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Enhancing safety of operation for fishing vessels in the Barents Sea

Safety standards in international and Norwegian Domestic law

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Table of Contents

1	Introduction	1
1.1	Topic	1
1.2	Dangers of fishing in the Barents Sea	2
1.3	Objective of the thesis	3
1.4	Scope of the thesis	4
2	Sources and methodology	7
2.1	Methodology.....	7
2.2	Sources.....	9
2.2.1	International legal sources.....	9
2.2.2	Norwegian domestic legal sources	11
3	International legal framework	12
3.1	UNCLOS	12
3.1.1	Flag State Jurisdiction	13
3.1.2	Coastal State jurisdiction.....	14
3.1.3	Port State jurisdiction	16
3.1.4	Summary	16
3.2	IMO, FAO, and ILO	17
3.2.1	The relationship between the UNCLOS and IMO instruments	17
3.3	Legal instruments	19
3.3.1	Polar Code	19
3.3.2	From Torremolinos to Cape Town.....	21
3.3.3	Technical requirements of the Cape Town Agreement.....	24
3.3.4	Guidelines.....	27
3.3.5	Training and certification of fishing workers.....	27
4	Norwegian Domestic legislation	29
4.1	2007 Ship Safety and Security Act.....	29

4.2	Regulations	31
4.2.1	Technical requirements	31
4.2.2	Safety Requirements regarding the Human element.....	34
4.2.3	Summary	35
5	Conclusion.....	36
6	Annexes	38
6.1	Annex 1.....	38
	Works cited	39

1 Introduction

1.1 Topic

The Arctic is melting, and new opportunities are emerging in the region. Economic activities in the Arctic oceans are becoming more feasible and accessible. However, with an increased economic activity in a region with the remoteness and the extreme climate as the Arctic issues of safety arises. At the same time as economic activities in the Arctic oceans are looked upon as more attractive option for resource exploitation the Norwegian minister for fisheries has set out an optimistic goal of zero deaths on Norwegian fishing vessels.¹ This thesis is a research project on the international legal framework of fishing vessel safety, it will examine the existing international legal framework for fishing vessels safety, as well as compare it to the Norwegian legislation on the subject. The thesis is about how Norway can enhance the safety of fishing vessels in the Barents Sea. It will also provide a general overview of state jurisdiction to enhance fishing vessel safety.

Fishing is an occupation of inherent danger. The reason for choosing the fishing vessel safety in the Barents Sea for this thesis is threefold. The first reason is that ships that operate in the polar regions are protected to a certain extent by the provisions of the Polar Code.² Which sets out safety standards for the construction, equipment, training and more to ensure that ships can safely operate in the harsh conditions they are up against in the polar regions. However, fishing vessels are exempt from the Safety of Life at Sea Convention, and therefore also parts of the Polar Code and are therefore not bound by the safety requirements that the SOLAS Convention and the Polar Code provides.³ The second reason for choosing fishing vessels in the Barents Sea is that fishing vessels are most common vessels navigating within the Arctic Ocean. 41% of all ships that operate in the region are fishing vessels.⁴ The Majority of these

¹ Nærings- og fiskeridepartementet, 'Fiskeri- og havministeren vil ha nullvisjon i fiskeflåten' (*Regjeringen.no*, 3 February 2022) <<https://www.regjeringen.no/no/aktuelt/fiskeri-og-havministeren-vil-ha-nullvisjon-i-fiskeflaten/id2899587/>> accessed 17 august 2022.

² 'International Code for Ships Operating in Polar Waters 2014

³ International Convention for the Safety of Life at Sea (SOLAS) 1974

⁴ Hjalti Hreinsson, 'PAME – Arctic Shipping Status Report #1' (PAME Protection of the Arctic Marine Environment 2020) <<https://pame.is/document-library/pame-reports-new/pame-ministerial->

fishing vessels are operating in the Barents Sea.⁵ And third as the current Norwegian minister for fisheries has recently set out an ambitious goal of no casualties in the Norwegian fishing industry.⁶ Combining these three points with the dangers of fishing in the Barents Sea makes it a good arena to explore the challenges related to fishing vessel safety legislation.

1.2 Dangers of fishing in the Barents Sea

This subsection will investigate the dangers of fishing in the Barents Sea. Fishing in general is an inherently dangerous occupation. Fishers operate with their lives and health at risk. Due to the inherent hazards within the aquatic environment and the seas in particular, danger has always been an essential ingredient of the industry.⁷ The overall development in the Norwegian fishing fleet is that ships are becoming fewer and more efficient.⁸ It is also documented that in recent times the number of fishing related accidents are decreasing, even when considering the rapid decrease of active fishermen.⁹ This development can be attributed to the rapid technological developments in the industry.¹⁰ Technological advancements can help the health and safety situation on fishing vessels, but if the goal of zero deaths in the Norwegian fishing fleet is to be reached regulations could be necessary.

In the period 1990 to August 2012, a total of 286 fishing related deaths occurred in the Norwegian fishing fleet.¹¹ Wreckage of ships and breakdowns were the primary cause of fatalities in the Norwegian fishing fleet with 104 casualties from 1990 to 2012.¹²

The Barents Sea has weather that is often highly operatable and much less challenging than

[deliverables/2021-12th-arctic-council-ministerial-meeting-reykjavik-iceland/793-assr-1-the-increase-in-arctic-shipping-2013-2019/file>](#) accessed 13 June 2022.

⁵ *ibid.*

⁶ fiskeridepartementet (n 1).

⁷ CG Loughran and others, 'A Preliminary Study of Fishing Vessel Safety' (2002) 5 *Journal of Risk Research* 3.

⁸ Fiskeri og kystdepartementet, 'Fakta Om Fiskeri Og Havbruk 2011' (Fiskeri og kystdepartementet 2011).

⁹ Halvard L. Aasjord, Ingunn Marie Holmen, and Trine Thorvaldsen, 'Fiskerulykker og årsaksforhold' (SINTEF Fiskeri og Havbruk 2012) A23369.

¹⁰ *ibid.*

¹¹ *ibid.*

¹² *ibid.*

other sea areas at the same latitude.¹³ Though this fact is limiting the dangers of fishing in the Barents Sea, the climactic conditions in the are unpredictable with present risk of sea ice and polar lows, which cause hazardous maritime operation conditions.¹⁴

1.3 Objective of the thesis

The Objective of this thesis is to analyze and systemize the international legal framework for fishing vessel safety standards, as well as analyze and compare the international legal framework to Norwegian domestic law. The thesis will provide an overall understanding of how the international legal regime functions, with a special emphasis of the development of international compulsory regime for fishing vessel safety. The thesis will investigate how Norway can enhance their safety policy for workers on fishing vessels with a critical assessment of the Norwegian legislation. This thesis will attempt to provide a better understanding of the international legal framework for fishing vessel jurisdiction, to identify potential gaps and challenges in the existing legal framework, as well as investigating how Norwegian legislation implements this legal framework, and gain a better understanding of whether Norway fully utilizes the maximum potential of the international legal framework.

This thesis will also investigate the development of the international legal instruments for fishing vessel safety. It will provide an understanding of why the lack of compulsory safety standards is an issue, how the creation of such global standards is developing, and what consequences the creation of such instruments would have legally.

The thesis question that this thesis will attempt to answer is how Norway use their prescriptive legislation under the current international legal framework to enhance the health and safety for fishers in the Barents Sea?

¹³ Svein Inge Andersen, 'Why the Barents Sea Is Not as Bad as Its Reputation' (*StormGeo*, 25 October 2018) <<https://www.stormgeo.com/solutions/oil-and-gas/articles/the-barents-sea/>> accessed 13 June 2022.

¹⁴ *ibid.*

1.4 Scope of the thesis

This thesis is an in-debt analysis of the existing legal framework for fishing vessels. It includes an overview of the existing international legal framework for the safety of fishing vessels and the fishers that work on them. The thesis also investigates how states can enhance the safety for fishing vessels under the jurisdiction provided in the international legal framework. This includes an overview and analysis of the challenging process of creation of globally accepted agreements on fishing vessel safety, and how Norway has acted in relation to the international challenges when implementing domestic legislation. This thesis will analyse the development of international legal regime for fishing vessel safety and how this interacts with Norwegian domestic legislation on the topic on a geographically universal level, as well as at a level specific to the polar regions.

Neither of the instruments used in this thesis give a satisfactory definition of the notion of safety, therefore the term safety in this thesis is understood as minimizing the risk of injury and death in operating under normal circumstances in the Barents Sea. This includes hazards related to the construction, design, and equipment on board the ships, as well as the hazards related to the working conditions the fishers are subjected to. Human error is also a principal factor in risk management. Therefore, this thesis will focus on two aspects of safety legislation, firstly legislation related to the construction, design, and equipment of ships, and secondly legislation related to the training of fishers. Regarding construction, design, and equipment of ships this thesis will primarily focus on requirements relating to polar water specific problems, with a specific focus on ice as a source of elevated hazard. Ice may impact hull structure, stability characteristics, machinery systems, navigation, the outdoor working environment, maintenance and emergency preparedness tasks and malfunction of safety equipment and systems.¹⁵ This includes tools for limiting ice accretion, and construction of hull strength in relation to operating in seas where sea ice may occur. Regarding training of fishers this thesis will investigate regulations regarding preparedness of fishers to operate in polar conditions. Illegal, unreported, and unregulated (IUU) fishing is another critical issue in relation to the law of the sea and fishing. It is a part of the discussion when speaking of the international legal framework for fishing vessels, however this thesis excludes IUU fishing as

¹⁵ GUIDELINES FOR SAFETY MEASURES FOR FISHING VESSELS OF 24 M IN LENGTH AND OVER OPERATING IN POLAR WATERS 2021.

it is hard to impose IUU fishing on fishing vessel safety with the chosen definition of the notion of safety.

