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The Cape Town Agreement Explained

How one international treaty could combat illegal fishing and save lives

Overview

In an effort to maximize profits, operators who fish illegally or under report catch often cut corners with how they manage their vessels, further endangering workers in one of the world's most hazardous professions. Illegal fishers often lack sufficient on-board safety equipment or ignore regulations governing vessel modifications. They may also operate for extended periods of time without undergoing safety inspections, are more apt to fish in dangerous weather, and are less likely to maintain decent working conditions.

The International Labour Organization (ILO) estimated in 1999 that 24,000 people die every year in the fishing sector—more than 10 times the number on merchant ships. Yet fishing vessels and their crews are excluded from nearly all international maritime regulations, such as safety certifications or working condition inspections, meaning that exploitative practices can go undetected.

The 2012 Cape Town Agreement (CTA), adopted by the International Maritime Organization (IMO), outlines fishing vessel standards and includes other regulations designed to protect the safety of crews and observers and provide a level playing field for industry. The Agreement will enter into force once 22 States with a combined 3,600 eligible fishing vessels ratify or accede. Taking this step will bring fishing vessel operators into the same compliance as other maritime vessels and end practices that place crews at risk. Until the CTA enters into force, there are no mandatory global safety regulations for fishing vessels.

Enhancing fishing vessel safety to save lives and combat illegal fishing

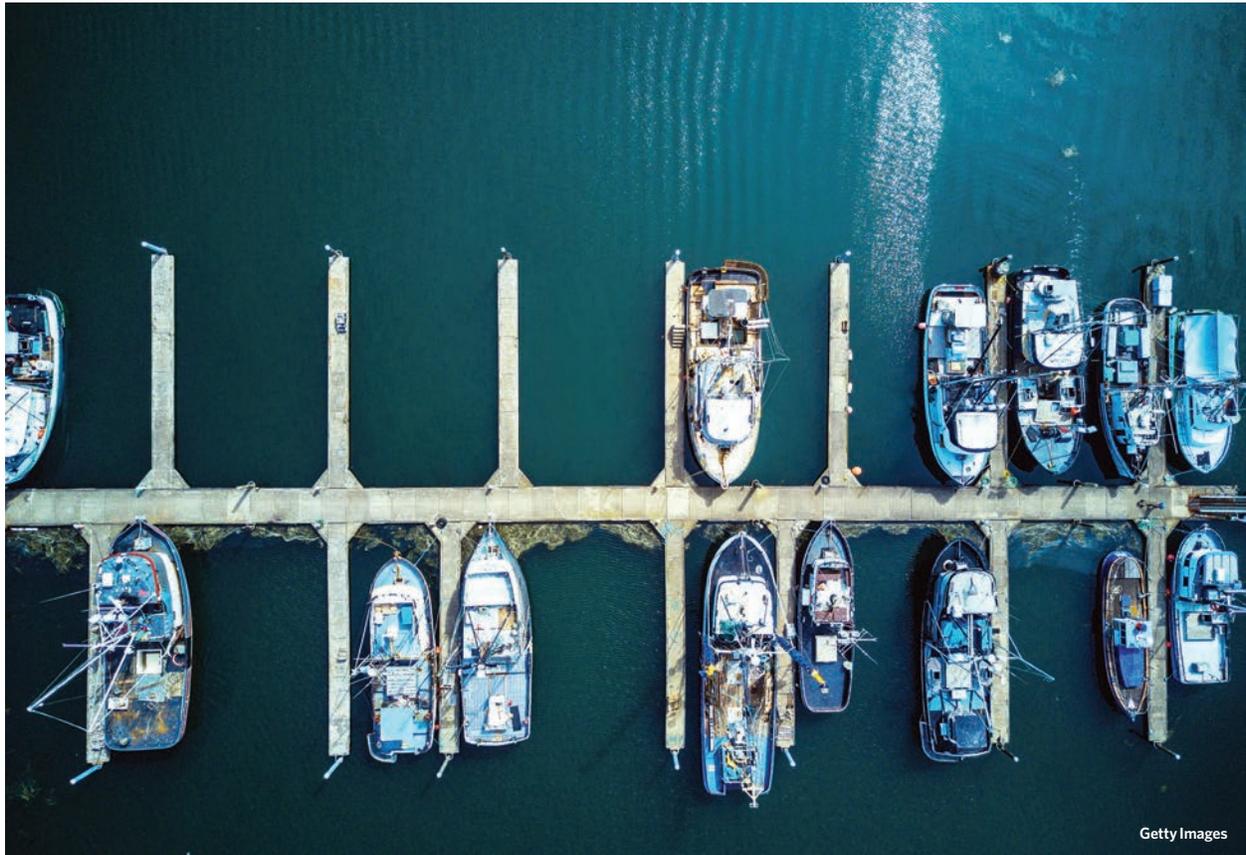
Reports show that fishing crews on the high seas, or outside a flag State's national jurisdiction, are increasingly composed of migrant workers whose status puts them at risk of exploitation by operators. They may be at sea for months at a time, and are often isolated, because they do not speak the language of the other crew members or skipper. In such circumstances, fishers often lack a way to report violations of safety standards on their vessels. International investigations have shown that some migrant workers seeking employment overseas have been tricked with false promises of jobs on land, but end up toiling in abhorrent working conditions on board unsafe fishing vessels roaming the high seas.¹

