

OPENING SESSION: AN OVERVIEW OF MULTINATIONAL FISHING SAFETY EFFORTS



Chilean fishermen (Photograph courtesy of Eduardo Rossel)

THE WORK OF THE FAO/ILO/IMO IN RELATION TO THE ISSUE OF SAFETY AND HEALTH FOR COMMERCIAL FISHERMEN

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Background

It is estimated that 24,000 fatalities occur worldwide each year in fisheries. It seems plausible that the fatality rates in countries for which data are not available are higher than in those countries that do keep records. Recent reports from the Nordic countries indicate that fatality rates in fisheries range between 90 and 150 per 100,000, and yet the accident prevention, survival training, and search-and-rescue services offered in these countries are among the best in the world (The Working Party for Safety and Survival Training for Nordic Fishermen 2002).

From developing countries, much higher figures are cited. It has been estimated that fatality rates in Sri Lanka's offshore fisheries are ten times higher than in Norway (Dahl 1990); a study on fatality rates in canoe fishing in Guinea in 1991-1994 indicated a rate of 500 per 100,000; in a number of other countries along the West African coast, the artisanal canoe fatality rates appear to be in the range of 300 to 1,000 per 100,000 fishermen; and recent figures from South Africa report 585 fatalities per 100,000 fishermen (Food and Agriculture Organization 2000).

Iceland reported on recent findings concerning injuries in the Icelandic fisheries, which are generally regarded as highly mechanized and technically advanced. Considerable effort has been put into reducing the risk of these injuries in recent years. While there is reason to believe that fatal accidents in Iceland are fewer now than 10 years ago, the same is not the case with nonfatal injuries. Every year, 10% of all fishermen and 15% of fishermen on trawlers are subject to injuries. Accidents involving fishermen are more

common the longer they have been on the job, and there is a threefold risk of a fatal accident if the seaman has been more than 10 years on the job (Kristinsson 1999). Possible explanations are that the more experienced seamen are likely to be entrusted with the dangerous tasks or are more prone to taking risks. Also, younger crew members are more likely to have received safety training than older crew. This gives reason to hope that concerted efforts in improving safety education and training of fishermen, along with improved vessel design, construction, and working conditions on board, may result in reduced accident rates.

Improved safety at sea has for decades been of major concern to various institutions, national authorities, nongovernmental organizations, and individuals who recognize that a functional legal framework is the prerequisite for concerted actions for improved safety. The model for such legislation has already been provided by various international organizations.

UN Law of the Sea convention

The United Nations Conference on the Law of the Sea (hereafter referred to as the 1982 UN Convention) was completed in 1982 (United Nations 1982a), although its convention did not enter formally into force until 1994 when it had been ratified by the required number of states (for more information about nomenclature, see note a; for information about Exclusive Economic Zones [EEZs], see note b). The 1982 UN Convention had by October 2003 been ratified by 143 states. It is globally recognized as the regime dealing with all matters relating to the law of the sea and gives nations rights as well as responsibilities to utilize their living marine resources in a rational and sustainable way. Regarding safety, the 1982 UN Convention rules that every state shall effectively exercise its jurisdiction and control in administrative, technical, and social matters over ships flying its flag. Furthermore, the flag nation shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard to, *inter alia*, (a) the construction, equipment, and seaworthiness of ships (Petursdottir, Hannibalsson, and Turner 2001); the manning of ships, labour conditions, and the training of crews, taking into account the applicable international instruments; and (c) the use of signals, the maintenance of communications, and the prevention of collisions. In taking such measures, each state is required to conform to generally accepted international regulations, procedures, and practices and to take any steps necessary to secure their observance [Article 94(5)] (United Nations 1982b).

Other UN agencies

The International Maritime Organization (IMO), the International Labour Organization (ILO), and the Food and Agriculture Organization (FAO) are the three specialized agencies of the United Nations system that play a role in fishermen's safety at sea. IMO is the agency responsible for improving maritime safety and preventing pollution from ships. ILO formulates international labour standards in the form of conventions and recommendations, and sets minimum standards of basic labour rights. It also promotes the development of independent employers' and workers' organizations and provides training and advisory services to those organizations.