The definition of fishing vessels used in this thesis is from the 1977 Torremolinos International Convention for the safety of fishing vessels and goes as follows: “Fishing Vessels” or “Vessels” means any vessel used for commercially for catching fish, whales, seals, walrus, or any other living resources of the sea.¹⁶

This thesis will focus on Norwegian jurisdiction on fishing vessels operating in their maritime zones. Norway has three distinct categories of jurisdiction over ships that fish in their maritime zones which will be elaborated in detail later in the thesis. These categories are the jurisdiction Norway has over Norwegian registered ships known as flag state jurisdiction, secondly over foreign registered ships operating in their maritime zones known as coastal state jurisdiction, and third over ships that use their ports known as port state jurisdiction. All three forms jurisdiction are important. However, as will be discussed later in the thesis most of the international agreements regarding fishing vessel safety standards are directed towards flag state jurisdiction, Norwegian jurisdiction in the role as flag state will be prioritized.

When legislating fishing vessels, they are generally categorised by size, this way of legislating is done in the existing international law as well as in Norwegian domestic law. This is due to the different challenges to health and safety that ships of different face. Fishing vessels of all different sizes do however operate in the Barents Sea, however there is a clear difference in the amount and gravity in the international instruments regulating ships of a length of shorter than twenty-four meters comparatively to ships longer than twenty-four meters, with the majority of key international instruments being directed towards larger vessels. Therefore, this thesis will primarily focus on the international and Norwegian domestic legislation directed towards fishing vessels of a length of longer than twenty-four meters.

For regulation of the conduct of fishing vessels, the law of the sea allows the state to adopt regulations and to enforce these regulations. Both the prescriptive jurisdiction and the enforcement jurisdiction of states are largely relevant for enhancing the safety for fishers and

¹⁶ TORREMOLINOS INTERNATIONAL CONVENTION FOR THE SAFETY OF FISHING VESSELS, 1977 | Treaties Database.

fishing vessels. However, the two categories of state jurisdiction have such distinct natures that the limited scope of the thesis only allows for an in-depth analysis of states prescriptive jurisdiction. Therefore, this thesis will not look at the tools that States as Norway has to ensure compliance with their regulations, only the room to implement them.

This thesis has a specialized geographical scope towards the Barents Sea. Although some of the research of this thesis is universally applicable for fishing vessels, the objective of the thesis is to investigate specific legal tools to enhance fishing vessel safety in the polar regions

The geographical scope of this thesis is the northernmost parts of the ocean spaces within Norwegian jurisdiction, the Barents Sea, and otherwise polar regions whereas Norwegian fishing vessels navigate and operate.

2 Sources and methodology

This chapter will address the sources and the methodology used to gain a better understanding of the international legal framework for fishing vessel safety and its interaction with Norwegian domestic legislation. It will address firstly address the choice of methodology and research design used in this thesis, secondly it will illustrate which sources will be used, lastly it will explain how these sources will be analysed in light of the purpose of this thesis.

2.1 Methodology

This is primarily a legal research project. Therefore, a legal doctrinal methodology is chosen. Doctrinal legal methodology focuses on the letter of the law, composing of descriptive and detailed analysis of law found in primary sources such as cases, statutes, and regulations.¹⁷ The thesis will examine existing international treaties, it will also include analysis of international law that is not yet entered into force. It will also examine Norwegian domestic laws and regulations. It will examine the law *de lege lata*, meaning as it exists now, but also investigate the development of the international legal framework for fishing vessels. As well as compare international legal instruments that is yet to enter into force with the existing Norwegian legislation.

As this thesis relies so heavily on legal sources of different nature, an explanation of the relationship between international and domestic law is warranted. International law has several different sources. International treaties, customary international law, as well as court law are the key sources of international law.¹⁸ This thesis will rely most heavily on treaties as the key source.

Public international law is the system that dictates and governs the relationship between states, and the relationship between states and international organisations.¹⁹ The only parties

¹⁷ Maggie Kiel-Morse, 'Research Guides: Legal Dissertation: Research and Writing Guide: Home' <<https://law.indiana.libguides.com/dissertationguide/home>> accessed 17 August 2022.

¹⁸ Peter Flewwelling and FAO (eds), *Recent Trends in Monitoring, Control and Surveillance Systems for Capture Fisheries* (Food and Agriculture Organization of the United Nations 2003).

¹⁹ *ibid.*

that are bound by public international law is states and international organisations.²⁰

Generally speaking, a rule of international law cannot be enforced directly against individuals or companies unless there are provisions in domestic law that authorises its application as a matter of domestic law.²¹

This thesis will as discussed previously focus on international treaties as its main source for international law. The 1969 Vienna Convention of the Law of Treaties (VCLT) is a necessary starting point for understanding how we interpret international law and is especially crucial for the interpretation of international treaties.²²

The VCLT Article 31 says that a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in the context and in light of its object and purpose. As this thesis will focus on international law that are specific technical and non-technical requirements for ships as well as general obligations for States to ensure fishing vessel safety understanding the meaning of these provisions is not demanding.

The VLCT elaborates on which terms states are bound by a treaty. In general, a State has accepted to be bound by a treaty and the treaties contents when they grant their signature on the treaty. However, as is often the case when negotiating multilateral treaties, terms for states to be bound by the treaty is often provided within the treaty. Using the 2012 Cape Town Agreement as an example have the condition that the treaty will only enter into force, binding the signatory states when at least twenty-two states with an aggregate of 3600 fishing vessels of longer than twenty-four meters operating on the high seas expresses their consent to be bound by it.²³

As this thesis is also dealing with international treaties that have not yet entered into force an overview of what this entails is necessary. States are not bound by treaties that have not entered into force. However, a contracting party is a state that has given its consent to be bound by the treaty despite the treaty not having entered into force as stipulated in VCLT

²⁰ *ibid.*

²¹ *ibid.*

²² Vienna Convention on the Law of Treaties 1969

²³ International Maritime Organisation, '2012 Cape Town Agreement (Explained)' (*2012 Cape Town Agreement (Explained)*) <<https://sway.office.com/pGZcJtkSuHNxDzy5>> accessed 9 June 2022.

Article 1(f). Also, article 18 of the VCLT provides a general obligation that states that have signed their consent to be bound by a treaty is obliged to refrain from act that would defeat the purpose of a treaty when it is pending entry into force. This does not mean that contracting states are bound by the contents of the provisions of the treaty, but that they should abstain from acting in manners that works against the purpose of the treaty.

An international convention that has not entered into force is therefore not binding to anyone before the treaty meets the requirements provided in the treaty.

2.2 Sources

2.2.1 International legal sources

When dealing with the question of safety of navigation and safety of operation for fishing vessels, the necessary starting point is UNCLOS²⁴. UNCLOS is an umbrella convention that lays down a comprehensive regime for law on the oceans, establishing governing rules and principles for all uses of the world's oceans spaces and their recourses. UNCLOS provide the legal framework for the exercise of jurisdiction in the law of the sea.

In addition to UNCLOS legal instruments from the International Maritime Organisation (IMO), International Labour Organisation (ILO), and the Food and Agriculture Organisation (FAO) are important legal sources for the safety of fishing vessels and fishers. These organisations are UN specialised agencies have their unique roles as internationally recognized organisations for their respective fields. They all have interest in fishing and have provided key instruments to improve safety for fishing internationally both individually and in collaboration with each other. These instruments are international treaties that has entered into force, treaties that have not yet entered into force, and non-binding treaties and guidelines.

²⁴ 1982 United Nations Convention on the Law of the Sea

The IMO defines four pillars of fishing vessel safety. The four pillars are the IMO's 2012 Cape Town Agreement, which is not yet in force.²⁵ The IMO's STCW-F Convention on training of fishers, which entered into force in 2012.²⁶ The ILO Work in Fishing Convention 2007. These two are pillars of fishing vessel safety are the most relevant to this thesis as the Cape Town Agreement sets standards for the technical aspect of fishing vessels, assuring safety at sea. The STCW-F convention is also relevant as it sets out minimum requirements for the training and certification of fishing workers. The Third pillar is the ILO's work in fishing convention 2007.²⁷ This convention specifies working conditions for fishers, including working hours, rest, food, minimum age, and repatriation.²⁸ Though these working conditions are due to have an overall effect on the safety situation on fishing vessels, the convention is deemed as irrelevant for the scope of this thesis. The fourth is the FAO Port state measures to prevent, deter, and eliminate IUU fishing 2009.²⁹ The nature of IUU fishing in relation to fishing vessel safety has already been discussed and as discussed IUU fishing is considering the objective and scope of the thesis not deemed as important and this convention will also not be analysed in this thesis. The Polar Code is also an important instrument for the safety of navigation and for the protection of the marine environment for ships operating in the polar regions. Investigating the Polar Codes scope of application for fishing vessels in light of this thesis' definition of safety is therefore necessary.

The IMO, FAO and the ILO has developed an instrument of guidelines for fishing vessel safety. This is the code of safety for fishermen and fishing vessels. The code is divided into two parts. Part A is concerned with safety and health practice, while part B is concerned with the construction, design, and equipment of fishing vessels. These guidelines are useful tools

²⁵ The Cape Town Agreement of 2012 on the implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels of 1977.

²⁶ 1995 International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel.

²⁷ ILO Work in Fishing Convention 2007

²⁸ '2012 Cape Town Agreement to Enhance Fishing Safety'

<<https://www.imo.org/en/MediaCentre/HotTopics/Pages/CapeTownAgreementForFishing.aspx>> accessed 3 June 2022.

²⁹ Agreement on Port State measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated fishing 2009

for the general safety of fishing vessels but regarding the safety measures regarding ice as the primary risk factor it does extraordinarily little. A guideline this thesis will briefly discuss is the IMO's guidelines for Safety of Fishing Vessels of twenty-four meters in Length and Over operating in Polar Waters.³⁰ The Polar guidelines is intended as a supplemental tool for the Cape Town Agreement.

The 2008 IS code is a legal tool that will not be discussed in this thesis, but it is however, used in the legal instruments that will be discussed.³¹ The 2008 IS Code provides, both mandatory requirements as well as recommendations relating to intact stability that influence the design of all vessels covered by the IMO instruments.³²

2.2.2 Norwegian domestic legal sources

The Norwegian legislation does not have an official translation and therefore if not clearly stated otherwise will be my own translation. However, the essence and meaning of the wording of the legislation will be kept to the best of my ability.

