A study on international trend and Korean measures regarding Cape Town Agreement of 2012

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ABSTRACT
At the global level, regulations on the safety of ships are gradually strengthening. Comparing international regulations on the safety of merchant vessels and fishing vessels, fishing vessels did not have a relatively strong safety regulations compared to merchant vessels. However, the importance of fishing vessel safety is being emphasized internationally for various reasons, such as the increase in IUU fishing activities. The Cape Town Agreement of 2012 is a representative international convention on the safety of fishing vessels. Although it has not yet met the requirements for entry into force, but several member states, including the IMO Secretariat, continue to encourage the entry into force of the Agreement. For reference, the Republic of Korea is also preparing various fishery policies with the goal of ratifying the agreement in 2023. This paper briefly introduces international trends related to the ratification of the Cape Town Agreement. In addition, by reviewing the current status of preparations of the Republic of Korea for ratification of the agreement in general, essential preparation measures for smooth ratification and implementation of the Cape Town Agreement have been identified.

Introduction

The background and purpose of the adoption of the Cape Town Agreement of 2012 (hereinafter referred to as the Cape Town Agreement) is specified in foreword of the Cape Town Agreement. A brief description of the background and status of adoption is as follows.

The Cape Town Agreement on the Implementation of the Provisions of the Torremolinos Protocol of 1993 (hereinafter referred to as the Torremolinos Protocol) relating to Torremolinos International Convention for the Safety Fishing Vessels, 1997 was adopted by the International Conference on the Safety of Fishing Vessels, held from 9 to 11 October 2012 in Cape Town, South Africa, under the auspices of the International Maritime Organization (hereinafter referred to as IMO), as the result of a strenuous work and intensive discussions over a five-year period.

After the adoption of the Torremolinos Protocol, the IMO International Organization has conducted several activities to urge Member States to ratify the Torremolinos Protocol for its entry into force. However, Asian countries with large numbers of fishing vessels would not agree to ratification on the grounds that the requirements of the Torremolinos Protocol’s provisions were too strict to apply to small vessels (fishing vessels), and thus it has not been come into force internationally.

As this situation continued, IMO adopted the Cape Town Agreement of 2012 to improve the safety of fishing vessels by complementing the contents of the Torremolinos Protocol. This agreement applies to fishing vessels over 24 m in length and provides for minimum safety provision of fishing vessels. As a requirement for entry into force, the total number of fishing vessels of at least 22 countries that have ratified the Convention must be at least 3,600. It comes into force 12 months after all these requirements have been satisfied. Figure 1 shows a cover of the Cape Town Agreement and this photograph representing the safe fishing activities of fishing vessels for the purposes of the Cape Town Agreement was provided by the Food and Agriculture Organization of the United Nations (FAO).

In this paper, international trends related to ratification of the Cape Town Agreement of 2012 were investigated, taking into account the main contents of the agreement. Based on this, the current state of preparation and future policy direction of the Republic of Korea for successful ratification of the Cape Town Agreement were examined.

Main contents of the Cape Town Agreement

The contents of the Cape Town Agreement consist of a total of 10 chapters, and the title of each chapter are
shown in Table 1. Specifically, Table 1 shows the contents of the Cape Town Agreement and the SOLAS in terms of comparing each other. Looking at the Table 1, it is easy to find that structure of the Cape Town Agreement is similar to the International Convention for the Safety of Life at Sea (hereinafter referred to as the SOLAS). In practice, in terms of international fishing activities of fishing vessels, the provisions of the Cape Town Agreement function the same as the SOLAS.

Accordingly, the Cape Town Agreement is sometimes referred to as "SOLAS of Fishing Vessel." For reference, the SOLAS Convention applies to international ships engaged on international voyages with a gross tonnage of 500 tons or more, unless otherwise specified in regulation of SOLAS. In addition, the SOLAS Convention specify "Fishing vessels" as ships not covered by the SOLAS Convention according to the rules Regulation 3 (Exceptions) of Chapter 1.

In addition to the chapters, the Cape Town Agreement contains three appendixes. There are Form of Safety Certificate for Fishing Vessels, Form of Exemption Certificate and Form of Supplement to the International Fishing Vessel Safety Certificate.

