



Fishery claims in South Korean waters

Vessels navigating in South Korean waters often come into contact with fishing nets, seaweed farms or other aquaculture facilities resulting in expensive claims.

Published 23 March 2020

The information provided in this article is intended for general information only. While every effort has been made to ensure the accuracy of the information at the time of publication, no warranty or representation is made regarding its completeness or timeliness. The content in this article does not constitute professional advice, and any reliance on such information is strictly at your own risk. Gard AS, including its affiliated companies, agents and employees, shall not be held liable for any loss, expense, or damage of any kind whatsoever arising from reliance on the information provided, irrespective of whether it is sourced from Gard AS, its shareholders, correspondents, or other contributors.

During the period 2015-2019, 12% of all contact incidents with fishing equipment and fish farms handled by Gard under both H&M and P&I have occurred in South Korean waters. Why do these contact incidents happen? What course of action does the owner of the damaged fishing facility take to claim his loss? How can contact incidents be prevented or the losses minimized? These are some of the questions we try to answer in this Insight.

Reasons for frequent contact incidents

One of the main reasons for these contact incidents is that the vessel is not following the designated navigation lanes and cross the fish trap lines in spite of these being clearly marked on navigation charts, as highlighted in our case below. There have also been a few instances where the vessel has transited very close to the outer limit of the marked fishing zones, as discussed in the second case below.

Case 1: A vessel had finished discharging in Nakpo coal pier and was proceeding to Yeosu outer anchorage for bunkering. A few hours after dropping anchor, Yeosu Coast Guard contacted the vessel to notify it of damage to fishing nets. VTS records indicated that vessel had passed through the charted fishing zone. Underwater inspection of the vessel revealed that fishing nets had fouled the propeller and the rudder.

Case 2: A vessel was proceeding for bunkering at Yeosu. A set of fishing nets were found to be damaged although she had not entered the fishing zone and had kept very close to its eastern limit. The vessel was of the view that since the fishing nets had been placed outside the zone marked on the chart, it was an obstruction to navigation. Investigations later revealed that actual position of the net was different from what had been mentioned on the fishing net licence issued by the authorities. The authorities stated that the fishing net was still within the authorized designated reserved area, however this was not marked on the chart. There was also a Korean Notice to Mariner (no.29/2016) which contained a correction to notify the mariners of the actual position of the set net. The crew on the commercial vessel was not familiar with this.

Gard has seen a few cases where the bridge watchkeeper was not aware of the presence of fish farms, traps and other facilities, although the fishing facilities were marked on the chart, as information about their location was not widely shared, as discussed in the third case below. According to our correspondents, the Korean port authorities may not necessarily provide navigational warnings to inform vessels of the location of fishing facilities.

Case 3: A vessel had departed from Pyeongtaek and was slow steaming at 7kts towards Gunsan port. When passing near Sipidongpado, the bridge was manned by the Master and 2nd officer. They noticed a few fishing boats in the vicinity but there was no indication of any fishing buoys being in the vessel's path. A fisherman complained to the Coast Guard that stow nets had been damaged by the vessel. Following the forensic investigation that followed, the Master was questioned by Coast Guard. The conclusion was that the commercial vessel damaged four stow nets which had been deployed about 7 nm south west of Yeondo. The Coast Guard recommended that the claim be settled. This was done through our correspondent.

In the case of stationary fishing nets and aqua farms, fishermen must provide signs indicating the presence of fishing grounds, fishery facilities, etc. If they fail to do so, the authorities may impose fines as set out below.

Type

Markings required as the

S. Korean Fishery Act

Fines imposed on owner of fishing facility for violation

Set net

Installation of large floats (markings) on every corner of the fishing ground, and luminous painting/or lights on each float

KW200,000 (1st Violation)

KW400,000 (2nd Violation)

KW700,000 (3rd Violation)

Laver

farm

Installation of large floats (markings) on every corner of the fishing ground, and luminous painting/or lights on each float

Stow net

Installation of a float/or a pole with a flag

As indicated in the table, the fines imposed on owners of fishing facilities are quite small compared to the liability which the owner of the commercial vessel faces. According to local regulations, small fishing gear such as drift gill nets do not require the use of signs.