The Norwegian domestic legal sources that will be discussed in this thesis is the Ship Safety and Security Act of 2007.³³ As well as Norwegian regulations such as the 1989 Regulation on safety training for fishers, 2005 Regulation on working environment, safety, and health on ships, and the 2000 regulation on Construction, equipment, and operation of fishing vessels of a length of twenty-four meters or more.³⁴

³⁰ Hereinafter referred to as the Polar guidelines

³¹ 2008 International Code on Intact Stability

³² IMO, 'Ship Design and Stability'

<<https://www.imo.org/en/OurWork/Safety/Pages/ShipDesignAndStability-default.aspx>> accessed 25 August 2022.

³³ LOV-2007-02-16-9 Lov om Skipssikkerhet (Skipssikkerhetsloven)

³⁴ FOR-2000-06-13-660 Forskrift om konstruksjon, utstyr og drift av fiskefartøy med lengde 15 meter eller mer; FOR-2005-01-01-8 Forskrift om arbeidsmiljø, sikkerhet og helse for de som har sitt arbeid om bord på skip; FOR-1989-02-10-88 Forskrift om sikkerhetsopplæring for fiskere

3 International legal framework

This chapter will explain and analyse the international legal framework for fishing vessel safety from the Norwegian perspective. The chapter will provide an overview of how international law of the sea functions. It will explain the various kinds of state jurisdiction in the international law of the sea. It will explain the role of international organisations, and how they interact with UNCLOS and states to create instruments that increase safety of life at sea for fishers. The chapter will also investigate the development of a compulsory legal regime applicable for fishing vessel safety, as well as introduce and analyse the technical requirements that the framework provides if it is to enter into force.

3.1 UNCLOS

The necessary starting point when discussing any matter regarding the law of the sea is UNCLOS. In the international law of the sea UNCLOS functions as a fundamental treaty. It works as a framework, dictating the terms for states to exercise their jurisdiction in matters related to the sea. States jurisdiction are under the UNCLOS regime categorised based on their role in the present matters. As the flag state when ships register to carry their flag, as coastal state when ships navigate in their maritime zones, and as port state when ships land at their ports. These forms of jurisdiction and how they relate to fishing vessel safety regulating will be explained in detail. UNCLOS reflects a balance between the powers and responsibilities of flag states, coastal states, and port states.³⁵ These three categories, flag states, coastal states and coastal states have a collective responsibility to ensure the maintenance of international standards at sea.³⁶

³⁵ Tamara Ioseliani, 'Generally Accepted International Rules, Regulations, Procedures and Practices' in Accordance with the United Nations Convention on the Law of the Sea 1982 and the IMO Mandatory Instruments in Regards Maritime Safety' 181.

³⁶ *ibid.*

3.1.1 Flag State Jurisdiction

and fly their flag. As a general principle of attributing rights and obligations under UNCLOS, it is the flag State that has primary rights and obligations over vessels flying its flag.³⁷

Norway therefore has the biggest responsibilities under UNCLOS to ensure safe navigation and operation for fishing vessels that fly their flag. They also have the biggest opportunities to do so. Article 94 of UNCLOS sets forth the basic responsibilities for Norway as a flag state. As well as the necessary elements to effectively exercise its jurisdiction over those vessels, which are flying its flag.³⁸ Article 94 of UNCLOS is the predominant article in UNCLOS dictating flag state duties and responsibilities. Article 94(1) rules that every state shall effectively exercise its jurisdiction and control in administrative, technical, and social matters over ships flying its flag.

94 (3) says that every state shall take measures for ships flying its flag necessary so ensure the safety at sea with regard, *inter alia* to: (a) the construction, equipment, and seaworthiness of ships and (b) the manning of ships, labour conditions, and the training of crews taking into account the applicable international instruments. 94 (4) states that such measures shall ensure (a) before registration and thereafter at appropriate intervals, is surveyed by a qualified surveyor of ships, and has on board such charts, nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship. And (b) that each ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation, communications and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size, machinery and equipment of the ship; and (c) that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention, reduction and control of marine pollution, and the maintenance of communications by radio. 94 (5) stipulates that in taking the measures called for in paragraphs 3 and 4 each State is required to conform to generally accepted international regulations, procedures, and practices and to take any steps which may be necessary to secure their observance.

³⁷ Robert Beckman, Zhen Sun, 'The Relationship between UNCLOS and the IMO Instruments' Asia-Pacific Journal of Ocean Law and Policy 201.

³⁸ *ibid.*

The flag state duties, as listed in article 94 are not meant to be exhaustive. Flag states are also required to conform with generally accepted regulations, procedures, and practices.³⁹ It is important to note that such formulations as generally international regulations and generally accepted rules and regulations means the regulations of the IMO. The generally accepted rules and regulations for flag states are the mandatory minimum standards for flag states to impose on their ships.⁴⁰ Flag states may however establish more stringent requirements aboard their ships.⁴¹ The relationship between UNCLOS and instruments from the IMO as well as the FAO and the ILO will be explained in detail later in this chapter. Most international instruments providing safety standards for vessels are directed towards the flag state.

3.1.2 Coastal State jurisdiction

As mentioned previously Norway has the most legislative power over ships that are flying its flag. However, Norway also has jurisdiction over ships navigating in their maritime areas as the coastal state. Though this thesis is primarily concerned with the prescriptive jurisdiction in their capacity as the flag State it is also important to provide an understanding of the role of the coastal State. This jurisdiction is based on the element that though ships enjoy freedom of navigation, coastal states have under UNCLOS a right to protect their environmental and economic interest in their maritime zones. UNCLOS article 2 grants every state an extension of their sovereignty twelve nautical miles (nm) from the baselines of their coast determined in accordance with the convention. This zone is not the geographical areas that will be discussed in this thesis. Norway has in accordance with Article 57 established a 200 nm EEZ from their coast, this is the area of coastal state jurisdiction that will be discussed in this thesis. The sovereignty of the coastal state does not extend beyond 12 nm into the EEZ. However, coastal states are granted by Article 56(1)(a) sovereign rights for the purpose of exploring and exploiting, conserving, and managing natural resources, whether living or non-living.

It is important to note that the full jurisdiction of the flag State is not impacted by the entering of other states maritime zones. The coastal states jurisdiction comes in addition, meaning that

³⁹ *ibid.*

⁴⁰ *ibid.*

⁴¹ *ibid.*

if a foreign vessel enters Norwegian maritime zones there are both under the jurisdiction of their flag State and under the Norwegian coastal State jurisdiction.

A major point of coastal state jurisdiction is the balancing act between the sovereign rights of coastal states and the freedom of navigation granted by flag states. As mentioned in the discussion of the flag state jurisdiction ships that fly the flag of a state enjoy freedom to navigate in areas beyond national jurisdiction such as on the high seas and in the EEZ of other states. This balance is a crucial point in the international framework for navigational safety as a whole. Norway can impose safety standards for ships that hamper freedom of navigation in the EEZ for the purposes of preventing protection and preservation of the marine environment and the prevention of maritime pollution.⁴² As Article 56(2) stipulates coastal states when exercising their rights and performing their duties in the EEZ shall have due regard to the rights and duties of other States and shall act in a manner compatible with the convention. As the freedom of navigation regime prevails in the EEZ the coastal state cannot impose national standards that is not in conformity with the generally accepted international standards.⁴³

Coastal states have sovereign rights for the exploitation and exploration of natural resources. In regard to fishing this includes that of Article 61 that coastal states have the right to determine the allowable catch of the living resources, and that coastal states shall taking into account the best scientific evidence through proper conservation and management measures maintain the species at a level that leave the stocks at the maximum sustainable yield. Other states have access to the surplus of the allowable catch as stipulated in Article 62(2), which means that other states have access to fish in other states coastal waters, but only with through agreement with the coastal state. Article 62(4) also dictates that the flag state must comply with the conservation measures of the coastal state, and most importantly must comply with the coastal states terms and conditions established in the laws and regulations of the coastal state. These laws and regulations must be consistent with UNCLOS and may relate *inter alia* to (a) the licensing of fishermen, fishing vessels and equipment, as well as (h) the landing of all or any part of the catch in the ports of the coastal state. The first part dictates that the coastal state can through national law establish rules and regulations consistent with the

⁴² Donald R Rothwell and Tim Stephens, *The International Law of the Sea* (2nd ed., Hart Publishing 2016).

⁴³ Ioseliani (n 35).

convention for the licencing of fishermen, fishing vessels and the equipment of ships fishing in their EEZ. This in turn means that the coastal state has the legislative power to implement safety standards for foreign ships fishing in their EEZ. The importance of the second part will be discussed in the when discussing port state jurisdiction.

3.1.3 Port State jurisdiction

The role of the port State in the UNCLOS regime is of enforcement and control. And though this thesis is mainly concerned with the prescriptive jurisdiction of States, having a basic understanding the role of the coastal state is necessary. UNCLOS is silent as to whether foreign ships have a right of access to a port. However, there is both treaty law and case law in support of the general principle that a State does not have unlimited powers to prohibit access to its ports.⁴⁴ Port States Jurisdiction offers an opportunity for verifying whether visiting foreign vessels comply with national as well as international rules and standards.⁴⁵ Port State authority therefore is an important tool to ensure compliance with national and international safety standards.⁴⁶

3.1.4 Summary

The UNCLOS regime rives certainty to the jurisdictional capacities of flag, port and coastal states within the different maritime zones.⁴⁷ The convention underlines the various powers and competences granted to states, including various elements such as territorial sovereignty, nationality and protective and universal principles of jurisdiction, intertwined with special functionally based State competences.⁴⁸ In the role as flag States, coastal States and as port States, States have a collective responsibility to ensure safety standards at sea are imposed and upheld. The flag state has full sovereignty over all ships flying its flag.⁴⁹ The flag States role is irrespective of which maritime zones ships where the ship may be.⁵⁰ As the coastal

⁴⁴ Rothwell and Stephens (n 42).

⁴⁵ Erik J Molenaar, 'Port State Jurisdiction' (*Oxford Public International Law*) <<https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e2052>> accessed 27 August 2022.

⁴⁶ *ibid.*

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ *ibid.*

⁵⁰ *ibid.*

State Norway has the right to dictate standards for ships that fish within their maritime zones, but not for ships that simply exercise their freedom of navigation.

3.2 IMO, FAO, and ILO

This subchapter will discuss the relationship between the UNCLOS regime and the international organizations such as the IMO, the FAO, and the ILO. It will also look at selected IMO instruments related to fishing vessel safety in polar areas. It will investigate the applicability of the Polar Code on enhancing fishing vessel safety and look at the development as well as the specific provisions of compulsory international agreements on fishing vessels, in relation to fishing in polar areas. This is the 2012 Cape Town Agreement.

