Establishing proper fishing vessel governance and control in the CCAMLR Area

Submitted by ASOC
ESTABLISHING PROPER FISHING VESSEL GOVERNANCE AND CONTROL IN THE CCAMLR AREA

ASOC

Abstract

The growing number of serious incidents involving fishing vessels in the CCAMLR Area warrants immediate action on an appropriate range of initiatives both by CCAMLR and by CCAMLR Members. In this paper, ASOC identifies a suite of actions necessary to improve the safety of fishing vessels operating in the Southern Ocean and thereby improve the safety of life at sea and reduce the potential for adverse impacts on the environment. In particular,

ASOC proposes:

- updating and amending existing Conservation Measures to require all fishing vessels in the CCAMLR Area to have an IMO number and to fully participate in the IMO numbering scheme;
- developing new Conservation Measures requiring CCAMLR Members to report to CCAMLR on all aspects of a vessel incident in which they have any involvement;
- adopting a Conservation Measure which updates the provisions of CCAMLR Resolution 20/XXII on ice strengthening standards; and reviewing and upgrading CCAMLR Resolution 33/XXX to a binding Conservation Measure that requires fishing vessels operating in the CCAMLR Area to provide contact details to the relevant responsible MRCC; and
- adopting a new CCAMLR Resolution urging CPs to ratify and implement the “Torremolinos Protocol Amendment Agreement” to be adopted at the IMO Diplomatic Conference in Cape Town, South Africa.

These measures should be accompanied by complementary actions which would include convening an intersessional workshop to prepare recommendations on appropriate measures for CCAMLR to adopt immediately to enhance safety and wellbeing for fishing vessels and their crews operating in the CCAMLR area; and inviting interested CPs to commission a report that identifies responsibilities and obligations under international law with respect to basic human rights including employment and working conditions and report back on appropriate steps that CCAMLR could take to help states ensure that fishing vessels in the CCAMLR Area operate in conformity with obligations in international law.

Introduction

In the past decade a significant number of vessel incidents, including some involving fishing vessels, have focused attention on operations in Antarctic waters, resulting in a range of policy responses. One response was the introduction by the International Maritime Organization (IMO) of a ban on the use and carriage of heavy fuel oils by vessels operating south of 60 degrees South. Another IMO response is the ongoing development of a mandatory Polar Code for SOLAS vessels1, where the intention is to address non-SOLAS vessels including fishing vessels during a second phase of work.

Meanwhile, notwithstanding IMO’s stated ambitions to eventually include fishing vessels in the Polar Code, the growing number of serious incidents involving fishing vessels in the CCAMLR Area

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1 All commercial vessels are categorised as either SOLAS or non-SOLAS. A SOLAS ship is any ship to which the International Convention for the Safety of Life at Sea 1974 applies and it covers passenger ships engaged on international voyages and non-passenger ships of 500 tons gross tonnage or more engaged on an international voyage. In addition, passenger ships of 45m or more in length and non-passenger ships of 45m of more in length which proceed beyond restricted limits and self-propelled mobile offshore drilling units of 500 tons gross tonnage or more are also treated as SOLAS ships even though they do not meet the SOLAS criteria. Non-SOLAS ships encompass all commercial vessels that don’t fit within the definition of a SOLAS ship and include fishing vessels and yachts.
warrants immediate action on an appropriate range of initiatives both by CCAMLR and by CCAMLR Members. There have been particular problems in the Ross Sea toothfish fishery, where the Korean flagged Insung No.1 fishing vessel sunk with the loss of 22 lives, and the Korean flagged Jeong Woo 2 caught fire with the loss of three lives. In addition the Russian flagged fishing vessel, Sparta, has been holed by ice, the UK flagged Argos Georgia broke down and was adrift for a number of days, and a further two vessels have suffered cracked hulls - the Antarctic Chieftain and the Sonrisa.

**Requiring Submission of Fishing Vessel Incident Reports**

While the responsibility for incident response, monitoring of pollution, investigation into an incident and the delivery of recommendations arising from the investigation lies primarily with the individual flag State and the relevant State with search and rescue (SAR) responsibilities, ASOC submitted a paper to ATCM XXXV calling on Antarctic Treaty Parties, regardless of whether the vessels involved are flying the flag of a Party or not, to meet responsibilities under the Environment Protocol to report to the ATCM following any incident. This should cover emergency response action and the outcome of monitoring to assess the extent and impact of pollution that they might have been involved in or responsible for. ATCM XXXV adopted Resolution 7 (2012) Vessel Safety in the Antarctic Treaty Area, which recommends that Antarctic Treaty Parties should report annually to the Committee for Environmental Protection (CEP) on responses to environmental emergencies involving vessels flagged to Parties that operate in the Antarctic Treaty area. ASOC submits that CCAMLR Contracting Parties (CPs) have similar responsibilities to Parties to the Antarctic Treaty.