The international community is increasingly recognizing that substandard working conditions and poor safety standards are a hallmark of vessels engaged in illegal, unreported, and unregulated (IUU) fishing. Operators who under report catch or fish illegally are less likely to provide their crews with adequate labor conditions, training, or safety equipment, and more likely to fish in hazardous weather. To minimize upfront costs, their vessels might have inadequate equipment or inappropriate modifications, and might operate for extended periods without undergoing inspections or safety certifications.

To ensure the safety of crews on board fishing vessels, governments should implement two treaties that are already in force—the Food and Agriculture Organization of the United Nations (FAO) Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing, or the PSMA, and the ILO Work in Fishing Convention (C188)—and accede to the Cape Town Agreement. The PSMA's aim is to ensure that catch is legal and the C188's is to improve the working conditions for crews. To ensure the legality and safety of fishing operations, all three United Nations agencies have advocated for the synchronized implementation of these three instruments.

The CTA updates, amends, and replaces the Torremolinos Protocol of 1993, relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977. Neither the Torremolinos convention nor the protocol will enter into force themselves, but provisions are reflected by the CTA. Once in force, the CTA will set minimum requirements on the design, construction, equipment, and inspection of fishing vessels 24 meters or longer that operate on the high seas. Its entry into force would empower port States to carry out safety inspections that could be aligned with fisheries and labor agencies, to ensure transparency of fishing and crew activities. The treaty consists of minimum safety measures for fishing vessels that mirror the International Convention for the Safety of Life at Sea (SOLAS)—an internationally binding treaty on safety for merchant vessels that entered into force in 1980. It also calls for harmonized fisheries, labor, and safety inspections.

What is covered under the Cape Town Agreement?



Application, eligibility, and scope

The CTA applies to commercial fishing vessels of 24 meters in length and above or equivalent in gross tons.² Many of the technical requirements outlined below apply only to new vessels, but some apply to all vessels—old and new.

States that are party to the Agreement have up to 10 years to put radiocommunications provisions in place (Chapter IX of the CTA), and up to five years to implement provisions regarding lifesaving appliances (Chapter VII), emergency procedures (Chapter VIII), and navigational equipment (Chapter X). This gives States a significant period of time to prepare before regulations must be met. In addition, a party to the Agreement may exempt a vessel if it considers the requirement unreasonable, or if the vessel is only operating within its exclusive economic zone.