### Ratification status of the Cape Town Agreement

The IMO Secretariat periodically shares the information regarding the status of ratification of international conventions under the IMO through the IMO web homepage. As of March 2021, a total of 16 IMO member states that ratified the Cape Town Agreement (Belgium, Congo, Cook Islands, Croatia, Denmark, Finland, France, Germany, Iceland, Netherlands, Norway, Peru, Saint Kitts and Nevis, Sao Tome and Principe, South Africa, Spain). For reference, a total of 17 IMO member states (Bulgaria, Croatia, Cuba, Denmark, France, Germany, Iceland, Ireland, Italy, Kiribati, Liberia, Lithuania, Netherlands, Norway, Saint Kitts and Nevis, Spain, Sweden) has completed the ratification of the Torremolinos Protocol. Accordingly, 9 of IMO member states have ratified both IMO conventions on the safety of fishing vessels: Croatia, Denmark, France, Germany, Iceland, the Netherlands, Norway, St. Kitts and Nevis and Spain.

| Chapter  | Cape Town Agreement | Contents |
|----------|---------------------|----------|
| Chapter 1 | GENERAL PROVISIONS CONSTRUCTION, WATERTIGHT INTEGRITY AND EQUIPMENT |
| Chapter 2 | LIFE-SAVING APPLIANCES AND ARRANGEMENTS SAFETY OF NAVIGATION |
| Chapter 3 | STABILITY AND ASSOCIATED SEAWORTHINESS LIFE-SAVING APPLIANCES AND ARRANGEMENTS |
| Chapter 4 | MACHINERY AND ELECTRICAL INSTALLATIONS AND PERIODICALLY UNATTENDED MACHINERY SPACES SAFETY OF NAVIGATION |
| Chapter 5 | FIRE PROTECTION, FIRE DETECTION, FIRE EXTINCTION AND FIRE FIGHTING |
| Chapter 6 | PROTECTION OF THE CREW CARRIAGE OF CARGOES AND OIL FUELS |
| Chapter 7 | LIFE-SAVING APPLIANCES AND ARRANGEMENTS CARRIAGE OF DANGEROUS GOODS |
| Chapter 8 | EMERGENCY PROCEDURES, MUSTERS AND DRILLS NUCLEAR SHIPS |
| Chapter 9 | MANAGEMENT FOR THE SAFE OPERATION OF SHIPS |
| Chapter 10 | SHIPBORNE NAVIGATIONAL EQUIPMENT AND ARRANGEMENTS SAFETY MEASURES FOR HIGH-SPEED CRAFT |
| Chapter 11 | - CHAPTER XI-1 Special measures to enhance maritime safety |
| Chapter 12 | - CHAPTER XI-2 SPECIAL MEASURES TO ENHANCE MARITIME SECURITY |
| Chapter 13 | - ADDITIONAL SAFETY MEASURES FOR BULK CARRIERS |
| Chapter 14 | - VERIFICATION OF COMPLIANCE |
| Chapter 14 | - SAFETY MEASURES FOR SHIPS OPERATING IN POLAR WATERS |

**Figure 1.** Cover of the Cape Town Agreement. (IMO 2018)
The Food and Agriculture Organization (hereinafter referred to as FAO) publishes annual report of Fishery and Aquaculture Statistics around the world through its website. Figure 2 shows countries from 1st to 10th in terms of capture production by principal producers in 2018 provided by FAO. For reference, the Republic of Korea has ranked 13th in the world with 1,336,286 tons, and China has ranked 1st with 14,647,819 tons.

It is difficult to understand the current status of fishing activities in the country based on the amount of fishery capture production. However, it can be reasonably considered that fishing activities are actively carried out through fishing vessels and fishing crews according to the large amount of fishery capture production. A comparison of the IMO member states that have ratified the Cape Town Agreement with the top 10 countries by fishery capture production reveals that only two countries, Norway and Peru, have ratified the Cape Town Agreement. The current international status is that eight other countries have not ratified not only the Cape Town Agreement but also the Torremolinos Protocol.