ASOC therefore calls on CCAMLR to:

- Adopt a Conservation Measure that requires CCAMLR CPs, whether as flag states, as states with SAR responsibilities or otherwise with nationals involved in any incidents involving fishing vessels operating within the CCAMLR Area, to report to CCAMLR on all aspects of a vessel incident in which they have any involvement – the initial incident and consequences, extent and impact of associated pollution, monitoring programmes to determine the impact of pollution, investigations into the incident and subsequent efforts to implement recommendations arising from investigations.

- Include careful consideration of CPs’ reports as a standing item on the SCIC agenda with a view to identifying any further action that might be required or recommended either for CCAMLR or for Members.

- Agree to submit reports arising from CCAMLR’s reviews to the Committee for Environmental Protection (CEP).

**Mandating Participation in IMO Numbering Schemes**

ASOC welcomes CCAMLR’s leadership in requiring all toothfish vessels fishing in the CCAMLR Area to have an IMO number through the newly revised CM 10-02 (licencing requirements). CPs are required to provide this information to the Secretariat within seven days of the issuance of each licence. The Secretariat is then required to maintain a list of licensed vessels notified to it on the public section of the CCAMLR website.

To ensure full identification of vessels fishing in the CCAMLR Area and full transparency of operations, the requirement for vessels to have an IMO number should be extended to all vessels fishing for any CCAMLR species.

ASOC calls on CCAMLR to amend CM 10-02 to:

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3 ATCM XXXV IP 53 Follow-up to Vessel Incidents in Antarctic Waters
• Require all fishing vessels in the CCAMLR Area to have an IMO number and to fully participate in the IMO numbering scheme, thus ensuring that a consistent, best practice fishing vessel management scheme applies to the whole CCAMLR system.

• Require that IMO numbers are used in all communications between the Secretariat, CCAMLR Members and interested States concerning fishing vessel operations, inspections and other relevant matters.

**Mandating Ice Strengthening Standards**

At ATCM XXXV, Antarctic Treaty Parties adopted Resolution 7 (2012) Vessel Safety in the Antarctic Treaty Area encouraging CCAMLR Members to implement CCAMLR Resolution 20/XXII calling on Members to licence only those fishing vessels with a minimum ice classification standard ICE-1C to operate within the Antarctic Treaty area. In light of the number of fishing vessel incidents in CCAMLR waters, some involving loss of life and pollution of the marine environment, ASOC submits that the time has come for CCAMLR to adopt binding measures to increase fishing vessel safety in these remote and hazardous waters.

ASOC calls on CCAMLR to:

• Adopt a Conservation Measure, which incorporates and updates the provisions of CCAMLR Resolution 20/XXII.

**Requiring Licenced Fishing Vessels to Report Positions to Relevant Maritime Rescue Coordination Centres (MRCCs)**

Chile has previously proposed that fishing vessels operating in the CCAMLR Area should routinely report to the relevant Maritime Rescue Coordination Centres (MRCC). CCAMLR subsequently agreed that such vessels should report to the relevant MRCC only when entering and leaving the CCAMLR Area but not when moving between different MRCC areas of responsibility within the CCAMLR Area.

Chile has also raised this issue at the ATCM with respect to any vessels operating within the Antarctic Treaty area. It noted that there is an urgent need for development of a communications system managed by the Antarctic Treaty Secretariat or one of the Maritime Rescue Coordination Centres (MRCCs) with Southern Ocean responsibilities that would allow real time information exchange to improve decision-making processes in respect of response to emergency situations.

At ATCM XXXV, Antarctic Treaty Parties also adopted Resolution 7 (2012) Vessel Safety in the Antarctic Treaty Area, which requests CCAMLR Members to remind operators of their flagged fishing vessels of the IMO Global Search and Rescue Plan. The Resolution urges CCAMLR Members to provide or encourage fishing vessels under their flag to make available their contact details and other relevant information to the responsible MRCC in advance of entering the Antarctic Treaty area in line with CCAMLR Resolution 33/XXX. Likewise, however, there is no reference to the need to notify relevant MRCCs when moving between different MRCC areas of responsibility within the Antarctic Treaty Area.