3.2.1 The relationship between the UNCLOS and IMO instruments

The IMO, the FAO, and the ILO all have interests in the safety of fishing vessels and fishers, however, as will be addressed in this following chapter the IMO is the most important of the three, as they have attempted to implement a compulsory regime for fishing vessel safety. The IMO is recognized in the law of the sea as the competent international organisation regarding safety at life at sea, although the ILO and the FAO have important interests in fishing, regarding the scope of the thesis none are as important as the IMO.⁵¹ The IMO functions as a legislative authority in international law of the sea, it is a forum of relevant authority to create among other international legislation for the safety of life at sea. The IMO provides for the drafting of conventions, agreements and intranational organisations.⁵² IMO also provide the machinery for consultation among member states and the exchanging of information among governments.⁵³ Though the IMO is the legislative authority where the relevant legislation the decision to adopt international instruments and the power to implement them remains with the member States.⁵⁴ The member States use the IMO's structure of governance as a facilitator.⁵⁵ This means that although the IMO plays a highly

⁵¹ Ioseliani (n 35).

⁵² Robert Beckman, Zhen Sun (n 37).

⁵³ *ibid.*

⁵⁴ *ibid.*

⁵⁵ *ibid.*

important role for the development of international agreements, the power in the end lies with the member states to adopt and ratify the agreements from the IMO.

The IMO and their instruments play a significant role for the development of safety standards for fishing vessels. Under UNCLOS the IMO instruments play an important supplementary role as the responsibilities of the flag states as well as the possibilities of the coastal state to impose standards are not exhaustive in UNCLOS itself. The jurisdictional room for States to create such legislation is generally defined as generally accepted rules and standards, as seen in UNCLOS Article 94 which regulates the duties of the flag state. UNCLOS regards the IMO standards as the generally accepted international standards.⁵⁶ For the role of the flag state IMO instruments works as the mandatory minimum requirements and flag states can, at will, establish more stringent requirements for vessels flying their flag.⁵⁷ This in turn means that the IMO instruments supplement the duties of flag states within the UNCLOS regime with substantive mandatory requirements. Which in turn grants the IMO a dynamic opportunity to develop international regulations for ship safety under the UNCLOS regime.⁵⁸

The safety of fishers and fishing vessel is an integral part of the IMO's mandate.⁵⁹ Alongside the FAO and the ILO which also have stakes in fishing vessel safety the IMO have attempted to create a globally adopted legal regime for fishing vessel safety standards. This is a priority because some of the most important international safety instruments such as the SOLAS convention does not apply to fishing vessels. The SOLAS convention chapter 1 regulation 3 provides that fishing vessels are exempt from all substantive requirements of the SOLAS convention except from when expressly provided in Chapter V on safety of navigation.⁶⁰ Fishing vessels are exempted from most of the SOLAS regulations, such as construction, life-saving appliances and fire protection.⁶¹ Fishing vessels exemption from the SOLAS convention has prompted the IMO to create instruments specifically for fishing vessel safety.

⁵⁶ *ibid.*

⁵⁷ *ibid.*

⁵⁸ Ioseliani (n 35).

⁵⁹ IMO, 'Norway Is First to Sign Cape Town Fishing Vessel Safety Agreement' [2013] IMO Press Briefings <<https://imopublicsite.azurewebsites.net/en/MediaCentre/PressBriefings/Pages/30-cape-town-signing.aspx>> accessed 23 August 2022.

⁶⁰ International Maritime Organisation (n 23).

⁶¹ *ibid.*

This has been a challenge for the IMO, as there has been a challenge to create a legally binding agreement regarding the safety of fishing vessels. We will now discuss the legislative journey of the attempted development of the legislative journey from the Torremolinos Convention to the Cape Town Agreement which might create large scale changes for the safety of fishing vessels if it is to enter into force.

Part of the reason the creation of a compulsory regime for the safety of fishing vessels is so important is the fact that though some states may use their jurisdiction stringently as the flag state, coastal state and as port state, without any globally accepted standards, the discrepancy of how States view their responsibilities and how they implement and enforce legislation individually can be immense. Norway has been on the forefront on developing an international safety regime for fishing vessels, and was the first State to sign the 2012 Cape Town Agreement.⁶²

3.3 Legal instruments

3.3.1 Polar Code

The IMO has developed a mandatory legal regime specifically for ships operating in the polar regions of the world which is the IMO International code for Ships Operating in Polar Waters. This section will analyse the applicability of the regulations of the Polar Code on fishing vessels.⁶³ The Polar Code is mandatory under both the SOLAS Convention and the MARPOL convention.⁶⁴ The Polar Code covers the full range of design, construction, equipment, operational, training, search and rescue and environmental protection matters relevant to ships operating in the inhospitable waters surrounding the two poles.⁶⁵ The Polar Code entered into force in 1. January 2017.⁶⁶ Granted the function of the Polar Code it could be understood as a key instrument for protecting fishing vessels operating in polar waters, however there are

⁶² IMO, 'Norway Is First to Sign Cape Town Fishing Vessel Safety Agreement' (n 59).

⁶³ IMO International Code for Ships Operating in Polar Waters

⁶⁴ 'International Code for Ships Operating in Polar Waters (Polar Code)'

<<https://www.imo.org/en/OurWork/Safety/Pages/polar-code.aspx>> accessed 24 August 2022.

⁶⁵ *ibid.*

⁶⁶ *ibid.*

challenges with the scope of application in the Polar Code towards fishing vessels which will be discussed in this section.

The Polar Code is divided into two parts, the safety part (The Polar Code Part I-A), and the environmental part (the Polar Code Part II-A). These two parts are built on SOLAS and MARPOL, respectively.⁶⁷ The SOLAS Convention and the MARPOL Convention has different scopes of application, as discussed previously fishing vessels are exempt from most of the regulations from the SOLAS Convention. In the MARPOL Convention, the different Annexes have different scopes of application, MARPOL also have rules that apply to all ships, including fishing vessels.⁶⁸ Part I-A of the Polar Code is set up as additional requirements for ships that hold SOLAS certificates, and that are operating in polar waters.⁶⁹ Since these are additional requirements, this means that the rules only apply to ships that require international safety certificates in accordance with SOLAS chapter I, and not fishing vessels operating in polar waters.⁷⁰ Part II-A of the Polar Code follows the application scope of the MARPOL Annexes, this means that some of the requirements apply to all ships, including fishing vessels.⁷¹ Part II-A introduces construction requirements for some groups of new category A and B ships.⁷² The Polar Code categorises ships based on operational capacity and intent relating to the ice conditions they are designed to operate within.⁷³ Different regulations from the Polar Code apply to ship based on category.⁷⁴ Category A ships is ships that is designed for operation in polar waters in at least medium first year, which may include old ice inclusions.⁷⁵ Category B ships are ships not included in Category A, designed for operation in polar waters in at least thin first year ice, which may include old ice

⁶⁷ Regulations on safety measures for ships operating in polar waters and amendments to Regulations on environmental safety - Norwegian Maritime Authority 2016 (RSR 15 - 2016).

⁶⁸ *ibid.*

⁶⁹ *ibid.*

⁷⁰ *ibid.*

⁷¹ *ibid.*

⁷² *ibid.*

⁷³ DNV GL, 'Polar Code - Understand the Code's Requirements to Take Right Steps for Smooth Compliance' (2017) <https://www.unols.org/sites/default/files/DNV_GL_IMO_Polar_Code_2017-05_web.pdf>.

⁷⁴ *ibid.*

⁷⁵ *ibid.*

inclusions.⁷⁶ Part II-A chapter 1 of the Polar Code, for instance, concerns the prevention of pollution by oil, and this chapter of the Code has the same scope of application as MARPOL Annex 1, and therefore applies to all ships. In Part I-A related to safety fishing vessels fall outside the scope of application and are therefore not relevant to the protection of fishing vessels and fishing safety in the Barents Sea. Part II-A is related to the environmental protection and the prevention of pollution from ships. As discussed, fishing vessels fall under the scope of application for some of the regulations of this part. However, drawing a parallel of the regulations Part II-A of the Polar Code provides and the provided definition of the notion of safety in this thesis is challenging at best. Though the Polar Code provides fishing vessels an important legal framework for safety in the polar regions, it does not provide any legal tools for protection of fishing vessels in light of the scope of this thesis due to the scope of application of the Polar Code and the chosen definition of the notion of safety of this thesis.

3.3.2 From Torremolinos to Cape Town

Recognizing the need for attention to safety of commercial fishing vessels, the IMO organized an international conference in Torremolinos in 1977.⁷⁷ This evolved into the IMO's first attempt to establish an international legal regime to enhance fishing vessel safety with the adoption of the 1977 Torremolinos International Convention for fishing vessel safety (1977 Convention)⁷⁸. The 1977 convention established uniform principles and rules regarding design, construction, and equipment for fishing vessels of twenty-four meters and longer.⁷⁹ The 1977 convention is an important milestone for fishing vessel safety legislation worldwide as it provided benchmarks for fishing vessel safety implemented by several fishing states into their national maritime safety programs.⁸⁰ The 1977 Convention never met the prerequisites

⁷⁶ *ibid.*

⁷⁷ Loughran and others (n 7).

⁷⁸ IMO, 'Fishing Vessel Safety' (*Fishing Vessel Safety*, 2019)

<<https://www.imo.org/en/OurWork/Safety/Pages/Fishing%20Vessels-Default.aspx>> accessed 22 June 2022.

⁷⁹ Loughran and others (n 7).