By virtue of their working methods, the results of IMO and ILO tend to have little impact on the safety of artisanal and small-scale fishermen. Most of the recommendations and conventions are aimed at large vessels, primarily the merchant fleet on international voyages. Some conventions explicitly exempt fishing vessels, and most do not apply to vessels under 24 meters long, thus leaving out the majority of fishing vessels and transport boats in developing countries.

International Maritime Organization and SOLAS

The first international convention concerning safety at sea was SOLAS (Safety of Life at Sea) and was prompted by the Titanic disaster in 1911. The convention was first adopted in 1914, with amendments adopted in 1929 and 1948. When IMO was founded in 1958, its first major task was amending SOLAS in 1960, and the organization has subsequently ensured that its revision is an ongoing process.

SOLAS specifies minimum standards for the construction, equipping, and operation of ships compatible with their safety. Apart from Chapter V, SOLAS does not apply to fishing vessels. Chapter V deals with safety of navigation and identifies certain navigation safety services that should be provided by contracting governments and sets forth provisions of an operational nature applicable in general to all ships on all voyages. This is in contrast to the convention as a whole, which only applies to certain classes of ships engaged in international voyages.

Recognizing that a number of fishing boat accidents are caused by submarines, a resolution was adopted by the IMO in 1987 recommending operational practices for submarines to reduce this danger.

Torremolinos convention and the Torremolinos protocol

The Torremolinos (Spain) International Convention for the Safety of Fishing Vessels, held in 1977, was the first-ever international convention on the safety of fishing vessels. It was intended to be a more formal document than the Code and Voluntary Guidelines (see below) and formulated more along the lines of the International Convention for Safety of Life at Sea in 1974. The convention contains safety requirements for the construction and equipment of new, decked, sea-going fishing vessels 24 meters long or more, including those vessels also processing their catch. Existing vessels were covered only with respect to radio requirements.

One of the most important features of the convention was that it contained stability requirements for the first time in an international convention. Other chapters dealt with such matters as construction, watertight integrity, and equipment; machinery, electrical installations, and unattended machinery spaces; fire protection, detection, extinction, and fire fighting; protection of the crew; lifesaving appliances; emergency procedures, musters, and drills; radiotelegraphy and radiotelephony; and shipborne navigational equipment.

Representatives of 45 countries agreed upon the convention in 1977, but subsequently it has not received sufficient ratifications to enter into force, as many states claim it to be either too stringent or too lenient for their fishing fleets. It was, therefore, decided to prepare a protocol to the convention. The purpose of the protocol is to overcome the constraints of the provisions in the parent convention that have caused difficulties for states and thereby enable the protocol to be brought into force as soon as possible (see note c). In several chapters, this was achieved by raising the lower size limit of vessels from 24 to 45 meters. The protocol also calls for the development of regional guidelines for vessels between 24 and 45 meters long, taking into account the mode of operation, sheltered nature, and climatic conditions of that region.

Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel

The Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel (STCW-F convention), which was adopted by IMO in 1995, contains requirements concerning skippers and watchkeepers on vessels 24 meters long and over, chief engineers and engineering officers on vessels of 750-kW propulsion power or more, and personnel in charge of radio communications. Chapter III of the Annex to the Convention includes requirements for basic safety training for all fishing vessel personnel. As of May 2000, the STCW-F Convention had been ratified by four countries.

Other related IMO conventions

Other IMO conventions that have particular relevance to safety and health in fishing include the International Convention on Maritime Search and Rescue, 1979, and the Convention on the International Regulations for Preventing Collisions at Sea (COLREGS), 1972 (as amended). Finally, the International Aeronautical and Maritime Search and Rescue Manual, whose purpose is to assist states in meeting search and rescue needs, contributes significantly to improving success rates in the rescue of fishermen.