ASOC calls on CCAMLR to:

• Review and upgrade CCAMLR Resolution 33/XXX to a binding Conservation Measure that requires that all fishing vessels operating in the CCAMLR Area to provide contact details and other relevant information to the relevant responsible MRCC and to undertake positional reporting to that MRCC on a daily basis.

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4 ATCM XXXV_wp063 Exchange of real time information of the maritime traffic in Antarctica.
Securing a Torremolinos Protocol Agreement in Cape Town and extending the IMO Polar Code to Fishing Vessels

The IMO has convened a Diplomatic Conference for early October 2012 to adopt a new legally binding agreement on the implementation of the 1993 Protocol relating to the 1977 Torremolinos International Convention for the Safety of Fishing Vessels. The Agreement will amend the technical provisions of the Torremolinos Protocol and allow for them to be brought into force. The need for the Agreement, which amends the Torremolinos Protocol and addresses the various obstacles to its entry into force raised by some States, has arisen because the existing IMO instruments focusing on the safety of fishermen and fishing vessels have not been ratified by enough States to bring them into force while a large number of fatalities associated with fishing vessels continue to occur every year.

Frustratingly, it is now 35 years since the first agreement setting safety at sea standards for fishing vessels was agreed and it is very important that this agreement, albeit deficient in comparison to the IMO SOLAS Convention, is adopted and enters into force as soon as practicable. Its many gaps, including effective treatment of fishing vessels operating in particularly remote and hazardous polar regions, will then have to be addressed by subsequent amendment in the years ahead.

Meanwhile, at the 56th Session of IMO’s Ship Design and Equipment sub-committee (DE) in February 2012, the expected timeline for completion of phase 1 of development of a Polar Code (for SOLAS vessels) has blown out to 2014. A phase 2 consideration of the application of the Polar Code to non-SOLAS vessels, including fishing vessels, is thus even further off. It is therefore beholden upon CCAMLR to take effective and timely action so that appropriate steps are taken to deal with problems within the CCAMLR Area and within CCAMLR’s competency and responsibility.

ASOC submits that CPs should:
- use their best endeavours to secure an agreement at the Diplomatic Conference in Cape Town and subsequently bring it into force as soon as possible.

Further, ASOC calls on CCAMLR to:
- Agree a Resolution urging CPs to ratify and implement the “Torremolinos Protocol Amendment Agreement” adopted at the IMO Diplomatic Conference in Cape Town, South Africa.5
- Convene an intersessional workshop to prepare recommendations on appropriate measures that CCAMLR could adopt immediately to enhance safety and wellbeing for fishing vessels and their crews operating in the CCAMLR area.
- Urge CPs to participate in the work of the IMO in developing a mandatory Polar Code and support having it extended to cover fishing vessels as soon as practicable.
- Invite CPs to identify additional measures for inclusion in a mandatory Polar Code to be applied to non-SOLAS vessels to ensure that fishing vessels can safely operate in CCAMLR and other polar waters.

ASOC proposes that the CCAMLR Executive Secretary be asked to:
- Inform the IMO about existing CCAMLR measures, resolutions and relevant initiatives.

Addressing Unacceptably Bad Working Conditions on Board some Fishing Vessels Operating in the CCAMLR Area

5 This assumes that the Amendment Agreement is adopted at the Diplomatic Conference in early October, 2012, which at the date this paper was written hadn’t occurred yet.
Recent incidents, for example in 2011, 32 Indonesian fishermen fled the Korean flagged Oyang 75 and reported human rights abuses and labour exploitation to the New Zealand government, have brought to public attention cases of labour exploitation, physical and mental abuse, non-payment of wages and the unacceptably poor working conditions suffered by the crews of some fishing vessels. Some of these working conditions, including on some vessels operating in the Southern Ocean, appear to be so poor as to constitute likely criminal conduct by owners and operators of such vessels, in breach of national legislation adopted by flag States, port States, and States in respect of their nationals to implement agreements made as members of the United Nations Commission on Crime Prevention and Criminal Justice and related international bodies and agreements. It seems not only that such poor conditions are more widespread than generally appreciated but also that many fishing vessel owners and operators and fisheries and port authorities are generally unaware of their responsibilities in regard to such concerns.

ASOC calls on CCAMLR to:
  
  • Invite interested CPs to commission a report that identifies CPs’ responsibilities and obligations under international law with respect to basic human rights including employment conditions, working conditions for crew and other relevant areas and to report back to CCAMLR on appropriate steps that CCAMLR could take to help states ensure that fishing vessels operating in the CCAMLR Area do so in conformity with those obligations in international law.