In order to promote the international entry into force of the Cape Town Agreement and to implement an effective and sustainable agreement, it is necessary to come up with measures to encourage ratification by major fisheries countries actively engaged in fishing activities internationally. In addition, from the perspective of the Republic of Korea, it is necessary to comprehensively compare and review the domestic status of fishery activities and the requirements of the Cape Town Agreement. Also, it is necessary to carefully analyze the causes of the major fisheries countries avoiding ratification of the Cape Town Agreement.

**Trend of international discussion at the IMO level**

After the adoption of the Cape Town Agreement, the IMO Secretariat promoted the importance of the Cape Town Agreement to IMO member states and actively encouraged member states to ratify it through a variety of methods, such as holding technical cooperation (TC) projects and related seminars. In particular, by establishing a separate internet platform (https://sway.office.com/pGZcJtk5uHNxDzyS?ref=Link) for the Cape Town Agreement, the main contents and importance of the agreement are being promoted worldwide.

The ratification of international conventions including the Cape Town Agreement by IMO member states is not determined solely by considering the purpose and importance of the convention. A comprehensive consideration should be given to the relevant domestic industry conditions of the Member States considering ratification and the various impacts on their countries from ratification.

In particular, peninsula countries that are surrounded by ocean on three sides and have active fishing industry, such as the Republic of Korea, should in-depth review the impact of the domestic fishing industry through ratification of the Cape Town Agreement. In addition, since there are many variables in the review process regarding ratification of the Cape Town Agreement, it is necessary to consider the number of different cases and collect opinions from various sectors through an extensive network of experts.

At the international level, these discussions are conducted by IMO, and looking at the recent trends
in discussions related to the Cape Town Agreement, there was the Torremolinos Ministerial Conference on Fishing Vessel Safety and Illegal, Unreported and Unregulated (hereinafter referred to as IUU) Fishing” held in Spain in 2019.

The torremolinos declaration

A Ministerial International Conference was held to eradicate IUU fishing activities in Torremolinos, Spain from October 21 to 23, 2019, jointly organized by the Spanish Government and the IMO Secretariat. A total of 48 member states participated and have signed the “Torremolinos Declaration,” and after the conference, three additional countries (Portugal, Poland, and Bulgaria) have signed the declaration. Table 2 shows the core contents of the “Torremolinos Declaration.”

The TA Ministerial International Conference were held with the aim of devising measures to eradicate IUU fishing practices. If the Cape Town Agreement, which comprehensively regulates the safety of fishing vessels, comes into force and is smoothly implemented internationally, illegal fishing activities such as IUU fishing can be fundamentally prevented. Therefore, in this respect, the “Torremolinos Declaration” adopted at this conference has an important meaning. As many member states are aware of this, they are calling for the entry into force of the Cape Town Agreement through the adoption of the Declaration at the International Conference. Figure 3 shows delegations of member states signing the Torremolinos Declaration.

In the Torremolinos Declaration, it should be noted that it emphasized the promotion of the entry into force of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (hereinafter referred to as STCW-F Convention). Since 2017, The IMO Sub-Committee on Human Element, Training and Watchkeeping (HTW) has been discussing a comprehensive review. Currently, the STCW-F Convention was adopted in 1995 as the IMO International Convention on Qualification and Training of Fishing Vessels personnel, but has not yet entered into force internationally.

Whereas the Cape Town Agreement stipulates overall safety for fishing vessels, the STCW-F Convention stipulates for human factors related to fishing vessel safety. In terms of safety improvement, these two conventions should be complementary. This is because

Table 2. Main contents of TORREMOLINOS DECLARATION.