This list of international conventions and recommendations shows that profound effort has already been invested at an international level in improving safety at sea. This work has been meticulously done, taking into account the design and construction of vessels, stability, load lines, mechanical equipment and gear, safety equipment, communications, effects of weather and icing, working conditions and hours, training of licensed personnel, etc. Thus, as has been repeatedly pointed out, there is no lack of regulations and administrative guidelines. What is missing is their effective enforcement at the national level.

International Labour Office

The prompt for the ratification of conventions for labour standards in the fishing industry has been a parallel, on-going process in the maritime industry. This process involves around 70 conventions and recommendations and has been termed the Super Convention in the discussion to rationalise all the maritime conventions. It was during the initial stages of these discussions—

when the employers' group (i.e., the International Shipping Federation) stated it was not competent to represent fishing industry employers—that it became evident that fishing industries would be deleted from several provisions of the maritime conventions and would not be included under the new convention (i.e., repatriations of seafarers and identity documents). This would have to be dealt with under another amalgamating convention for the fishing industry.

The present ILO conventions relating to the fishing industry include the following:

- + Convention 112, Concerning the Minimum Age for Admission to Employment as Fishermen (1959),
- + Convention 113, Concerning Medical Examinations for Fishermen (1959),
- + Convention 114, Concerning the Vocational Training of Fishermen (1966),
- + Convention 125, Concerning Fishermen's Certificates of Competency (1966), and
- + Convention 126, Concerning Accommodation On Board Fishing Vessels (1966).

In addition, there are two recommendations:

- + Recommendation 7, Concerning the Hours of Work in the Fishing Industry (1920) and
- + Recommendation 126, Concerning the Vocational Training of Fishermen (1966).

If the parallel development of ILO conventions for the maritime industries is examined, a "trickle down" effect is obvious, in that as a convention was developed for the maritime industry, a similar convention was drafted for the fishing industry. This practice has failed in that a low number of ratifications has been secured for the fisheries conventions and recommendations. This may be due to the differences between the two industries—the maritime industry is characterised by a strong union-employee interaction, whereas the fishing industry is largely self-employed.

The current timetable for the ratification of the conventions included one preparatory conference in June 2004 and a final conference in June 2005.

It should, however, be noted that ILO has had strong support for more general conventions, including the establishment of a minimum age to prevent the worst forms of child labour. This convention has had a very high rate of ratification. Under this convention, employment is generally prohibited for persons under the age of 18 in certain occupations. Because the fishing industry is regarded as a hazardous industry, it would appear to fall under this category. However, there would appear to be enough flexibility in the convention to allow employment from the age of 16 (i.e., if the persons are adequately supervised and are not allowed to undertake hazardous tasks).

Regional arrangements

Some countries have included the issue of safety at sea in the work plans of regional bodies or organizations (such as the Organization of East Caribbean States [OECS]) (see note d), the Sub-Regional Fisheries Commission of North West African States (see note e), the South Pacific Commission (SPC) (see note f), and the Bay of Bengal Programme (BOBP) (see note g). In some cases, they have linked these work plans to fisheries management. Such arrangements will be of value during the formulation of standards intended to be adopted by all member countries through a programme for the harmonization of fisheries regulations.

Application of conventions and regulations to fisheries

At the national level, this same reason has hindered the inclusion of fishing vessels in regulations formulated by maritime administrations, while at the same time, industry representatives have, in some cases with success, lobbied for exemptions for a variety of reasons. This reflects reluctance on behalf of the fishing industry to be subjected to a comprehensive regulatory programme. Fisheries have a long tradition of independence. Many regard fisheries as the last frontier of free enterprise and resent government involvement, an involvement that may be perceived by the industry as inadequately informed of the risks and nature of fishing operations—or of the slim profit margins that might be eroded by mandatory compliance with regulations on training, vessel construction, and equipment. In addition, legislators may refrain from imposing laws or regulations on the fisheries that lead to additional costs or may otherwise be perceived as repressive. The US Coast Guard, for example, has repeatedly advocated the licensing and training of commercial fishing vessel crews, but to no avail. The US Congress has in-