⁸⁰ *ibid.*

for the convention to enter into force.⁸¹ The IMO blames this on technical reasons.⁸² This led the IMO to adopt the 1997 Torremolinos Protocol.⁸³ The objective of the 1993 Protocol was to update, amend and absorb the 1977 Convention. The 1993 Protocol recognises that certain provisions of the 1977 Convention have given rise to difficulties in their implementation by a number of states with a substantial fishing fleet under their flag, and that this prevented the entry into force of the 1977 Convention.⁸⁴ The 1993 Protocol also had challenges leading to the Protocol also not entering into force. This led the IMO to adopt in the Cape Town Agreement in 2012.⁸⁵ The 2012 Cape Town Agreement is an internationally binding instrument which will provide an international regime for effective control and monitoring of fishing vessels.⁸⁶ It includes mandatory international requirements for stability and associated seaworthiness, machinery and electrical installations, life-saving appliances, communications equipment, and fire safety, as well as fishing vessel construction.⁸⁷ The Cape Town Agreement is the final product of the IMO's strenuous work to address fishing vessel safety.⁸⁸ The 2012 Cape Town Agreement has also not yet entered into force, however the IMO Secretary-General remains optimistic that by working together, the agreement will enter into force to complete the missing pillar for safe, sustainable and legal fishing.⁸⁹ The treaty will

⁸¹ Heike Deggim and Albert Embankment, 'INTERNATIONAL REQUIREMENTS FOR SHIPS OPERATING IN POLAR WATERS' 15.

⁸² IMO, 'The Torremolinos International Convention for the Safety of Fishing Vessels' (*Torremolinos International convention for the safety of fishing vessels*) <<https://www.imo.org/en/About/Conventions/Pages/The-Torremolinos-International-Convention-for-the-Safety-of-Fishing-Vessels.aspx>> accessed 23 August 2022.

⁸³ 1993 Torremolinos Protocol relating to the 1977 Torremolinos International Convention for the Safety of Fishing Vessels

⁸⁴ 1993 Torremolinos Protocol Relating to the 1977 Torremolinos Convention For the safety of Fishing Vessels 9.

⁸⁵ The Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 Relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.

⁸⁶ International Maritime Organisation (n 23).

⁸⁷ *ibid.*

⁸⁸ *ibid.*

⁸⁹ Kitack Lim, IMO, 'Ratification of the Cape Town Agreement of 2012' (11 April 2022) <<https://wwwcdn.imo.org/localresources/en/MediaCentre/PressBriefings/PublishingImages/Pages/CTARatificationUrged/Circular%20Letter%20No.4551%20->

enter into force 12 months after at least 22 States, with an aggregate of 3600 fishing vessels of twenty-four meters in length and over operating on the high seas have expressed their consent to be bound by it.⁹⁰ Norway was the first State to sign the 2012 Cape Town Agreement.⁹¹ There are currently 17 contracting Member States, while several more States have expressed their determination to ratify the Cape Town Agreement, 48 States signed the Torremolinos Declaration, pledging to promote the Cape Town Agreement.⁹² Though this shows political commitment to the entry into force of the Cape Town Agreement from more States, the Declaration means very little unless the declaring parties actually takes action. There are still only seventeen states that have expressed their consent to be bound by the treaty, there were 48 States that signed the Torremolinos Declaration.⁹³

If the 2012 Cape Town Agreement is to enter into force it will have big implications. Part of the reason the Cape Town Agreement is important for fishing vessels in the Barents Sea is its specified regulations on fishing vessels that operate in the Polar regions. This has been an important aspect of the creation of a compulsory legal instrument for fishing vessels, and it is even present in the 1977 Convention. Chapter III of the 1977 Convention regarding stability and associated seaworthiness regulation 8 contains requirements for icing allowances to be made in stability calculations and provides that fishing vessels operating in areas where ice accretion is known to occur should be designed to minimize the accretion of ice and should be equipped with means for removing ice.⁹⁴ In the 1993 Protocol set out the geographical positions of the icing areas which Chapter III Regulation 8 should apply, including a chart.⁹⁵ Recommendation 6 sets out precautions against the freezing of fire mains, it offers solutions,

%20Ratification%20Of%20The%20Cape%20Town%20Agreement%20Of%202012%20-%20CommunicationFrom%20The%20Secretary-General%20(Secretary-General).pdf>.

⁹⁰ '2012 Cape Town Agreement to Enhance Fishing Safety' (n 28).

⁹¹ IMO (n 22).

⁹² IISD's SDG Knowledge Hub, '48 States Commit to Ratify Cape Town Agreement | News | SDG Knowledge Hub | IISD' <<https://sdg.iisd.org/443/news/48-States-commit-to-ratify-cape-town-agreement/>> accessed 23 August 2022.

⁹³ '2012 Cape Town Agreement to Enhance Fishing Safety' (n 28).

⁹⁴ SFV - International Convention for the Safety of Fishing Vessels (The Torremolinos Convention) Regulations for the Construction and Equipment of Fishing Vessels.

⁹⁵ Deggim and Embankment (n 81).

including recirculation of water, use of dry systems of fire mains, use of leak-off systems and use of heating systems.

The Cape Town Agreement continues the development the development of protection of fishing vessels in polar regions. It sets standards for the construction, design, and equipment of fishing vessels both on a general and specifically for fishing vessels that operate in areas where sea ice might be present. It also dictates the stability condition in relation to ice accretion, as well as other specific technical provisions for fishing vessels related to fishing in the polar regions of the world. The technical provisions of the Cape town agreement will be introduced and analysed in the next section.

3.3.3 Technical requirements of the Cape Town Agreement

The Cape Town Agreement if entered into force will outline specific requirements for the construction, equipment, and design of fishing vessels of a length of twenty-four meters and longer. As discussed in the introduction of this thesis the specific regulations this thesis will focus on with regard to safety of fishing vessels in the Barents Sea is primarily related to the construction of ships in relation to operating in conditions where sea ice may occur, as well as regulations related to combatting the effects of ice accretion.

Chapter I of the Cape Town Agreement related to general provisions Regulation 1(1) stipulates that unless expressly provided otherwise, the provisions of the Cape Town Agreement shall apply to new vessels. New vessels are defined under Regulation 2(1) as vessels for in which on or after the date of entry into force of the present protocol: (a) the building or major conversion contract is placed, or (b) the building of or major conversion contract has been placed before the date of entry into force of the present protocol, and which is delivered three years or more after the date of such entry into force, or (c) in the absence of a building contract (i) the keel is laid, (ii) construction identifiable with a specific vessel begins, (iii) assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material whichever is less.

Chapter II of the Cape Town Agreements dictates the standards for the construction, equipment as well as the watertight integrity of fishing vessels. Regulation 1 sets standards for the construction of fishing vessels. Regulation 1(1) stipulates that Strength and construction of hull, superstructures, deckhouses, machinery casings, companionways and any other structures and vessel's equipment shall be sufficient to withstand all foreseeable

conditions of the intended service and shall be to the satisfaction of the Administration. This regulation sets standards for the construction and equipment of fishing vessels. The key formulation related to fishing in the Barents Sea is that ships are that vessels are supposed to be able to withstand all foreseeable conditions of the intended service. And also, that such conditions shall be to the satisfaction of the satisfaction of the Administration. Which as defined under Article 2 of the 1993 Protocol is government of the State whose flag the vessel is intended to fly. Meaning in this case the Norwegian government for fishing vessels flying the Norwegian flag operating in the Barents Sea. Regulation 1(2) sets even stricter requirements for ships operating in areas with ice conditions. Requiring that the hull of vessels intended for operation in ice shall be strengthened in accordance with the anticipated conditions of navigation and area of operation. Regulation 1(2) and (2) gives the flag State the responsibility to ensure that the strength of the equipment, construction, and design of fishing vessels shall be sufficient to withstand the foreseeable conditions where the ships is operating within and furthermore that the hull of fishing vessels operating in areas where sea ice can occur shall be strengthened in accordance with the conditions of navigation and the area of operation. Also, in Chapter II related to construction and design of ships operating in polar regions is Regulation 14 regulating the conditions of freeing ports. Regulation 14(7) lays down standards for the conditions of the freeing ports of ships operating in conditions where ice is an issue. Stating that in vessels intended to operate in areas subject to icing, covers and protective arrangements for freeing ports shall be capable of being easily removed to restrict ice accretion. The size of openings and means provided for removal of these protective arrangements shall be to the satisfaction of the Administration.

Chapter III of the Cape town Agreement is dictating the term of the stability and associated seaworthiness of fishing vessels. The chapter set out general requirements for ships in the respective operating conditions that the chapter provides, including reference to the 2008 IS Code. The chapter also stipulates specific requirements for different aspect of safety of fishing vessels regarding various aspects of stability and associated seaworthiness, including regulation 8, which dictates aspects regarding ice accretion. Stating that: (1) For vessels operating in areas where ice accretion is likely to occur the following icing allowance shall be made in the stability calculations: (a) 30 kg/m² on exposed weather decks and gangways, and (b) 7.5 kg/m² for projected lateral area of each side of the vessel above the water plane, as well as (c) the projected lateral area of discontinuous surfaces of rail, spars (except masts) and rigging of vessels having no sails and the projected lateral area of other small objects shall be

computed by increasing the total projected area of continuous surfaces by 5 per cent and the static moments of this area by 10 per cent. The areas where ice accretion may occur are shown in annex 1, this is from the Guidance relating to ice accretion from the Final Act of the International Conference on Safety of Fishing Vessels 1993, which is part of the 1993 Protocol. Regulation 8(2) grants conditions for operation in areas is known to occur, stating that Vessels intended for operation in areas where ice accretion is known to occur shall (a) be designed to minimize the accretion of ice, and (b) be equipped with such means for removing ice as the Administration may require.

The third aspect of fishing vessel safety that the Cape Town Agreement regulates in relation to ships operating in cooler regions is the aspect of freezing water in fire protection services. Regulation 19 on fire safety paragraph 9 provides that in vessels of 75 m in length or longer, provisions shall be made for immediate water delivery from the fire main system either by: (a) remote starting arrangements of one of the main fire pumps in the wheelhouse and at the fire control station, if any, or (b) with permanent pressurization of the fire main system, with due regard to the possibility of freezing. (b) is meant to be seen in accordance with recommendation 6 of attachment 3 of the Final Act of the International Conference on safety of fishing vessels, 1993. The guidance includes practical solutions against freezing of fire mains, including the recirculation of a sufficient quantity of water, if needed from a heated reservoir, use of a dry of fire main such that there is no water in the line until a control valve in an accessible space protected from frost is opened. The solutions also include the use of a leak-off system in which a sufficient quantity of water is allowed to escape from the ends of the fire main, or the use of a heating system whereby steam, electrical or hot water heating is used to maintain the water in the fire main in a liquid state. The use of isolation may be incorporated in this system in order to avoid heat loss. Heating may also be effective in reducing the quantity of circulating water as referred to in the first and third recommendation.

