

Ref : DMA/AIFI/98/C 1020

Date: 20/05/2019

Dear Captain

Good Day,

Kindly find the attached informative document titled

" QITAPI-LP-08-2019 (The Long-Lasting Predicament of Collision with Fishing Boats) "

for your kind attention and necessary precaution measures.

You are requested to confirm receipt, discuss the contents in the next consolidated meeting on board & keep a copy in the file DA-11 .

Best Regards,

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(Note: This e-mail has been sent as BCC <blind carbon copy to : All R.O.D.-SMC Vessels, to eliminate the lengthy list that would result if this e-mail is printed)

Loss Prevention Circular QITAPI-LP-08-2019

(The Long-Lasting Predicament of Collision with Fishing Boats)

► **Introduction:** If we have a look at the maritime accident statistics in the insurance companies' records or elsewhere in the maritime accidents associated databases; we will confront with a very high number of incidents concerning merchant ships of various sizes from small freighters to ULCCs having collision with fishing vessels/boats & creating losses, claims & many other dilemmas. We do even see a recent increase in the said type & number of collisions which may necessitate a need to have a look at what might be the problem or the group of exasperated facts giving rise to such sort of accidents.

This paper looks at the matter from a realistic & pragmatic perspective bringing up some points to ponder.

A) Physical & Material Elements:

1- The sea areas: The navigational areas where most of these incidents occur can be highlighted as South China Sea, Chinese coastal waters & many other similar areas like Malacca Strait, South East Asian waters, Indian subcontinent coasts & areas in their vicinity. There are surely accidents reported in other parts of the world but the above-mentioned are the main scenes which do possess some similar characteristics worth looking at. ☀**We can first learn & be warned about the areas that are prone to these type of accidents.**

2- The traffic & fishing density: Surely these areas are very densely populated in terms of navigation & movements, a main factor for having contacts. Furthermore number of vessels moving around in a sea-room is a deciding element for having collisions. ☀**So what we may deduce here is that our level of vigilance should be improved & emphasized upon while plying in these waters & similar areas.**

3- Deciding upon occurrence: The first step might be to come to a conclusion that whether a collision has occurred or not. Once being blamed to have been involved in a collision, there are many sources to extract data. The most accessible & physical evidence may be the scratch marks with probable paint residues of the fishing boat on the ship's hull or the bows. If you are presented with those material evidence; then most investigators/jurisdictions will assume that a collision has occurred. There are various data like the ship's VDR data, the VTIS operating in the area or even other ships' VDRs & data or the VHF recordings, etc. which can be used to determine the level of authenticity & reality of claims. ☀**What else we must bear in mind is that collecting evidence is of utmost importance & must be done as accurate & as precise as possible in order to be used in further developments & proceedings.**

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B) Regulations & Instruments:

1- Consideration of Colregs: It is a Prima Facie evidence that in every collision, a number of Colregs have not been abided by. This seems quite simple & obvious but while construing the criteria & factual evidence; it might be very complicated indeed. ☀️ **We should understand that not abiding by Colregs APPLIES to both parties involved in a collision. Hence while using a Colregs stipulation to blame the other, it may well be used to hold you accountable as well.**

2- Colregs Rule 2: The responsibility talked about here, has a lot to be construed. It is a double sided blade, so far as you blame the other vessel or fishing boat for her irresponsible action or deed; she can do so too. What is extremely important to remind ourselves of; is that the Colregs are made to "Avoid Collision" not for the sake of having a set of rules. Quite oftentimes we do forget this. Rules are there for a purpose; that is "Not to Collide with each other". It is a fine point to understand that if there are situations you do not follow rules as they may aggravate the status and you may avoid a collision by not doing such part of the rules perhaps in words or in action, whatsoever; there shall be no problem so long as you can avoid collision. If any collision occurs, then the whole situation progress will be rewound & you will have to prove your exercise of Due Diligence & Good Seamanship & Vigilance. ☀️ **So the essence of the rules of the road must be borne in mind: "Avoiding Collision"**. We shall come back to this fact very often in this text.



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3- Good Seamanship: What could be understood by this phrase might have many variations. Generally that can be explained as what a prudent & experienced navigator is expected to do or act accordingly. Let us take the fishing boats as our focused ship-types. As per Colregs Rule 15; if two ships cross each other, one will be the “Give Way” vessel & the other “Stand-On”. If the other vessel depicts herself as a fishing vessel; the situation will be different, but let us assume that although you do not see any lights/shapes identifying the other as a fishing vessel (meaning that she is engaged in fishing) & you come across each other & you know that the other is probably a fishing vessel due to too many lights at night or by day just seeing her gives you an indication to her status; what shall be the presumptions to make? One shall just read rules and say if she is on your port side, you are the stand-on or else otherwise a give-way etc. The writer believes that Good Seamanship here would urge you to be careful about the other vessel, although she is “Supposedly not engaged in fishing”. Careful means take action too. This is particularly so in the areas mentioned at the beginning of this text.

