters. The different requirements in the different Sea Zones was also discussed.

Reminder of the entry into force in November 2010 of: a) The certification of Master and OOW on board fishing vessels of 60 GT or less and more than 13 m but not more than 14 m in overall length; and b) Certification of OOW on board fishing vessels of 60 GT or less and more than 14 m

The Chair drew the attention of the participants to the Schedule under section 212 of the *Marine Personnel Regulations*, which mentions the entry into force of the Master certification and Officer Certification for vessels less than 60 GT; November of this year the provisions come into force for vessels less than 60 GT and more than 13 m and less than 14 m. The Chair also reminded participants that the entry into force of Officer Certifications for vessels less than 60 GT and more than 14 m was delayed by two years in 2008; hence they will be coming in to force as well.

Other Business

The Chair talked about the draft of the Ship Safety Bulletin; she mentioned that during the last CMAC meeting, the Marine Safety Executive Committee approved the policy, which reflects the same information in the bulletin. The Ship Safety Bulletin is in a draft format and it will be posted within the next few days. These are the requirements to obtain the certification for a watch keeping mate on a vessel of not more than 150 GT and less than 24 m in overall length. According to the Chair, to obtain this certification, one should have a minimum of 6 months of sea service or (new option); at least 3 months of sea service and the completion of an approved training program. Further discussion took place about the different options available; the information is available in the Ship Safety Bulletin.

Various approved training courses and the development of different examinations was also discussed. Validity of the certificates and the renewal process was also mentioned.

One of the participants from the West Coast wanted to place on record the fact that the amount of training required from someone who works on fishing vessel is over zealous, and they are finding it extremely difficult to comply with these training requirements. The Chair mentioned that Naim Nazha, Director of Personnel Standards and Pilotage, would be discussing the difficulties encountered by persons relating to training requirements with the Regional Directors. The Chair further emphasized the importance of complying with the existing regulations and the importance of having a conformity plan instead of postponing the application of regulations.

The next item of discussion was the validity of the fishing master class certificate and the participants from the West Coast requested this. It was requested that the requirement of Fishing Master 4 certification be moved up to 150 GT from 100 GT vessels. Several speakers from the West Coast spoke in favour of this request. They outlined some difficulties they face in complying with these requirements. Some pictures of fishing vessels were displayed to show how a vessel of 100 GT and one of 150 GT might look similar. Also, it was stated that there are regional differences, which have not been taken into account. The Chair pointed out that there are nearly 246 vessels, which have been successful in obtaining the required certifications throughout the country. Further, taking into account the recommendations from the Transportation Safety Board, one should attempt to comply with the regulations. The Chair also pointed out that going back many years and lowering standards is not acceptable.

The following difficulties were pointed out by several speakers from the West Coast: difficulty in convincing crew members to go back to school; inability to interchange crew members on vessels which are almost similar in nature; economic difficulties faced by the fishing industry at the moment; and the lack of new entrants entering into the profession.