| Main contents of TORREMOLINOS DECLARATION |
|------------------------------------------|
| The undersigned Member States concern that the “Cape Town Agreement 2012” has not entered into force, and recognize the need to enter into force the agreement to achieve the UN SDG 14 and SDG 17. |
| The undersigned Member States take a positive look at international cooperation with other UN organizations to eradicate the IUU fishing industry and for compliance with improved safety standards. |
| The undersigned Member States recognize the importance of the entry into force of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F, 1995) and support international cooperative activities for the entry into force of this Convention. |
| The Recognizing that the entry into force of the “Cape Town Agreement” complements the implementation of other conventions applicable to fishing vessels, the undersigned Member States express our resolutions below. |
| We should take steps to ensure that the Cape Town Agreement enters into force by 11 October 2022, the 10th anniversary of its adoption. |
| We recognize that increasing the effectiveness of the Cape Town Agreement depends on the multilateral support of IMO Member States, and we promote the implementation of the Agreement through a variety of international activities. |
| We recognize that the Cape Town Agreement should be used as an international standard for fishing vessels inspection for the international safety, recognize that it can help improve transparency and systematic management of fishing activities. |

Figure 3. The Torremolinos Declaration in 2019.
even if the mechanical and physical safety of fishing vessels is guaranteed, marine accidents can occur if the crews of fishing vessels operating them are not sufficiently educated and trained. For reference, considering the fact that 84.5% of the causes of marine accidents in Republic of Korea are analyzed as human factors such as operational errors, it is easy to understand why the Torremolinos Declaration included a promotion for the entry into force of the STCW-F Convention.

Guidance to assist competent authorities in the implementation of the Cape Town Agreement OF 2012

As part of the follow-up action to the Ministerial Conference held in Spain in October 2019, a working group was established by the countries that participated in the conference. The Working Group began work on developing guidelines for implementing the Cape Town Agreement. For the smooth and efficient working of the Working Group, the Icelandic government supported the establishment of an Internet platform (https://www.icetra.is/maritime/international-maritime-organization-imo/cta) that allows real-time access to information related to Working Group discussions.

In February 2021, the Working Group submitted a draft of the guidelines currently under development to the IMO 103rd Maritime Safety Committee. The countries jointly submitting this document are Iceland, Indonesia, South Africa, Spain, FAO, ITF, Pew and WMU.

The draft of the guideline as a whole, the guideline was structured based on the contents of the Cape Town Agreement. The core contents of each of the ten chapters of the Agreement were specified, and guidelines for the smooth implementation of each regulation were specified in detail. Currently, it is considered to be a draft and a lot of supplementation work is needed. Looking at the contents of the IMO document (MSC Document 103/20/2), it is determined that further discussions between member states on the details are necessary, and a close review of the guideline is also required in Republic of Korea, which is considering ratification of the Cape Town Agreement.

Current status of response to Republic of Korea

Regarding the plan to ratify the Cape Town Agreement, the Ministry of Oceans and Fisheries of Korea has announced that it is preparing to ratify it in 2023.

According to the announcement, the current level of safety requirements of Korean fishing vessels and the requirements required by the Cape Town Agreement are thoroughly compared and reviewed to determine the appropriate timing of the introduction of the agreement. Looking at specific plans for each period, in 2020, a survey on the implementation of safety regulations for fishing vessels and an analysis of the impact of ratification will be conducted. In addition, in consideration of the fact that the regulations on shipbuilding of fishing vessel are included in the Cape Town Agreement, management standards are also planned to secure a minimum living space for crews when building fishing vessels.

The review of conformity between international conventions such as the Cape Town Agreement and domestic law could be approached by dividing into human factors and systemic factors from a macroscopic point of view. This is because that when reviewing the safety of fishing vessels basically, this is the same approach method as to distinguish between the safety of the people (crews, etc.) on board the fishing vessel and the safety of the vessel (the hull, equipment, etc.) itself structurally. The Cape Town Agreement also stipulates construction regulations such as stability in terms of ship, or hull safety, while also stipulating requirements for abandonment training and fire prevention in order to ensure the safety of persons on board. In addition, the laws and regulations in Korea are classified according to their purpose, such as the Seafarers Act and the Ships Officers Act, which function as minimum qualification regulations for the safety of sailors on board a fishing vessel.

