

INTERIM REPORT OF CMI IWG (POLAR SHIPPING) ACTIVITIES

(July 2015-December 2015)

The IWG comprises:

Aldo CHIRCOP, *Chair*
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1. INTRODUCTION

The IWG continued work on the basis of the plan of work originally set out at CMI Hamburg and further refined at CMI Istanbul. As in the past, the IWG conducted its work through e-mails, telephone conferences and occasional meetings when possible.

The IWG's main work is currently conducted through the following subgroups:

- Conventions: N. Frawley (chair), G. Goto, T. Henriksen, Y-K. Park, B. Ray, H. Ringbom & A. Skaridov.
- Load lines: A. Chircop (chair), B. Ray, N. Reggio & D. Snider.
- Civil liability: L. Rosenberg Overby (chair), D. Baker, P. Cullen, K. Khosla, B. Ray, S. Skaridov; by invitation, E. Røsæg and O. Gayazova (Scandinavian Maritime Institute, University of Oslo, Norway)
- Polarworthiness: A. Chircop (chair), P. Cullen & N. Frawley
- Collision avoidance regulations: P. Cullen (chair), A. Chircop & N. Frawley

2. IWG MEMBERSHIP

At the time of writing there are no new developments on this matter to report.

3. IWG ACTIVITIES

3.1 Review of private maritime law conventions

The systematic review of almost thirty private and some public maritime law conventions to ascertain their applicability or otherwise to the Arctic and Antarctic is nearing completion. The review considers whether there are instruments that would benefit from amendment to better address the needs of polar shipping. The draft report has been prepared by sub-group chair N. Frawley with contributions from G. Goto, T. Henriksen, YK. Park, B. Ray, H. Ringbom and A. Skaridov. At the time of writing, the sub-group chair is processing inputs received recently from colleagues from the Russian Federation and South Korea. The finalized report will be loaded on the IWG's page on the CMI website.

3.1 Load lines in polar shipping

Led by the IWG Chair, the work on this paper is largely completed. At the CMI Istanbul the IWG meeting agreed that work be continued to prepare the paper to support a recommendation Council and Assembly to advise the International Maritime Organization to consider revisiting the Load Lines Convention (LLC) with a view to ascertaining whether specific provision for load lines applicable in polar waters (as defined in the Polar Code) should be included in the LLC. This proposal will be advanced at CMI New York.

3.2 The pollution liability regime in polar regions

The sub-group on civil liability in polar shipping chaired by L. Rosenberg Overby (with contributions from D. Baker, P. Cullen, K. Khosla, B. Ray, E. Røsæg, O. Gayazova and A. Skaridov) continued work after Istanbul. The substantial draft working paper will be circulated among all IWG members for comments and further updates by contributing members. The paper will explore possible recommendations. It will be finalized for presentation by L. Rosenberg Overby at CMI New York in 2016.

3.3 Seaworthiness in polar shipping

In this sub-group P. Cullen has been leading efforts in the preparation of a first of a working paper on polarworthiness. At the time of writing of this report, the first draft is nearing completion and will be communicated to other members for further inputs.

3.4 Applicability of the international collision avoidance regulations in polar environments

At the time of writing there are no new developments on this matter to report.

3.5 Inventory of polar shipping law initiatives

At the time of writing there are no new developments on this matter to report.

3.6 Other activities

3.6.1 IWG page on CMI website

The IWG page on the CMI website was updated periodically with the kind assistance of the Secretariat.

3.6.3 Participation in international conferences

IWG members presented on topics related to IWG work. The Chair presented on “The Polar Code and the Arctic States” at the 15th Transatlantic Science, a trilateral conference between Canada, Norway and the United States, convened in Boston on 4-6 November 2015. IWG members will be participating at the workshop *Governance of Arctic Shipping – Balancing Rights and Interests of Arctic States and User States*, Singapore, 10 – 11 December 2015, convened by the Centre of International Law at the National University of Singapore and the Jebsen Centre for the Law of the Sea at the University of Tromsø, Norway. The Chair will be presenting on the IMO, its role under UNCLOS and polar shipping regulation. T. Henriksen and D. Rothwell will be presenting on rights, interests, positions of Arctic coastal States. D. Rothwell will address Canada and the United States, T. Henriksen the Nordic States and Iceland.

4. 2016 CMI CONFERENCE AND MLAUS SPRING MEETING

The IWG Chair continued to liaise with P. Buhler (MLAUS) with regard to the planned joint session on "Arctic and Antarctic Shipping: Regulatory Challenges for Polar Navigation and Maritime Operations" at CMI New York, 3-6 May, 2016. Several MLAUS subcommittees (International Organizations, Conventions & Standards; Offshore Industries; Regulation of Vessel Operations, Safety, Security and Navigation; Fisheries) expressed interest in the session and the United States Coast Guard provided inputs.

At CMI Istanbul P. Buhler presented a tentative framework for the polar session which provided the basis for subsequent discussion. Planning and email discussions continued between August-November. The IWG Chair consulted members for further advice and inputs into the emerging program (15 September). P. Buhler organized a telephone conference on 29 September. Discussions in the MLA continued during the Bermuda Fall meeting. The initial draft evolved substantially and most panels have been populated with proposed speakers. The session would start with two high profile keynote speakers. The hope is that the majority of speakers will confirm by 17 November. At the time of writing the session programme was in the process of revision. Reproduced below is an interim outline of the session:

Keynote addresses: Adm (Ret.) Robert Papp, Chair, Arctic Council (invited) (40 min.); Ms. Sheila Watt-Cloutier, past-Chair, Inuit Circumpolar Conference (invited) (40 min.)

1045-1145 – Status and issues with The Polar Code

1145-1300 – Regulation of drilling and transportation of oil products, including national and international response plans (transborder spills) and civil liability

1300-1400 – Lunch break

1400-1500 – Regulation of fisheries regimes in the Arctic

1500-1600 – Special issues including the Load Line Convention, emerging “polarworthiness” standards, SAR capacity, cruise ships and special safety practices

1600-1630 – Vessel traffic control and separation schemes, including protection from environmental protesters

5. DIRECTIONS AND NEXT STEPS

The major tasks identified as next steps include:

- Continue to work closely with the MLAUS in planning for the polar session on 5th May.
- Prepare the work agenda for the IWG pre-conference meeting in New York on 3rd May (tentatively), including draft recommendation(s) to Council and Assembly.
- Finalization of the civil liability working paper for presentation in New York.
- Finalization of the surveys of international conventions.
- Prepare for discussion a draft of the working paper on polarworthiness for presentation in New York.

Respectfully submitted,

Professor Aldo Chircop
Chair, CMI IWG on Polar Shipping
12 November 2015