deed drafted such legislation, but not enacted it into law. Research in the area of safety at sea for commercial fishermen in the United States has largely focused on the implementation and effectiveness of safety regulations. Findings strongly assert that fishermen's perceptions regarding safety can vary greatly from those of the government, including the Coast Guard, and that there needs to be a better understanding of the fishing culture and ways in which safety is viewed therein. These findings underscore the need to involve fishermen in the safety regulatory process; the "human factor" associated with safety at sea coupled with the cognitions and input of fishermen all provide essential information needed to make safety regulations more effective (Kaplan and Kite-Powell 2000).

Government policy to regulate for safety at sea in the fishing industry must be accompanied by a total commitment to implement that regulatory regime, along with the necessary resources. Implementation encompasses a set of strategies that could include education, assistance, persuasion, promotion, economic incentives, monitoring, enforcement, and sanctions, all of which are accompanied by setting up or improving administration and associated costs. Implementation must be considered at every phase of the regulation formulation—and not the final consequence of regulation.

While it may be true that "legislation is only as good as its enforcement," legislation cannot be improved by enforcement. The quality of the legislation remains the limiting factor. In many parts of the world, additional regulations for fisheries are not required. The overriding need is for regulations to be reviewed and amended to reflect problems and their root causes. The process of regulatory review must be as dynamic as the industry being regulated. Thus, it is clear the industry must be part of this process. The regulators and the regulated need the appropriate training to ensure compliance and enforcement, as well as a working relationship promoted by mutual respect and trust (Turner 2002). The establishment of national sea-safety working groups might be a step in the right direction. In some places the infrastructure necessary for enforcement hardly exists and would have to be built from scratch.

Food and Agriculture Organization (FAO): The Code of Conduct for Responsible Fisheries

The Code of Conduct for Responsible Fisheries was unanimously adopted by the FAO Conference in 1995. The code is voluntary. However, certain

parts of it are based on relevant rules of international law, as reflected in the UN Convention on Law of the Sea of 10 December 1982. The code also contains provisions that may in the future be given—or have already been given—binding effect by means of other obligatory legal instruments among the parties, such as the Agreement to Promote Compliance with Conservation and Management Measures by Fishing Vessels on the High Seas, 1993. It is a unique instrument in its holistic approach, based on and bringing together key elements from the then-existing international conventions and guidelines concerning fisheries and related environmental issues (see note h). It offers guidelines for responsible fisheries, establishing principles and standards applicable to the conservation, management, and development of all fisheries. The code recognizes the nutritional, economic, social, environmental, and cultural importance of fisheries and the interests of all those concerned with the fishery sector. It also recognizes the importance of the safety issue and contains several separate references to the subject, addressing working and living conditions, health and safety standards, education and training, safety of fishing vessels, search and rescue, and accident reporting (see note i).

The fact that the code is to a great extent nonmandatory has proven to be more of an asset than a weakness. This renders it attractive as a model on which to base the management of fisheries, and its adoption does not carry the same formal consequences as the conventions it is based on. The code functions well as a model that can be applied under various conditions without the constraint of having to comply with standards that are not appropriate for the nation in question.

Every other year, FAO monitors to what extent the member states comply with the Code of Conduct. A response rate of 60% (during the year 2000) of all FAO member states, including landlocked countries, must be regarded as quite encouraging. Several countries have adapted the code to their fisheries and stages of development, and it seems to serve well as a framework within which to build different types of management systems (Doulman 2003). It may be added that the Philippine Fisheries Code of 1998 closely follows the principles enshrined in the Code of Conduct. In addition to the code itself, FAO has prepared a series of Technical Guidelines for Responsible Fisheries, consisting at present of nine separate publications.