To ensure that vessels are safe, their design, construction, and equipment must be inspected and surveyed. This may be carried out by a flag State agency, or by a delegated authority such as a surveyor or classification society. The Agreement states that a vessel's lifesaving appliances, radio installations, structure, machinery, and equipment must be inspected before it is put into service and at intervals not exceeding five years. Details of the surveys will be made available in an International Fishing Vessel Safety Certificate.³ If a vessel has been exempted, its operator must complete an exemption certificate and make it available on board for examination at all times. Certificates can be examined and accepted by any party to the Agreement.

Technical provisions

Chapters II through X of the CTA give detailed design, construction, and equipment requirements for fishing vessels. They are listed under three categories based on a vessel's size: 24-45 meters, 45-60 meters, and more than 60 meters. The requirements are aimed at ensuring that vessels remain watertight, weathertight, strong, and stable, even under adverse conditions such as ice and extreme weather. Guidance is given to ensure that spaces are not dangerous to crew, that lifesaving appliances are available and sufficient, and that adequate emergency procedures are in place. It stipulates that vessels should have regular drills that include all crew and observers. In addition, vessels must be fitted with radiocommunications equipment capable of transmitting and receiving search and rescue information, distress signals, and all other relevant communications. Vessels also must be able to safely navigate and signal.

Vessels not covered by the CTA

Provisions of the CTA apply to fishing vessels 24 meters and longer because this is the typical profile of vessels that carry out commercial fishing operations on the high seas, or outside their national waters. Millions of fishing vessels are smaller than 24 meters, but these generally operate within countries' exclusive economic zones and are subject to any national safety regulations. The IMO, in collaboration with the FAO and ILO, has developed several non-mandatory instruments related to the safety of these smaller vessels, which governments and other relevant stakeholders may refer to for guidance.⁴

To ensure that vessels are safe, their design, construction, and equipment must be inspected and surveyed.

Table 1
Guidance on Phased Implementation of CTA Provisions

The Cape Town Agreement					
Chapter	Content	Application		Time to implement	Exemption Options
		New	Existing		
II	Construction	✓		Upon entry into force	✓
III	Stability	✓		Upon entry into force	✓
IV	Machinery	✓		Upon entry into force	✓
V	Fire safety	✓		Upon entry into force	✓
VI	Crew protection	✓		Upon entry into force	✓
VII	Lifesaving appliances	✓		Up to five years after entry into force	
VIII	Emergency procedures	✓	✓	Up to five years after entry into force	
IX	Radiocommunications	✓	✓	Up to 10 years after entry into force	✓
X	Navigational equipment	✓	✓	Up to five years after entry into force	✓

Note: This table was updated Sept. 5, 2019, to reflect legal advice from the International Maritime Organization clarifying that the progressive implementation period of The Cape Town Agreement begins for all Parties once the Agreement enters into force—not when a ratification instrument is deposited—and to highlight relevant exemptions.

Source: International Maritime Organization

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Figure 1

Is a Merchant Seafarer's Life More Important Than a Fisher's?

A comparison of conventions regulating merchant and fishing vessels



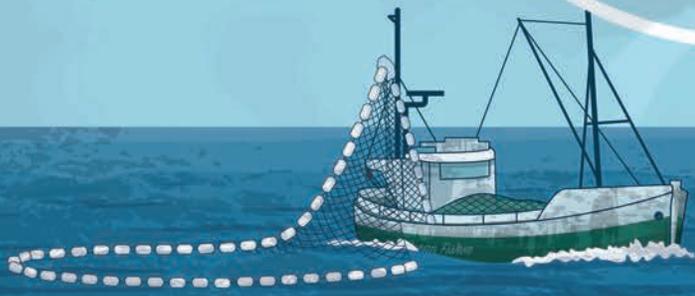
Convention	Status
Safety of crew SOLAS, 1974	✓ In force
Training STCW, 1978	✓ In force
Stability LL, 1966	✓ In force
Collisions COLREGs, 1972	✓ In force
Labor standards MLC, 2006	✓ In force
Environmental protection MARPOL, 1973/78	✓ In force

*Fatality and missing person figures reported to IHS Markit from 1995 to 2017.
Sources: Food and Agriculture Organization of the United Nations, International Labour Organization, and International Maritime Organization



Fishers

24,000+ fatalities per year



Safety of crew and observers
CTA, 2012



Training
STCW-F, 1995



Stability
Currently no treaty exists



Collisions
Currently no treaty exists



Labor standards
C188, 2007



Environmental protection
PSMA, 2009



Note: Full details relating to the conventions appear in Appendix A.