Apart from the causes outlined above, there are other reasons as well for these contact incidents occurring, such as:

- Anchoring close to fishing buoys or dragging the anchor onto fishing facilities.
- Fishing facilities may have been set up in close proximity to navigation channels and port approaches making it difficult for commercial vessels to avoid them.

Actions taken against vessels by local fishermen

When damage to fishing gear or facility is discovered, the fisherman will contact the Korean Coast Guard, who will launch an immediate investigation to determine whether the vessel caused the incident. This is done using information from VTIS and AIS track record of the vessel, followed by interview of the crew. In most cases, the vessel's P&I insurer will have to provide a Letter of Undertaking (LOU) before the vessel is allowed to continue her voyage. The claim submitted by the fisherman will usually be for the following items:

- Costs of replacing the damaged gear, such as fishing nets, ropes, anchor etc.
- Labour costs for assembling the works
- Loss of earnings. This may represent a significant proportion of the claim amount, depending on whether the incident occurred during the fishing season or not.

When a vessel is notified of a fishery claim:

- The crew should back up the VDR data.
- ECDIS records of the vessel's past track should also be saved to protect owners' interests.
- Any evidence such as photographs showing that the boundaries of the fishing facility were not conspicuously marked should be preserved. This may be helpful in negotiating the amount claimed by the owner of the damaged fishing facility.
- The vessel's P&I club and/or correspondents should be contacted immediately to provide assistance.

Loss prevention measures

- The importance of a proper lookout cannot be emphasized enough. Radars should be set for scanning smaller objects, for example by increasing the pulse length and lowering the range scale.
- As far as possible, vessels should not proceed at high speed when navigating in areas known to have fish farms and other fishing facilities.
- As far as possible, mariners should try to navigate in defined or customary navigation channels. Caution must be exercised when departing from established lanes.
- Mariners and bridge watchkeepers should be aware of the areas where fishing gear and facilities are located. Information should be included in the passage plan and clearly marked on the charts. For a proper appraisal, the vessel may have to refer to a variety of information sources, such as:
 - local navigation charts
 - sailing directions
 - Korean Notice to Mariners, which are available [here](#).
 - local agents
 - VTIS and pilots. However, they may not always be fully up to date with the farms and facilities which have been recently established. Also, all communication must be logged.
 - P&I correspondents
 - past track information of other vessels in the fleet which may have visited the same area or port
- If the vessel is advised to drop anchor in a particular location by the VTIS or pilot, it should be confirmed with them that the area does not have any fishing gear or facilities.
- Vessels should try to keep clear of dense groups of fishing vessels. Recommended safe distance from fishing boats, especially those close to the buoys, is 1 nm.
- If the vessel is proceeding to anchorage, such as Yeosu Outer Anchorage, it should keep sufficient distance from the fish trap lines. Recommended distance is 500 - 1000 meters, conditions permitting. Where the anchor position has been advised by VTIS or pilot, the vessel should attempt to confirm with them that the location is not obstructed by fishing facilities.
- If a vessel decides to proceed to Jinhae Bay to seek shelter from an approaching typhoon, the Master and bridge crew should be aware of the large number of fishing gear and facilities installed in the area. It should be ascertained that the chosen anchoring place is safe.

- Our correspondent, HS Corporation has provided a translation of a Marine Accident Report by the Ministry of Oceans & Fisheries and Korea Maritime Safety Tribunal which can be accessed [Attachment%201%20-%20Marine%20accident%20report%20summary.pdf](#) . The report highlights that most of contact and collision incidents occur in September and October. The report also contains a map showing the fishing patterns during these months and is reproduced below.

Usual fishing pattern in September/October

HS Corporation has also produced a very informative and useful document summarizing the local cultivation practices. It can be accessed [Attachment%202%20-%20Details%20of%20fishing%20facilities.pdf](#) .

Conclusion

Sound navigation practices can prevent damaging a fishing facility which is

(a) indicated on the chart, or

(b) is conspicuously marked

For incidents involving fishing facilities which do not fall into either of the above two categories, evidence is crucial in the further handling of the claim.

* *

We would like to thank Mr.S.K.Choi of Hyopsung Surveyors & Adjusters Corporation, our correspondent in South Korea, and Komos Surveyors and Adjusters for contributing to this insight.