The regulations of the Cape Town Agreement will be compulsory once the treaty enters into force. If the treaty ever enters into force, which at the current time is incredibly difficult to predict Norway will as a contracting state be bound by the regulations of the Cape Town Agreement. Norway would therefore have to incorporate these regulations in their domestic legislation. The Cape Town Agreement also provides a series of non-compulsory guidelines, including specific guidelines for the protection of fishing vessels of a length of twenty-four meters or more operating in polar waters, this regulation will be discussed in the next section.

3.3.4 Guidelines

The Guidelines for Safety Measures for Fishing Vessels of twenty-four meters in Length and over Operating in Polar Waters is a non-compulsory guideline provided as a part of the 2012 Cape Town Agreement. This set of guidelines are recommendatory and is designed to provide guidance in order to increase safety of fishing vessels operating in polar waters. Norway would not be bound by these regulations as they would with the regulations of the Cape Town Agreement if the treaty is to enter into force. The guidelines are voluntary, and it is therefore up to the Norwegian government itself how they choose to apply these. The guidelines are comprehensive additional suggestive safety standards that supplements the polar water related requirements from the Cape Town Agreement as discussed in the former section.

3.3.5 Training and certification of fishing workers

This subsection will address the international legal framework for the training and certification of fishing vessels and how the legal framework address working conditions that could include ice-related hazards.

The International Convention on Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel of 1995 is an IMO instruments regulating the training of fishers.⁹⁶ The STCW-F Convention entered into force in 2012 and is part of the IMO's four pillars of fishing vessel safety. The STCW-F is a binding treaty that sets certification and minimum training requirements for crews of seagoing fishing vessels with the aim to promote safety of life at sea, taking into account the nature of the fishing industry.⁹⁷ The STCW-F Convention applies in particular to skippers and officers in the deck department of fishing vessels of twenty-four meters or longer, as well as officers in the engine department of fishing vessels powered by main propulsion machinery of 750 kW propulsion power or more, while also applying generally to personnel serving on board seagoing fishing vessels.⁹⁸

Article 6 of the STCW-F Convention provides that Fishing vessel personnel shall be certified in accordance with the provisions of the annex to this Convention. The most important

⁹⁶ The International Convention on Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel, 1995 Hereinafter referred to as the STCW-F convention.

⁹⁷ IMO, 'International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995' <<https://www.imo.org/en/OurWork/HumanElement/Pages/STCW-F-Convention.aspx>> accessed 2 August 2022.

⁹⁸ *ibid.*

requirement of the STCW-F convention is from Chapter III. Chapter III regulation 1 provides basic safety training for all fishing personnel, it states that fishing vessel personnel shall, before being assigned to any shipboard duties, receive basic training approved by the Administration in the following areas: Personal survival techniques including donning of life jackets, and as appropriate, immersion suits, fire prevention and firefighting, emergency procedures, elementary first aid, prevention of marine pollution and, prevention of shipboard accidents.

At the time of the STCW-F convention entered into force and when it was implemented in the Norwegian legislation, the safety requirements of the STCW-F Convention were already part of the Norwegian legislation.⁹⁹ The effect of this will be discussed in the next chapter.

⁹⁹ Norwegian Maritime Authority, 'STCW for Fishers' (2006)
<https://web.archive.org/web/20061001213846/http://www.sjofartsdir.no/no/Aktuelt/STCW_for_fiskere/>.

4 Norwegian Domestic legislation

This chapter will present and analyze the current Norwegian fishing vessel safety legislation. It will also provide a comparison of the Norwegian legislation to the international legal framework, focusing on two aspects. Firstly, how Norway utilizes their role as the Flag State and Coastal State of ships fishing in the Barents Sea, and secondly, how the technical requirements of the 2012 Cape Town Agreement compare to the existing Norwegian legislation. The second part will provide an understanding of the impact of the agreement on Norwegian legislation if it is to enter into force. The chapter will analyze the 2007 Ships Safety and Security Act, which is supplemented with supplemented with additional regulations.¹⁰⁰ The regulations relevant to the technical requirements of fishing vessels of a length of twenty-four meters or more operating in the polar regions will also be discussed.

4.1 2007 Ship Safety and Security Act

The Norwegian law dictating the terms for regulations on fishing vessel safety is the 2007 Ship Safety Security Act. The act was last amended November 2015. The Ship Safety Act paragraph 1 states that the laws purpose is to protect health and safety, the environment and material assets by facilitating ship safety and safety management, as well as proper working environment and safe working conditions, and with adequate supervision. The Ship Safety Act is an overarching law, working much like a framework for further specialized regulations. The relevant regulations will be presented a discussed in the next section

The SSL is a law prepared by the Norwegian department for industry and trade in 2005-2006. In the legislative preparation the department states that the SSL contribute to the consideration of life, health, environmental and material values should be considered from the moment a ship is designed to the moment it is decommissioned.¹⁰¹ The preparation also states that the Ship Safety Act should provide workers on ships a safe working environment.¹⁰² As discussed in the previous chapters the international legal framework for ship safety and

¹⁰⁰ LOV-2007-02-16-9 Lov om skipssikkerhet (skipssikkerhetsloven) Hereinafter referred to as the Ship Safety Act

¹⁰¹ 'Ot.Prp.Nr.87 (2005–2006) Om Lov Om Skipssikkerhet (Skipssikkerhetsloven)' (9 June 2006) <https://lovdata.no/pro/#document/PROP/forarbeid/otprp-87-200506/KAPITTEL_1> accessed 6 august 2022.

¹⁰² *ibid.*

fishing vessel safety is complex. This is recognized by the department as they state in the legislative preparation that ships safety is an issue bound by a comprehensive international legal framework, and that the prior Norwegian legislation reflect this through a complex domestic legal and legislative framework. Therefore, for the department the Ship Safety Act is a crucial step to ensure that domestic legislation is integral, clear, and comprehensive.¹⁰³

The Ship Safety Act Paragraph 2 dictates the law's practical area of application. The law applies to both Norwegian and foreign ships. Paragraph 3 dictates the geographical area of operation for the law, stating that the law applies to all Norwegian ships with no regard to where they reside. For foreign ships, the law is applied with regard to the limitations of international law in the Norwegian territorial sea, including by Svalbard and Jan Mayen, in the Norwegian EEZ and on the Norwegian continental shelf.

Chapter 3 of the Ship Safety Act regards technical and operational safety. Paragraph 9 part 1 states that ships shall be designed, built, and equipped in such a manner considering the ship's purpose and area of operation and grants safety for life and health as well as environmental and material values. Paragraph 9 part 2 also gives the ministry the power to create regulations on the ship's design, construction, and equipment to satisfy the demands of part 1 regarding: Hull Strength and watertight integrity, stability and buoyancy, machinery and electrical installations, fire safety, navigational equipment, communicational equipment, and lifesaving appliances. The requirements of the construction, design and equipment of ships is relative.¹⁰⁴ This is with regard to the purpose and the area of operation of the specific ship, the requirements can therefore differentiate based on what the ship's purpose is, where the ship operates, and under which other conditions the ship is subjected to.¹⁰⁵

Paragraph 16 regarding demands for qualification and personal certification provides that the ones who has its work on board a ship, must have the qualification and possible certifications that the work load and position demands. The Paragraph second part provides that the ministry can create regulations with further requirements of qualification and certifications regarding *inter alia* the issuing and grading of certification, qualification control and the recognition of foreign certifications. The requirement from the Ship Safety Act is

¹⁰³ 'Ot.Prp.Nr.87 (2005–2006) Om Lov Om Skipssikkerhet (Skipssikkerhetsloven)' (n 101).

¹⁰⁴ *ibid.*

¹⁰⁵ *ibid.*

supplemented by technical requirements in regulations, and regulations with otherwise relevant provisions and requirements to the scope of this thesis, these requirements will be discussed in the following section.

4.2 Regulations

The Norwegian Maritime Directorate started in 2010 a project to tidy the Norwegian regulations for ship safety. Among the objectives was to make the citations to the existing international legal framework clearer and more evident.¹⁰⁶ The regulations today include both general provisions that apply for all ship types, while some of the technical regulations are specialised towards different ship sizes and different operational circumstances. The regulations that will be discussed in this thesis are all from before the process started and have survived the process till this date.

Fishing vessels safety is accounted for in several different regulations in Norwegian Law. These regulations include regulations for the training of fishing vessels, regulations on working environment on ships as well as regulations for the construction, equipment and operation of fishing vessels, the latter is divided by size, with one regulation for fishing vessels larger than fifteen meters and one for fishing vessels smaller than fifteen meters. The relevant Norwegian regulations that will be discussed and analysed in this thesis is the regulation is the Regulation on the construction, equipment, and operation of fishing vessels of a length of fifteen meters or more, the Regulation on working environment, health and safety on board ships, and the regulation of safety training of fishing workers.¹⁰⁷

4.2.1 Technical requirements

The 2000 Regulation of Construction, equipment, and operation of fishing vessels of a length of fifteen meters or more provides technical requirements for ships of fifteen meters or more. The regulation provides specific regulations for limiting the dangers of operating in polar waters. The regulation was last amended from 2021. The application of the regulation is provided in Paragraph 1-1, (1) stating that the regulation applies to new Norwegian fishing

¹⁰⁶ Terje Hernes Pettersen and Hans Jacob Bull, *Skipssikkerhetsloven: Med Kommentarer* (Fagbokforlaget 2010).

¹⁰⁷ FOR-2000-06-13-660 Forskrift om konstruksjon, utstyr og drift av fiskefartøy med lengde 15 meter eller mer; FOR-2005-01-01-8 Forskrift om arbeidsmiljø, sikkerhet og helse for de som har sitt arbeid om bord på skip; FOR-1989-02-10-88 Forskrift om sikkerhetsopplæring for fiskere

vessels of a length of fifteen meters or more. (2) For existing vessels that are subject to reparations, remodelling etc. the regulation provides that they are subject to fulfil the requirements from the existing regulations from the time the vessel was built. (3) When an existing vessel is subject to reparations or remodelling on a bigger scale the vessel shall only fulfil the requirements for new ships as far as the Norwegian Maritime Authority finds it reasonable and practically possible. The scope of application of the regulation being directed towards new vessels follow the scope of the Cape Town Agreement, as well as the general trend in legislating safety standards of ships.