Good seamanship & experience have taught us that many fishing vessels do not show proper signals. ☀️ **So the advice is to be ready to take action for fishing vessels once you know they are such vessels whether showing it or not.**

4- Stand-On & Give-Way Status: It is imperative to bear in mind that the Status of “Give Way” & “Stand-On” and the associated responsibilities will remain so. Thereafter if any subsequent action/s change the situation & at the end a collision takes place; the “Give Way” vessel will have to bear heavier liabilities as primarily responsible & having not done what should have & were expected to avoid collision. In situation where a vessel meets a supposedly fishing vessel (Not showing lights/shaped to be sure) this is just like any other situation. But why is it mentioned here? The fact is that many fishing (or smaller) vessels behave strangely at sea (i.e. Not as Expected). Once they are on your starboard side; a minute later they are on your port side & vice-versa. We must have also understood that the fishing vessels & boats do not usually take the actions as rules require. They would at times do the opposite because their priority is to push you away from their gears or nets and even the vicinity of areas where they are fishing. They may even aim onto a collision course with you just trying to force you move away. ☀️ **Hence do not assume that if primarily you were a stand-on or a give-way vessel this will provide you with a privilege whatsoever if a collision occurs. Secondly do not expect the fishing boats/vessels to behave & manoeuvre as you expect or the rules say so. They just want to do fishing (even if not showing so!) & want to push you away from themselves, so act accordingly; this may be interpreted as good seamanship later if any incident occurs.**

- 5- **Colregs Rule 7:** That is to *endeavour to determine* with all available means that if a risk of collision exists. This is quite a blurred concept when confronting the fishing vessels/boats. One may advise you to be super pessimist to consider any fishing vessel a floating threat & a colliding vessel. One may stick to the rules & say “Determine” if. What can be a good seamanship approach is ☀️ **To consider them a collision potential if they are in close proximity because they may change course/speed and manoeuvre haphazardly at any moment & that puts you in dire straits once you are too close to them, no matter what the concept of Colregs specify/stipulate; Ipse Dixit.**
- 6- **Colregs Rule 18:** This rule makes it clear that if you are a power driven vessel & you encounter a fishing vessel - that is the one showing that she is engaged in fishing - then you shall keep out of her way. But beware that the very rule also says where rules 9, 10 & 13 otherwise require. This can confuse the navigators like a conundrum especially the younger & less experienced ones. *It would typically mean that in Narrow Channels, Traffic Separation Schemes & Overtaking Situations if the requirements dictate otherwise; then those requirement apply.* “Otherwise” is the key-word here. If they are in line with the requirements of the Rule 18, then there should be no confusion or mix-up. Let us highlight the precautionary conception again that ☀️ **In situations that a “presumably” fishing vessel or boat is on the scene with a power driven vessel; then the power driven vessel shall take all possible actions in order to avoid collision. This would satisfy the good seamanship norms as well.**
- 7- **Colregs Rule 8:** As per this rules the actions to avoid collision should be taken according to the stated stipulations. These usually concentrate on substantiality, appropriate time, extent & type of actions, circumstances, being positive & then again as per good seamanship. Encountering fishing vessels & boats, *depicting signs or not*, this can be quite a challenge & involve complications. When a large super-tanker meets a fishing vessel-usually a fleet of them not one-it is very difficult & at times impossible to make many manoeuvres & stay safe. Here we must go back to **Colregs Rule 5**, meaning that *keeping a proper look out is primeval step in all collision cases* especially encountering a group of fishing vessels acting erroneously from our perspective. ☀️ **The advice is to keep a proper look-out to promptly determine the existence of dangerous situations & act as soon as possible which may mean avoiding the fishing boat concentration areas totally bearing in mind that once you are there & amongst them, the good seamanship helps you more efficiently than all the rules in the world.**



C) Conclusion:

In addition to 10 arguments highlighted above, we may put the following 10 points:

- 1- The case studies show a high rate of apportionment of liability for vessels involved in any sort of collision with fishing vessels/boats.
- 2- Once you are in a collision/close quarter situation with fishing vessels/boats, do not expect them to act according to Colregs, wholly or partially.
- 3- Fishing vessels/boats care much more for their gears/nets/trawls and whatsoever related to their business than for Colregs or other ships around.
- 4- The fishing vessels/boats actions are not out of insanity, they just want to save themselves & most probably their catch.
- 5- The experience confirms that you are eventually the ship who must do something, so take early & substantial action.
- 6- Good Seamanship in the core element here; it also means trying to study cases & use your & other seafarers' experience to decide upon what to do.
- 7- If you can, try to avoid fishing vessels/boats concentrations primarily at passage planning & if you encounter them unexpectedly, try to avoid their areas as far as practicable and possible.
- 8- Do not ease yourself off after an action, they may do something totally against.
- 9- Keep proper look out at all times.
- 10- Remember that the utmost goal is to "Avoid Collision".

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