

FISHERS MAY (FINALLY!) SOON HAVE MUCH-NEEDED PROTECTIONS AT SEA

By Peter Horn

The evolution of international instruments related to the safety of all those working on vessels has been driven largely by major accidents and disasters that have happened at sea. According to estimates, 24 000 to more than 100 000 people are killed every year while fishing due to many factors, including geopolitical conflict and illegal, unreported and unregulated (IUU) fishing. This article is in a sense, a roadmap of turning points in history and the agreements that have arisen, one of the most important being the as-yet unratified Cape Town Agreement (CTA). The author contends that adoption of the CTA will demonstrate the clear intent of governments to tackle some of the major problems, and in particular, strengthen global efforts to fight IUU fishing.



Credit: The Pew Charitable Trusts

When the Titanic sank 112 years ago this April, more than 700 crew members were among the 1 500 people who died at sea. The tragedy captured the world's attention, of course, and public outcry about lax safety precautions and little instruction on operating the scant emergency equipment on board eventually led to more safety mechanisms for crews and passengers on other seafaring vessels.

Later safety regulations responded to a wider variety of needs and concerns for vessels, particularly after the International Maritime Organization (IMO), a subsidiary of the United Nations, was established in 1948 and met for the first time a decade later. The IMO's original purpose was to develop a regulatory framework for shipping, with safety of seafarers the central focus, but its remit has expanded to include the environment, legal matters, efficiency of shipping, maritime security and now—significantly—fishing vessel safety.

It still often takes a disaster to spur significant safety improvements. For example, in 1967, the supertanker SS Torrey Canyon ran ashore off the coast of Cornwall, United Kingdom, leading to one of the largest and most famous oil spills in history—and pushing the IMO to adopt, six years later, the International Convention for the Prevention of Pollution from Ships (MARPOL) to prevent and minimize the detrimental effects of ship pollution from accidental and routine operations.

Other international instruments created to prevent accidents such as the Titanic and SS Torrey Canyon from happening again include the International Convention for the Safety of Life at Sea (SOLAS); the International Regulations for Preventing Collisions at Sea; and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). There are international agreements in place to guide not only safety and training of seafarers, but also vessel

stability, collision prevention, better labour standards and environmental protections. These agreements have proved effective; although it is impossible to fully quantify their effect—and there are still more than 200 merchant seafarer fatalities per year—thousands of lives have likely been saved due to the mandatory implementation of seafaring safeguards.

And with the exception of SOLAS, these agreements would not have been possible without the IMO, which today coordinates across 175 Member States, three associate Members, and thousands of industry actors—many of whom hold different geopolitical views—in order to evolve how life and work at sea are managed. Although it takes many years to develop Conventions, by changing them over time and responding to modern challenges, the IMO has been a force for better working conditions across the ocean.

This doesn't just have implications for safety. Stronger Conventions could also help prevent illegal activities, because those that take part in illicit fishing or drug and weapons trafficking tend to care little for the health and safety of crews—including but not limited to migrant workers seeking employment, who are often tricked into abhorrent onboard working conditions or even enslavement. Enhanced oversight and inspections of vessels increase both the core safety levels and the opportunities for competent authorities to identify such malpractice. Thankfully, the global community is making important strides for fisher protections, but it has taken far too long to get to this point.

List of International Conventions

SOLAS	IMO International Convention for the Safety of Life at Seas
STCW	IMO International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers
LL	IMO International Convention on Load Lines
COLREGs	IMO Convention on the International Regulations for Preventing Collisions at Sea
MLC	ILO Maritime Labour Convention
MARPOL	IMO International Convention for the Prevention of Pollution From Ships
CTA	IMO Cape Town Agreement on the Safety of Fishing Vessels
STCW-F	IMO International Convention on Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel
C188	ILO Work in Fishing Convention
PSMA	FAO Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing

Credit: Pew Charitable Trusts

Maritime governance bodies begin to think seriously about fisher safety

Adopted in 1978, STCW first entered into force in 1984, setting minimum qualification standards for masters, officers and watch personnel of merchant ships and large yachts. It was significantly updated in 1995 and 2010, and today has more than 160 parties covering over 98% of the world's merchant vessel tonnage.

In 1995, the IMO adopted a separate but closely-related agreement for fishing vessels, the International Convention on Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel (STCW-F). It applies minimum safety standards similar to the first STCW for some crew, including deck department officers and skippers of fishing vessels of 24 metres in length and over, as well as officers in the engine department of fishing vessels with over 70 kilowatt propulsion power. But the ratifications of this treaty, which did not enter into force until 2012, are significantly less than that of the original STCW: Only 35 parties—less than 10% of the world's eligible fishing vessels—have ratified STCW-F.