Chapter 2 provides for the construction, watertight integrity and equipment of ships. The Chapter implements the means the EU directive 97/70/EF which implements the 1993 Torremolinos Protocol. Paragraph 2-1 (1) provides that the strength and construction of the hull among others shall be sufficient to resist all plausible conditions on the planned excursion and shall satisfy the demands of the regulation. 2-1 (2) provides specifications for fishing vessels intended for navigation and operation in ice. The regulation requires that ships intended for operation in ice shall have its hull strengthened in accordance with the foreseeable navigational conditions and area of operation. Ships that shall have certification for ice water shall have a length of twenty-four meters or more, have steel hulls and shall satisfy the requirements of the DNV ice classification requirements, or any other equivalent recognized classification company.¹⁰⁸

Paragraph 2-14(7) provides that on ships intended for operation in areas where ice accretion may occur covers and protecting arrangements for freeing ports shall easily be able to be removed to limit ice accretion. The size and design of the devices for the removal of the protection devices shall be to the satisfaction of the Norwegian Maritime Authority. This provision sets out the exact same technical requirement as Regulation 14(7) of the Cape town Agreement

Chapter 3 paragraph 3-8 provides the terms for ice accretion in relation to stability and associated seaworthiness. 3-8 (1) grants that ships that operate where ice accretion could be expected to occur the following shall be considered when calculating stability: (a) 30 kg/m² on open decks and gangways, as well as the front bulkhead of the superstructure. (b) 7.5

¹⁰⁸ Det Norske Veritas

kg/m² projected side-area on each side of the vessel over sea-level. (c) The projected side-area the surface of railing, spars (except from masts), and rigs on vessels without sails, as well as the projected area of other smaller objects shall be included in the stability calculations.

Paragraph 3-8 (2) provides that ships operating in areas where ice accretion is known to occur shall be (a) constructed to minimize the effects of ice accretion and (b) be equipped to remove ice. (3) provides that the provisions of part 1 and 2 of the regulation is applied for ships that operate in areas as shown in annex 1 of the Regulation text, the annex was unavailable and will not be included in this thesis.

(4) Provides that without regard to the provisions of (1), (2), and (3) the following consideration shall be taken regarding stability calculations for ships that operate north of 63 degrees north and between 28 degrees and 11 degrees west. (1) 40 kg/m² on open decks and gangways, as well as the front bulkhead of the superstructure, and (2) 10 kg/m² projected side-area on each side of the vessel over sea level.

The Regulation also provides for the protection of fishing vessels from fire hazards in Chapter 5. The chapter specifies different requirements for fire safety for all ships with comprehensive regulations that apply to ships of all sizes. The chapter also provides specific requirements for ships based on size. One part is directed towards ships that are 60 meters or longer, one part is directed towards ships longer than twenty-four meters but shorter than 60 meters, and another one is directed towards ships that are shorter than twenty-four meters. The chapter also implements the requirements from the 1993 Torremolinos Protocol through the EU directive 97/70/EF. The chapter is as stated comprehensive and covers almost every aspect of fire safety that the Cape Town Agreement requires, including the requirements specifically regarding fire safety in polar regions.

The technical requirements provided in the Norwegian regulation on construction, equipment, and operation of fishing vessels of a length of twenty-four meters or more are much in line with the technical requirements of the Cape Town Agreement, related to limiting such factors of risk that this thesis is based on. This is in turn since the Torremolinos Protocol of 1993 was implemented in chapter 2 through the EU directive. Of the regulation. Some of the requirements in the Norwegian legislation is similar to the requirements of the Cape Town Agreement both in terms of the wording of letter of the law as well as the technical standards that they provide. Some of the requirements in Norwegian law are even stricter than what the Cape Town Agreement provides. The Cape Town Agreement has not yet entered into force, but in the event that the Cape Town Agreement enters into force, Norwegian legislation most

likely would not have to radically change for the implementation of the international regime. The relationship between the IMO instruments and flag State responsibilities is as discussed that the IMO instruments are mandatory minimum standards, and Norway can within their competence as flag States impose stricter regulations on ships flying their flag than the requirements from the Cape Town Agreement.

4.2.2 Safety Requirements regarding the Human element

Norwegian law also provides requirements for the human element for ship safety, and the training of fishers. This is provided in two regulations, firstly in the 1989 Regulation on safety-training for fishers and second the 2005 Regulation on working environment, health, and safety on ships. The 2005 regulation applies to everyone that works on board all Norwegian ships including fishing vessels on sea as provided in chapter 1 paragraph 2. The regulations Paragraph 2-6 provides a general obligation that each one that works on a ship shall get sufficient training to: (a) To be able to conduct their work in a safe manner, (b) before access is granted to areas of severe or particular danger, and (c) by implementation of new technology. Paragraph 2-6 also provides that the training shall be repeated regularly or where changed or new risks. The paragraph also provides that training shall be documented in writing. Requirements (a) and (b) requires that fishers on ships that operate in polar waters that are subjected to ice conditions to be trained sufficiently to conduct their work in a safe manner even in the harsh conditions they are subjected to.

The 1989 Regulation on the safety training for fishers Paragraph 2 provides that the regulation is applied to all fishers without regard to size, and that the regulation does not apply to machine- and deck officers on fishing vessels that have certificates in accordance with the STWC Convention. It is here important to note that the STCW is applied to all ships with the exemption of fishing vessels and is not the same convention as the STCW-F Convention. The regulation Paragraph 3 provides that all fishers on fishing vessels shall have at least 40 hours of basic safety training with an introduction to risk conditions, first aid, sea rescue, fire safety, as well as general safety work. This requirement is similar to the ones found in the STCW-F Convention.

The key difference between the relationships between the STCW-F Convention and Norwegian law and the relationship between the Cape Town Agreement and Norwegian law is that the STCW-F Convention is in force. As discussed in the last chapter the STFW-C Conventions demands for safety training for fishing workers was already practiced in

Norwegian legislation at the time the convention was implemented. Therefore, as we can see the requirements from the STCW-F Convention and Norwegian regulations are similar.

4.2.3 Summary

The requirements from Norwegian law is as discussed stricter than they would need to be if the Cape Town Agreement enters into force. The Norwegian legislation for fishing vessel safety is generally in line with or stricter than the requirements from the international legal framework, even if the 2012 Cape Town Agreement is to enter into force. As UNCLOS provides the IMO instruments are minimum requirements for flag State to impose on ships flying their flag, and Norway is within their right to impose stricter requirements for their ships than what the legal framework requires. The Norwegian legislation for fishing worker safety training is also in line with the requirements of the STCW-F Convention.

5 Conclusion

This chapter will summarize and conclude this thesis

Fishing is an inherently dangerous occupation, and the dangers become even greater when conducted in the polar oceans of the world. This thesis has investigated the legal framework that exist for the protection of fishing vessels in some of the harshest conditions that exist.

The natural starting point when discussing any matter related to the law of the sea is as discussed UNCLOS. UNCLOS provides a general framework for State jurisdiction in the law of the sea. UNCLOS also divides the different competence of States to prescript and enforce regulations for ships. Flag Sates have the primary responsibility and opportunity to prescript and enforce legislation for ships that fly their flag. While also State can in their capacity as port and coastal States can do so to protect their maritime zones.

UNCLOS provides that the flag State shall effectively exercise its jurisdiction and control in administrative technical, and social matters over ships flying its flag. UNCLOS also provides a non-exhaustive list of duties of the flag State over ships flying their flag, this list is supposed to be supplemented by the instruments of the IMO. In regard to fishing vessels, we have the Polar Code which has entered into force, but which does not provide any requirements applicable to fishing vessels that help for the safety of navigation within the scope of this thesis. Another IMO instrument currently not in force is the 2012 Cape Town Agreement. The process of developing a compulsory international legal framework for fishing vessel safety has been challenging for the IMO, which may be finalized if successful with the entry into force of the 2012 Cape Town Agreement.

The Cape Town Agreement sets requirements for fishing vessel safety, including specific requirements for fishing vessels operating in polar waters. The requirements of the Cape Town Agreement if entered into force will provide a comprehensive legal framework for fishing vessel safety much like the SOLAS convention for non-fishing-vessels. The requirements related to this thesis include the ability of fishing vessels' construction to sustain icy conditions, prevention of ice accretion, and stability requirements for ships that navigate and operate where ice accretion may occur.

In addition, the international legal framework for fishing vessels includes the STCW-F Convention, which provides safety training requirements for fishers. Among the requirements from the STCW-F Convention is the requirement of minimum training for fishers.

To answer the thesis question of how well Norway utilizes the room for legislation provided in the international legal framework the Norwegian legislation for fishing vessel safety in the polar waters this thesis has investigated the Norwegian legal regime and compared it to the requirements from international law.

The Norwegian legislation for fishing vessels safety regarding the chosen scope of safety in mind is very strict. The Norwegian legal framework through Norwegian the Ship Safety Act and the numerous regulations covering the subject provide strict standards for ships, especially the technical requirements found in the Regulation of the Construction, equipment, and operation of ships.

Compared to the international legal regime Norwegian standards are overall stricter or as strict as the ones provides in the international legal instruments. Even if the 2012 Cape Town Agreement is entered into force the requirements from the Norwegian law would not have drastically changed to accommodate the requirements from the Cape Town Agreement. This is partly due to the nature of the development of the Cape Town Agreement and the Norwegian implementation of the 1993 Torremolinos Protocol through the means of EU Directive 97/70/EF.

As has been discussed Norway is within their right to implement stricter requirements than what the international instruments from the IMO when exercising their jurisdiction as the flag State over ships flying their flag. And although, the entry into force of the 2012 Cape Town Agreement could have an impeccable impact on fishing vessel safety globally the existing requirements in Norwegian law is so strict that it would have a limited effect on Norwegian law.