Ratification: Next steps

Why States should ratify the 2012 Cape Town Agreement

The Agreement has a “no more favourable treatment” clause (Article 4[7]). This means that all vessels entering a port of a State that is a party to the Agreement would be subject to the same inspection standards—even if their flag State hasn’t ratified or acceded to it. This allows States to control all vessels entering their ports, raising global safety standards.

The following profiles show how ratification of the CTA would benefit coastal, flag, port, and market States engaged in the wild capture, production, trade, and consumption of seafood, and what its immediate impact would be.



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Country A: Coastal State



- Coastal State with very biodiverse waters
- Relatively few large national fishing vessels
- May issue fishing licenses to foreign-flagged vessels
- May provide national observers to foreign-flagged vessels
- Relatively few nationals work in large-scale commercial fishing
- Limited or no safety regulations in place
- Limited national legislation regarding illegal fishing

Benefits

For coastal States, ratification and implementation of the CTA would provide higher safety standards for fishing vessels operating in their coastal waters. This would include minimizing risk to their nationals who work as crew and observers on board foreign-flagged vessels. Setting overall standards would lessen the chance of vessel incidents in their waters—such as foundering, fire, capsizing, or collision—that would usually require assistance from their maritime authority or coast guard. It would also allow inspection of foreign-flagged vessels. This would increase the transparency of the fishing operations, working conditions, and safety standards—even if the vessel's flag State is not a party to the CTA. (Outlined in the “no more favourable treatment” clause.)

Impacts

Ratification of any treaty can be an administrative burden, and capacity may not exist to advance legislation quickly. In cases such as this, the IMO is able to provide legal and technical support.

Country B: Flag State



- Flag State with many commercial fishing vessels that operate all over the world
- Fishing is a major source of employment, food and economic security
- Limited or no safety measures in place for fleet
- Limited national legislation regarding illegal fishing

Benefits

For flag States, ratification of the CTA would create minimum safety standards for a huge proportion of the global fishing fleet, potentially saving the lives of thousands of fishers operating on the high seas. Requiring standards for flagged vessels and carrying out regular inspections in line with the CTA will make fishing activities and vessels' safety and working conditions more transparent. Vessel operators will be forced to invest in the safety and welfare of their crews, making it more difficult for them to exploit people. Regular inspections will also make it harder for operators to fish illegally. States that implement the CTA also demonstrate to the international community that they are in control of their flagged vessels and take their responsibilities seriously.

Impacts

While provisions on vessel design and construction would apply to many vessels, most would apply exclusively to new vessels. The CTA allows States to implement provisions in phases so there is no need to immediately enforce changes in vessel design, construction, or equipment for all flagged vessels (see Table 1).

Country C: Port State



- Port State with highly biodiverse waters
- Relatively few national fishing vessels
- May issue fishing licenses to foreign-flagged vessels
- May accept foreign vessels on national register
- Many nationals work on board foreign vessels
- Catch frequently landed in national ports
- Limited or no safety regulations in place
- Limited national legislation regarding illegal fishing

Benefits

States with international port facilities and biodiverse waters would be able to better protect productive fish stocks in their waters. IUU fishing operators target waters and ports that they perceive to have weak governance with the intent of exploiting their natural resources. And when unsafe vessels operate near ports, they increase the risk of collisions and groundings—which can require expensive search and rescue operations. Ratifying and implementing the CTA would provide a port State with another route for vessel inspections, improving the safety of vessels operating within its territorial waters and increasing the likelihood that it can identify IUU fishing practices. It would also increase the safety of vessels accepted to their registry, minimizing the risk of incidents that are dangerous, costly, and time consuming to resolve.