And although STCW and STCW-F protect some of those who work at sea, until recently there was a glaring gap in protection for many others who work on the ocean. Fishers, who number in at least the hundreds of thousands worldwide, were neither classed as seafarers under the original IMO conventions nor offered the same protections, and are still largely unprotected.

Some additional movement towards protecting fishers continued with the 1977 Torremolinos International Convention for the Safety of Fishing Vessels, itself the product of a disaster at sea: the Triple Trawler Disaster nine years earlier, when three Port of Hull, UK-based trawlers sank in the North Sea. The crews on the three vessels lacked basic radio operations and adequate life-saving equipment, and 55 people, including several children, were killed.

But that 1977 agreement, which was modified 16 years later to become the 1993 Torremolinos Protocol, failed to come into force, largely due to technical issues. So, in 2012, the IMO adopted the Cape Town Agreement (CTA), which—when it comes into force through ratification—will offer crew safety protections on many commercial fishing vessels. But until the CTA is fully ratified, fishers and their vessels will remain without mandatory international standards that would protect crews and observers from sub-par working environments, safety equipment or risky vessel design.

Once the CTA comes into force, all commercial fishing vessels of 24 metres in length and above (or the equivalent in gross tons)—vessels identified by States that have ratified the agreement—must be built, inspected and surveyed for life-saving appliances, radio installations, and safe structures, machinery and equipment.

The ratification of the CTA will be a major moment for fishers and the IMO because it will bring mandatory oversight of fishing vessels under the fold of the IMO for the first time, and, significantly, will apply the same

rigorous safety requirements that other mariners have. Although the IMO has a number of non-mandatory instruments and protocols on fishing, the CTA will give the IMO a clear mandate to focus on concerns for fishers at least on larger vessels, representing progress towards safety at sea that captures and reflects the needs of all fishers; setting an example for standards that should be in place across fleets; and, at a minimum, ensuring that more safety precautions are considered for any new vessel.

Yet as of January 2024, the CTA has not yet entered into force. The CTA needs 22 countries to ratify the agreement, along with declaration of a combined 3 600 eligible vessels, in order for its mandated protections to apply; although 23 countries have ratified, nearly 700 more eligible vessels need to be declared for ratification to be complete. At a 2019 meeting in Torremolinos, Spain, 51 countries— including many of the 23 that have already taken action—publicly committed to ratifying the agreement by signing the Torremolinos Declaration. However, all of them, particularly

the 28 countries that pledged in Spain almost five years ago to ratify but have not yet done so, should follow through and protect those on their fishing vessels. As former IMO Secretary-General Kitack Lim stated at that 2019 meeting, “There is no time to lose. If the fishing sector remains insufficiently regulated, fishing-related activities will continue to cause more fatalities; pollute our oceans; place [search and rescue] services at risk; and harm developing States affected by illegal fishing activities.”

The case for the Cape Town Agreement

The men and women who ply the world's waters for the seafood protein that feeds billions of people have a dangerous job. Estimates for how dangerous vary wildly, but state anywhere from 24 000 up to more than 100 000 people are killed each year fishing. The true number is unknown, partially due to lack of agreement on who counts as a fisher and partially due to the absence of systematic collection of relevant data.

10 reasons to ratify the 2012 Cape Town Agreement (CTA)

#1 Enhance the safety of fishers and observers

- Fatality rate in fisheries is unacceptably high compared to other human food-related activities.
- A safety culture is needed for a level playing field with better constructed and equipped fishing vessels.
- The CTA brings minimum standards for construction and maintenance of vessels, as well as for safety equipment including navigation, communications and life-saving appliances.

#2 Inspection of fishing vessels

- There is not any internationally binding regime for the safety of fishing vessels.
- The Agreement will enable the vessels to be subject to flag State and port State inspections under harmonized global standards.

#3 Enhance the safety of fishers and observers

- Sub-standard vessels are highly likely involved in IUU fishing practices, as they are generally operated by unscrupulous owners/operators.
- FAO's Port State Measures Agreement (PSMA) requires port State inspections to monitor IUU fishing.
- The 2012 Cape Town Agreement can complement such inspections from safety aspects, while targeting sub-standard vessels and increasing transparency of fishing activities.

#4 Contribute to combatting modern slavery

- As is the case with IUU fishing, sub-standard vessels are highly likely operated by irresponsible owners/operators that abuse the crew's work and living conditions.
- On such vessels, crew may be subject to squalid circumstances.
- ILO's Work in Fishing Convention, 2007 (C. 188) allows for inspections of vessels and the Agreement can complement this while targeting sub-standard vessels.

#5 Conservation of marine environment & resources

- There is a link between safety, marine pollution protection (i.e. fishing gear as marine debris) and IUU fishing.
- Abandoned, lost or otherwise discarded fishing gear can become a navigational hazard, as well as being a source of marine litter.
- Lack of governance of unsafe vessels at sea, inadequate law enforcement, and insufficient transparency and accountability

throughout seafood supply chains, contribute to unjust exploitation of limited marine resources.