6 Annexes

6.1 Annex 1

Recommendations by the Conference

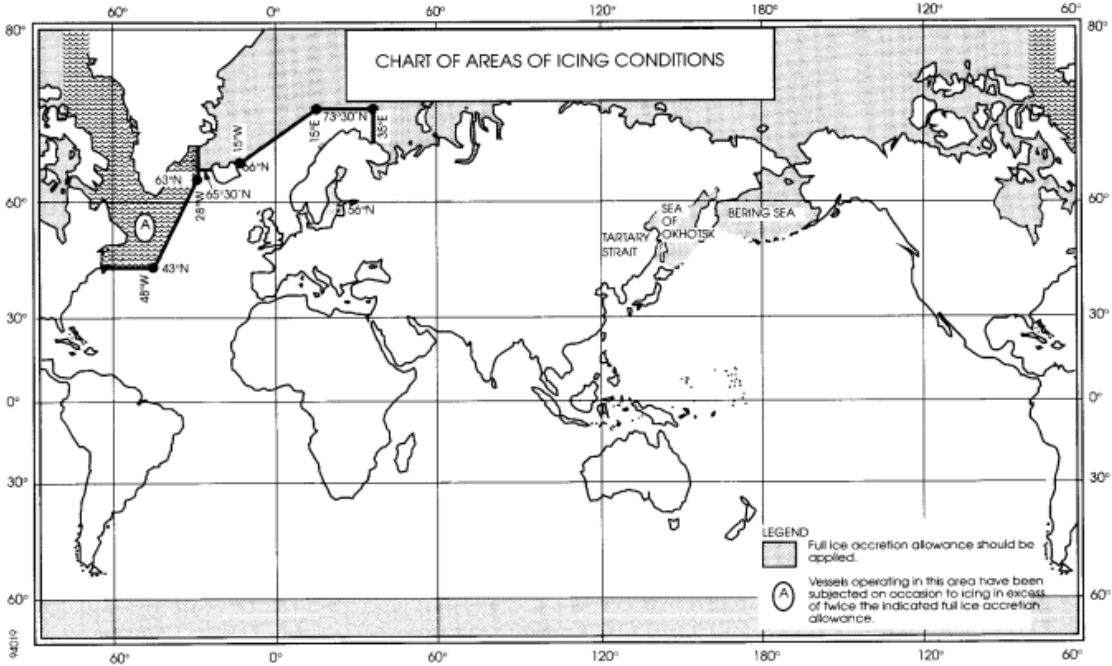


Figure 1 From the 1993 Torremolinos Protocol

Works cited

2012 Cape Town Agreement to Enhance Fishing Safety

<<https://www.imo.org/en/MediaCentre/HotTopics/Pages/CapeTownAgreementForFishing.aspx>> accessed 3 June 2022

Andersen SI, 'Why the Barents Sea Is Not as Bad as Its Reputation' (*StormGeo*, 25 October 2018) <<https://www.stormgeo.com/solutions/oil-and-gas/articles/the-barents-sea/>> accessed 13 June 2022

Deggim H and Embankment A, 'INTERNATIONAL REQUIREMENTS FOR SHIPS OPERATING IN POLAR WATERS' 15

DNV GL, 'Polar Code - Understand the Code's Requirements to Take Right Steps for Smooth Compliance' (2017)

<https://www.unols.org/sites/default/files/DNV_GL_IMO_Polar_Code_2017-05_web.pdf>

Erik J Molenaar, 'Port State Jurisdiction' (*Oxford Public International Law*)

<<https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e2052>> accessed 27 August 2022

Firskeri og kystdepartementet, 'Fakta Om Fiskeri Og Havbruk 2011' (Fiskeri og kystdepartementet 2011)

fiskeridepartementet N, 'Fiskeri- og havministeren vil ha nullvisjon i fiskeflåten' (*Regjeringen.no*, 3 February 2022) <<https://www.regjeringen.no/no/aktuelt/fiskeri-og-havministeren-vil-ha-nullvisjon-i-fiskeflaten/id2899587/>> accessed 17 August 2022

Flewwelling P and FAO (eds), *Recent Trends in Monitoring, Control and Surveillance Systems for Capture Fisheries* (Food and Agriculture Organization of the United Nations 2003)

Halvard L. Aasjord, Ingunn Marie Holmen, and Trine Thorvaldsen, 'Fiskerulykker og årsaksforhold' (SINTEF Fiskeri og Havbruk 2012) A23369

Hjalti Hreinsson, 'PAME – Arctic Shipping Status Report #1' (PAME Protection of the Arctic Marine Environment 2020) <<https://pame.is/document-library/pame-reports-new/pame-ministerial-deliverables/2021-12th-arctic-council-ministerial-meeting-reykjavik-iceland/793-assr-1-the-increase-in-arctic-shipping-2013-2019/file>> accessed 13 June 2022

Hub ISK, '48 States Commit to Ratify Cape Town Agreement | News | SDG Knowledge Hub | IISD' <<https://sdg.iisd.org:443/news/48-States-commit-to-ratify-cape-town-agreement/>> accessed 23 August 2022

IMO, 'Norway Is First to Sign Cape Town Fishing Vessel Safety Agreement' [2013] IMO Press Briefings

<<https://imopublicsite.azurewebsites.net/en/MediaCentre/PressBriefings/Pages/30-cape-town-signing.aspx>> accessed 23 August 2022

———, 'Fishing Vessel Safety' (*Fishing Vessel Safety*, 2019)

<<https://www.imo.org/en/OurWork/Safety/Pages/Fishing%20Vessels-Default.aspx>> accessed 22 June 2022

——, ‘International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995’

<<https://www.imo.org/en/OurWork/HumanElement/Pages/STCW-F-Convention.aspx>> accessed 2 August 2022

——, ‘Ship Design and Stability’

<<https://www.imo.org/en/OurWork/Safety/Pages/ShipDesignAndStability-default.aspx>> accessed 25 August 2022

——, ‘The Torremolinos International Convention for the Safety of Fishing Vessels’ (*Torremolinos International convention for the safety of fishing vessels*)

<<https://www.imo.org/en/About/Conventions/Pages/The-Torremolinos-International-Convention-for-the-Safety-of-Fishing-Vessels.aspx>> accessed 23 August 2022

‘International Code for Ships Operating in Polar Waters (Polar Code)’

<<https://www.imo.org/en/OurWork/Safety/Pages/polar-code.aspx>> accessed 24 August 2022

International Maritime Organisation, ‘2012 Cape Town Agreement (Explained)’ (*2012 Cape Town Agreement (Explained)*) <<https://sway.office.com/pGZcJtkSuHNxDzy5>> accessed 9 June 2022

Ioseliani T, ‘Generally Accepted International Rules, Regulations, Procedures and Practices’ in Accordance with the United Nations Convention on the Law of the Sea 1982 and the IMO Mandatory Instruments in Regards Maritime Safety’ 181

Kiel-Morse M, ‘Research Guides: Legal Dissertation: Research and Writing Guide: Home’ <<https://law.indiana.libguides.com/dissertationguide/home>> accessed 17 August 2022

Kitack Lim, IMO, ‘Ratification of the Cape Town Agreement of 2012’ (11 April 2022)

<[https://wwwcdn.imo.org/localresources/en/MediaCentre/PressBriefings/PublishingImages/Pages/CTARatificationUrged/Circular%20Letter%20No.4551%20-%20Ratification%20Of%20The%20Cape%20Town%20Agreement%20Of%202012%20-%20CommunicationFrom%20The%20Secretary-General%20\(Secretary-General\).pdf](https://wwwcdn.imo.org/localresources/en/MediaCentre/PressBriefings/PublishingImages/Pages/CTARatificationUrged/Circular%20Letter%20No.4551%20-%20Ratification%20Of%20The%20Cape%20Town%20Agreement%20Of%202012%20-%20CommunicationFrom%20The%20Secretary-General%20(Secretary-General).pdf)>

Loughran CG and others, ‘A Preliminary Study of Fishing Vessel Safety’ (2002) 5 *Journal of Risk Research* 3

Norwegian Maritime Authority, ‘STCW for Fishers’ (2006)

<https://web.archive.org/web/20061001213846/http://www.sjofartsdir.no/no/Aktuelt/STCW_for_fiskere/>

‘Ot.Prp.Nr.87 (2005–2006) Om Lov Om Skipssikkerhet (Skipssikkerhetsloven)’ (9 June 2006)

<https://lovdata.no/pro/#document/PROP/forarbeid/otprp-87-200506/KAPITTEL_1> accessed 6 August 2022

Robert Beckman, Zhen Sun, ‘The Relationship between UNCLOS and the IMO Instruments’ *Asia-Pacific Journal of Ocean Law and Policy* 201

Rothwell DR and Stephens T, *The International Law of the Sea* (2nd edn, Hart Publishing 2016)

CAPE TOWN AGREEMENT OF 2012 ON THE IMPLEMENTATION OF THE PROVISIONS OF THE TORREMOLINOS PROTOCOL OF 1993 RELATING TO THE TORREMOLINOS INTERNATIONAL CONVENTION FOR THE SAFETY OF FISHING VESSELS, 1977 2012 (MSC 92/26/Add2 Annex 25)

Charter of the United Nations 1946 (1 UNTS XVI)

Forskrift om arbeidsmiljø, sikkerhet og helse for de som har sitt arbeid om bord på skip 2005 (FOR-2005-01-01-8)

Forskrift om konstruksjon, utstyr og drift av fiskefartøy med lengde 15 keter eller mer 2000 (FOR-2000-06-13-660)

Forskrift om sikkerhetsopplæring for fiskere 1989 (FOR-1989-02-10-88)

GUIDELINES FOR SAFETY MEASURES FOR FISHING VESSELS OF 24 M IN LENGTH AND OVER OPERATING IN POLAR WATERS 2021

International Code For Ships Operating in Polar Waters (Polar Code) 2015 (MEPC 68/21/Add1)

International Code on Intact Stability 2008 (RESOLUTION MSC267(85))

Regulations on safety measures for ships operating in polar waters and amendments to Regulations on environmental safety - Norwegian Maritime Authority 2016 (RSR 15 - 2016)

SFV - International Convention for the Safety of Fishing Vessels (The Torremolinos Convention) Regulations for the Construction and Equipment of Fishing Vessels

The International Code for Ships Operating in Polar Waters 2014

The International Convention on Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel 1995

United Nations Convention on the Law of the Sea 1982 (UNTS 1833, 1834, 1835)

Vienna Convention on the Law of Treaties 1969 (UNTS 1155)

1993 Torremolinos Protocol Relating to the 1977 Torremolinos Convention For the safety of Fishing Vessels 9