The Fisheries Department of FAO has been working in the field of fishermen's safety for 50 years, during which the fishing industry has been greatly affected by political, social, economic, and technological changes. These

changes have led inexorably to increased pressure on fish resources. Consequently, governments have recognized that they need to be better aware of the state of their fisheries, to implement effective policies to prevent resource depletion and the wastage of fishery inputs, and, increasingly, to facilitate stock rehabilitation. While the extent and effect of fisheries management measures put in place around the world vary considerably, they tend to be more concerned with the long-term conservation and sustainable use of fisheries resources than with the welfare of those who harvest them. FAO, therefore, tends to concentrate on issues concerning the resources with only a few staff—people who generally have had sea-going experience and are interested in fisheries safety, but who can only devote a small proportion of their time to this very important subject.

Joint FAO/ILO/IMO work: Document for Guidance on the Training and Certification of Fishing Vessel Personnel

This Document for Guidance takes account of the conventions and recommendations adopted by ILO and IMO and of the wide practical experience of FAO in the field of training for fishing vessel personnel. It is intended to provide guidance when national training schemes and courses are instituted, amended, or developed for the vocational training of any category of fishing vessel personnel. It is stressed that additional guidance on training is complementary to, and not intended to supersede, the knowledge requirements specified in these ILO and IMO conventions and recommendations. The document applies to training and certification of both small-scale and industrial maritime fisheries. However, in the case of fishing vessels less than 24 m long or powered mainly by machinery of less than 750-kW propulsion power, certification is not prescribed, but may be introduced at the discretion of the competent administration. It is a revision of an earlier publication to take into account the STCW-F (1995), the FAO Code of Conduct for Responsible Fisheries, and recent developments in the fishing industry.

The FAO/ILO/IMO Code of Safety For Fishermen and Fishing Vessels and the FAO/ILO/IMO Voluntary Guidelines for the Design Construction and Equipment of Small Fishing Vessels

The Code of Safety comprises two parts: Part A (Safety and Health Practices for Skippers and Crews) and Part B (Safety and Health Requirements

for the Construction and Equipment of Fishing Vessels). Both of these documents are currently under revision by an IMO intersessional correspondence group. In a similar fashion, the Voluntary Guidelines for the Design Construction and Equipment of Small Fishing Vessels is being revised.

National administrations

Maritime administrations, on the other hand, have the safety of seafarers among their prime concerns. However, they frequently have difficulty in adequately addressing the safety of fishermen because the nature of fishing operations is so different from that of the cargo handling and transport activities encountered in merchant shipping with which they are typically more familiar. Fishing vessels are excluded from the vast majority of provisions of international shipping conventions drawn up by bodies such as IMO, and to this day there is no international convention in force dealing with the safety of fishing vessels or the training of their crews.

The effect of this dilemma is that in many countries, the issue of fishing vessel safety is falling between the fisheries and maritime administrations and not being comprehensively addressed by either. Nevertheless, this problem has been recognized at an international level in the past, and a great deal of work has been done through a tripartite group of FAO/ILO/IMO. Unfortunately, the joint work of the three organizations does not trickle down to a national level.

Voluntary efforts

This is not to suggest that fishermen's safety can only be tackled through conventions, safety regulations, and enforcement. There are a number of areas in which improvements can be made: for example, more effective and holistic fisheries management; the training and certification of skippers and crews; increased collaboration between fishermen, their communities and organizations, and government; provision and analysis of data identifying the root and actual causes of accidents; and education and training of teachers, extensionists, and inspectors. All of these can lead to improvements. But the fact is that even in some of those countries where these measures are in progress, fishing-related deaths are on the increase. This is not because in those same countries there are more fishermen, or because their boats are less well built than they used to be—the reverse is the case. It is more likely to be the result of economic pressures and human factors such as risk taking, fatigue, stress,

and simply attitude problems—a high risk of loss of life has been accepted as part of the fishing culture. This attitude has perhaps been one of the major underestimated obstacles to improved safety and work environment in the fishing industry and is one that can be corrected by concerted efforts from within the family and the community, as well as through government institutions. And indeed, it is important that it should. The consequences of loss of life fall heavily on the dependents.