In the procedure for preparing for ratification of the Cape Town Agreement, the detailed provisions of the Agreement should be thoroughly checked to ensure that it is consistent with the corresponding laws of the Republic of Korea. In addition, if the Republic of Korea ratifies the Cape Town Agreement, a system must be established in advance to ensure that the relevant regulations in fishing activities are smoothly implemented. In this respect, the Korean government is making efforts to systematically carry out safety management of fishing vessels through revision of related laws and regulations. The revision of these laws includes specific safety management regulations, such as safety management guidelines that must be prepared for each ship to ensure the safety of deep-sea fishing vessels.

Analysis of industrial impact from ratification of the Agreement

Recently, studies have shown that the safety of fishing activities is impaired due to the aging of Korean fishing vessels. In addition, the aging of seafarers working on the domestic fishing vessels is having a great influence on the increase in fishing accidents. As a countermeasure against these statuses, the Ministry
of Oceans and Fisheries of Korea is promoting a project to replace old fishing vessels that are engaged in domestic fishing. Considering that most of the contents of the Cape Town Agreement are safety regulations regarding the hull and equipment of fishing vessels, various improvements are required regarding the requirements required by the Agreement and the level of safety of fishing vessels corresponding thereto.

Figure 4 outlines the overall impact of ratification of the Cape Town Agreement on the Republic of Korea. As with the general procedure for the acceptance of domestic law in other IMO international conventions, ratification of the Cape Town Agreement must take comprehensive consideration of the industrial and institutional impacts on the country. Therefore, it is necessary to investigate and study more closely the situation of fishing activities in Korea in connection with the ratification of the Cape Town Agreement.

With regard to the technology that meets the provisions required by the Cape Town Agreement, it may be difficult for older fishing vessels, which make up a large portion of domestic fishing vessels in the Republic of Korea, to meet the criteria for building construction and equipment stipulated in the agreement. Accordingly, substantial support, including financial support for fishing vessel owners, is expected to be needed through facility investment and related equipment development. Such support could not be proactively implemented by any one entity in the industry, and it is a matter to be promoted comprehensively with subsidies from the government level.

Regarding the economic ramifications of the introduction of the Cape Town Agreement, the Korean government is investigating specific economic impacts by carrying out related research services in cooperation with specialized research institutes. Based on the results of this study, it is expected that a specific support action plan for the implementation of the Cape Town Agreement will be prepared.

Raising awareness of fishing vessel safety and strengthening education and training are essential to the effective implementation of the Cape Town Agreement. The Ministry of Ocean and Fisheries emphasized that it plans to continuously improve education programs so that it can be of practical help to marine workers who are responsible for safety management in industrial sites. In particular, it has been announced that the training method will be changed from the existing theory-based to the experience-practice type so that workers can learn safety effectively. Considering that most of the causes of marine accidents in the Republic of Korea are human factors, and the fundamental purpose of the Cape Town Agreement is to prevent marine accidents and improve safety of fishing vessels, continuous improvement on human factors should be carried out.

**Conclusion**

According to the current status of ratification of the Cape Town Agreement at the global level, disclosed by the IMO Secretariat, 17 countries had ratified the agreement as of March 2021. However, of the top 10 major fisheries countries based on the amount of fishery capture production in 2018, Peru and Norway are the only two countries that have ratified both the Cape Town Agreement and Torremolinos Protocol. Based on these facts, a comprehensive analysis of the causes of international major fisheries countries reluctance to ratify the Cape Town Agreement and the industrial impact from ratification should be needed.

In consideration of the contents of the Torremolinos Declaration in 2019, it is necessary for those engaged in domestic fishing activities to be aware of the implications of ratification of the Cape Town Agreement in terms of improving the safety of fishing vessels and eradication of IUU fishing. In addition, the ratification of the STCW-F Convention should be carefully reviewed, taking into account the impact of human factors in fishing vessels accidents.

With the aim of ratifying the Cape Town Agreement in 2023, the Ministry of Oceans and Fisheries of the Republic of Korea is conducting various policy activities. Taking into account the fundamental purpose of the Cape Town Agreement, ratification should be made to have a positive effect on the Korean fishing
industry. In other words, it is necessary to prepare through a close analysis of the fishing industry and a close cooperation system between industry-academia and research institutes.

Disclosure statement

No potential conflict of interest was reported by the author(s).

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