#6 Completion of the missing pillar in sustainable fisheries

- The Agreement will complement the following international treaties, which contribute to various aspects of fisheries for sustainable and safe fisheries:
 - 1995 STCW-F Convention (IMO)
 - 2007 Work in Fishing Convention (C. 188) (ILO)
 - 2010 Agreement on Port State Measures (PSMA) (FAO)

#7 Protecting search & rescue (SAR) services

- Unsafe vessels are involved in marine casualties, usually for preventable and unnecessary causes due to lack of safety precautions and maintenance.
- Search and rescue (SAR) services are considerably occupied by addressing such incidents.
- SAR personnel's lives as well as those of all seafarers and fishers called to provide assistance are also at risk under heavy and risky weather conditions.
- If the vessels are safer, SAR operations for substandard fishing vessels might consume fewer resources.

#8 Contributing to better employment & working conditions

- In many countries, the wider perception of fishing is dangerous and demanding. This leads to fishing activities being less attractive.
- If the vessels become safer with better working conditions, then this perception would improve and become more appealing especially for young generations, both men and women.

#9 Contributing to competitiveness of a nation's fishing fleet

- When fishing vessels are constructed and operated to the required safety standards, their competitiveness on markets will increase and such vessels will become more attractive to buyers, even on the second-hand market, which will positively impact a nation's economy.

#10 Contributing to ship construction & equipment industry

- As the Agreement requires certain construction and equipment standards, those nations which have shipbuilding industries will increase profits, in particular for new vessels that will be subject to the provisions of the Agreement.

Credit: International Maritime Organization



the three organizations to improve safety conditions and overall oversight of fishing vessels, from their initial construction until they pull into port with a fresh catch.

Among the existing efforts are the ILO's Work in Fishing Convention C188, which came into force in 2017 and ensures decent working conditions (including food and medical care) on board fishing vessels. Meanwhile, FAO's Port State Measures Agreement, which prevents vessels engaged in illegal fishing from using ports and bringing catch to the marketplace, is the only global treaty specifically designed for this purpose.

Combined with the CTA, these three binding agreements all require vessel inspections to ensure adherence to their rules, which helps to enforce the safety standards as well as to ensure that vessels are not engaging in IUU

The significant death toll of fishing disproportionately affects low-income fishers and is predominantly driven by dangerous working conditions and unsafe vessels. Poverty, geopolitical conflict, over-fishing, climate change, and illegal, unreported and unregulated (IUU) fishing are all factors in these deaths. IUU in particular is a significant driver, especially as the demand for protein increases globally. It is widely estimated, including by the United Nations, that one in five fish are caught illegally, costing nations cumulatively billions of dollars each year in lost earnings, tax and nutrition. Industrial illegal operators are also notorious for cutting corners and ignoring safety rules, while contributing to the over-exploitation of catch.

While the CTA can't address every issue facing the world's fishers, or each driver of mortality, adoption by governments demonstrates clear intent to tackle some of the major problems, and in particular, will strengthen global efforts to fight IUU fishing.

The UN bodies with different mandates should improve coordination

Historically, three inter-governmental organizations—the International Labour Organization (ILO), the Food and Agriculture Organization of the United Nations (FAO) and the IMO—have some jurisdiction when it comes to data collection on the number of fishers worldwide. The three have varying global responsibilities, and each has its own treaties on labour and fishing. While all three institutions, and their Members, want to work together on the issue, they are cautious to not overstep their competencies or charges of care with regard to oversight and safety of fishing vessels. As a result, though they each have a role to play in helping to regulate fishing-related activities, untapped opportunities remain for

fishing. Therefore, the potential for the integration and coordination of the three inspection regimes is a matter of focus for the ILO, FAO and IMO, and was a core topic of their Joint Working Group on IUU fishing at a January 2024 meeting in Geneva. Representatives of the three organizations recognized IUU fishing's impacts across the spectrum of their responsibilities from MARPOL, safety, labour rights and, of course, sustainable fisheries management. And for the first time, they agreed to a workplan to improve their coordination in combating the challenges brought on by illegal activities at sea. Critically, the three organizations are also working together to determine who counts as a fisher, and how to count fishing incidents and mortality. These steps are welcome, and point the way forward for these institutions, powered by their Members, to close the net on IUU fishing.

The next step is the CTA finally entering into force, which would be a major step forward for global fisheries and the professionals that risk their lives to bring food to the table. Now, more than a century after the Titanic raised the profile of seafarers and their dangerous work, and nearly 60 years after the Triple Trawler disasters, fishers are close to joining the ranks of the protected. Entry into force of the CTA would help the IMO, ILO and FAO continue to work together towards stronger governance, oversight and protection of fishers and fishing operations the world over—and a safer and more sustainable global fishery for all.



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