Impacts

For States that typically have smaller fleets, technical amends to existing legislation would be limited. However, there is an administrative burden associated with any treaty ratification. For this reason, the IMO is able to provide legal and technical support upon request.

Country D: Market State



- Flag, coastal, port, and market State
- Relatively large fishing vessel fleet that operates globally
- Exports and imports fish to/from other States
- Stringent safety measures in place for fishing vessels
- Existing national legislation regarding illegal fishing

Benefits

Market States can assure their consumers that the people catching their seafood have safe and decent work conditions. Many of these States already have national legislation that is in line with or exceeds the CTA's provisions, and so determine their national fleet already operates safely. However, its entry into force would allow market states to apply these requirements to foreign-flagged vessels that import seafood to meet the demands of their consumers, improving their safety. Consumers in key market states are increasingly focused on the provenance of their food. The CTA's entry into force would enable market states to influence international supply chains, raising vessel safety standards and saving fishers' lives. Implementation of the CTA can complement existing safety and IUU fishing legislation and demonstrate global leadership on these issues.

Impacts

Most flagged vessels are already in line with the standards outlined by the CTA, so there will not be a heavy technical burden.

How States can ratify the Agreement

Country delegations to the IMO can inform the secretariat of their State's intention to ratify, and request technical and legal assistance as appropriate. When depositing an instrument with the IMO, delegates will need to provide the number of fishing vessels flagged to their State. The IMO provides guidelines on how to calculate this number. If this figure is unknown, the FAO can provide it, if the State is a party to the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas. If neither of these options applies, this figure will be obtained from databases of regional fisheries bodies or other international maritime databases.⁵

Conclusion

The CTA's entry into force would give States a powerful tool to ensure that vessels flying their flags are held accountable for the safety of their crews; that fishing operations are conducted safely and legally; and that their safety obligations as responsible flag States are fulfilled. It would encourage vessel operators to adopt a responsible approach to what is an inherently dangerous activity. And it would also help States to safeguard their citizens who work on board foreign-flagged vessels and mitigate the risk of IUU fish entering their markets.

By ratifying the CTA, members of the IMO have the ability to significantly reduce the exploitation of both the oceans and the people who depend on them. The Agreement's entry into force would improve safety and working conditions in one of the most dangerous professions in the world and minimize opportunities for unscrupulous operators to profit from IUU fishing operations.

Appendix A

List of International Conventions

SOLAS	IMO International Convention for the Safety of Life at Sea
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

Endnotes

- 1 Ian Urbina, "Tricked and Indebted on Land, Abused or Abandoned at Sea," *The New York Times*, Nov. 9, 2015, <https://www.nytimes.com/2015/11/09/world/asia/philippines-fishing-ships-illegal-manning-agencies.html>; Stop Illegal Fishing, "FISH-i Africa: Issues, Investigations and Impacts," 14.
- 2 International Maritime Organization, "Cape Town Agreement of 2012," Tonnage Equivalent, Chapter 1, Regulation 1, Provision 2.9.
- 3 International Maritime Organization, "Cape Town Agreement of 2012," International Fishing Vessel Safety Certificate, Appendix, 175.
- 4 Food and Agriculture Organization of the United Nations, International Labour Organization, and International Maritime Organization, "Safety Recommendations for Decked Fishing Vessels of Less Than 12 Metres in Length and Undecked Fishing Vessels" (2012), <http://www.fao.org/fishery/safety-for-fishermen/50781/en/>.
- 5 International Maritime Organization, Maritime Safety Committee Resolution 92/26/6/Add.1, "Procedure for Calculating the Number of Fishing Vessels of Each Contracting State to the 2012 Cape Town Agreement," <http://www.imo.org/en/About/Conventions/ListOfConventions/Documents/Procedure%20for%20calc%20the%20number%20of%20fishing%20vessels.pdf>, Annex 24.

For further information, please visit:

pewtrusts.org/endillegalfishing

pewtrusts.org/capetown

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