In many developing countries, these consequences can be devastating. A widow may have a low social standing, and where there is no welfare state to support the family and without alternative sources of income, a widow and her children may face destitution.

The Code of Conduct for Responsible Fisheries notes that it is the duty of all states to “ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy, and fair working and living conditions and meet internationally agreed standards adopted by relevant international organizations.”

How can states comply with this duty? Unsafe vessels could be eliminated. Safety equipment could be the subject of mandatory installation and servicing requirements. Awareness of stability issues could be achieved by improving crew training and education. Beach-based training on how to respond to emergencies at sea and how to use survival gear could be introduced for all crews. Administrations could reach out to fishing communities and fishermen’s organizations to ensure their participation and comprehensive involvement.

It is obvious that the above examples cannot be implemented overnight. But without them and others like them, any substantial improvement in safety at sea for current and future generations of fishermen is not achievable. Moreover, without them, fishermen will not be able to achieve a corresponding degree of social respect or status in acknowledgment of their membership in a professional group having recognized skills, expertise, standards, and responsibilities. Without that social respect or status, many small-scale and artisanal fishing communities will continue to exert little influence on society regarding the most fundamental issues that concern them, such as health, education, and infrastructure. In the absence of respect, these people will remain marginalized, left at the control of those who are able to exploit them.

To achieve progress and meaningful implementation of the types of measures described in the examples above, an enabling environment is a prerequisite. Sustainable results will not be achievable without political will, motivation, and commitment. In attempting to tackle the problem of fisheries safety, FAO has been trying to include safety at sea as an issue to be considered under fisheries management (Petursdottir, Hannibalsson, and Turner 2001). Often, too little attention is given to generating sufficient political support and lasting commitment for effecting the necessary social, technological, legal, and institutional changes needed to improve working conditions within the fisheries sector. It will be important to raise levels of awareness about sea safety issues among relevant senior government decision-makers.

The Code of Conduct contains many references to the obligations of countries concerning safety at sea. Such obligations notwithstanding, loss of life among fishing vessel crews continues to increase. While there is no lack of regulations and administrative guidelines at the international level, they are rarely enforced or implemented effectively at national levels. The promotion of responsible fisheries operations is especially problematical in the artisanal fisheries of developing countries. Although these fisheries account for the vast majority of the world's fishing fleets, they also reflect the environments where sea safety regimes are weakest.

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Notes

- a. Considerable confusion exists as to the proper use of the acronym UNCLOS with reference to the United Nations Conferences and Convention on the Law of the Sea. For a useful discussion on the topic see the *International Journal of Marine and Coastal Law*, Vol. 15, No. 3, and *Kluwer Law Journal International*, 2000, 12-07.
- b. The clause on 200-mile EEZs had been agreed upon in 1976 with the effect that a number of nations extended their EEZs without delay.
- c. The 1993 Protocol has been ratified by nine states.
- d. Antigua and Barbuda, Commonwealth of Dominica, Grenada, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent, and the Grenadines
- e. Mauritania, Cap Verde, Senegal, the Gambia, Guinea Bissau, and Guinea.
- f. Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

- g. Bangladesh, India, Indonesia, Malaysia, Maldives, Sri Lanka, and Thailand.
- h. Certain parts of the Code are based on the 1982 UN Convention. It is to be interpreted and applied in conformity with the relevant rules of international law as reflected in the 1982 UN Convention, and in a manner consistent with the relevant provisions of the 1995 UN Fish Stocks Agreement, as well as in light of the 1992 Declaration of Cancun, the 1992 Rio Declaration on Environment and Development, and Agenda 21, especially Chapter 17. The FAO Compliance Agreement is an integral part of the Code. See Articles 1 and 3 of the Code.
- i. Reference is made to issues directly pertaining to safety in paragraphs 6.17: 8.1.5: 8.1.6: 8.1.7, 8.1.8, 8.2.5: 8.3.2: and 8.4.1

