



Comité Maritime International

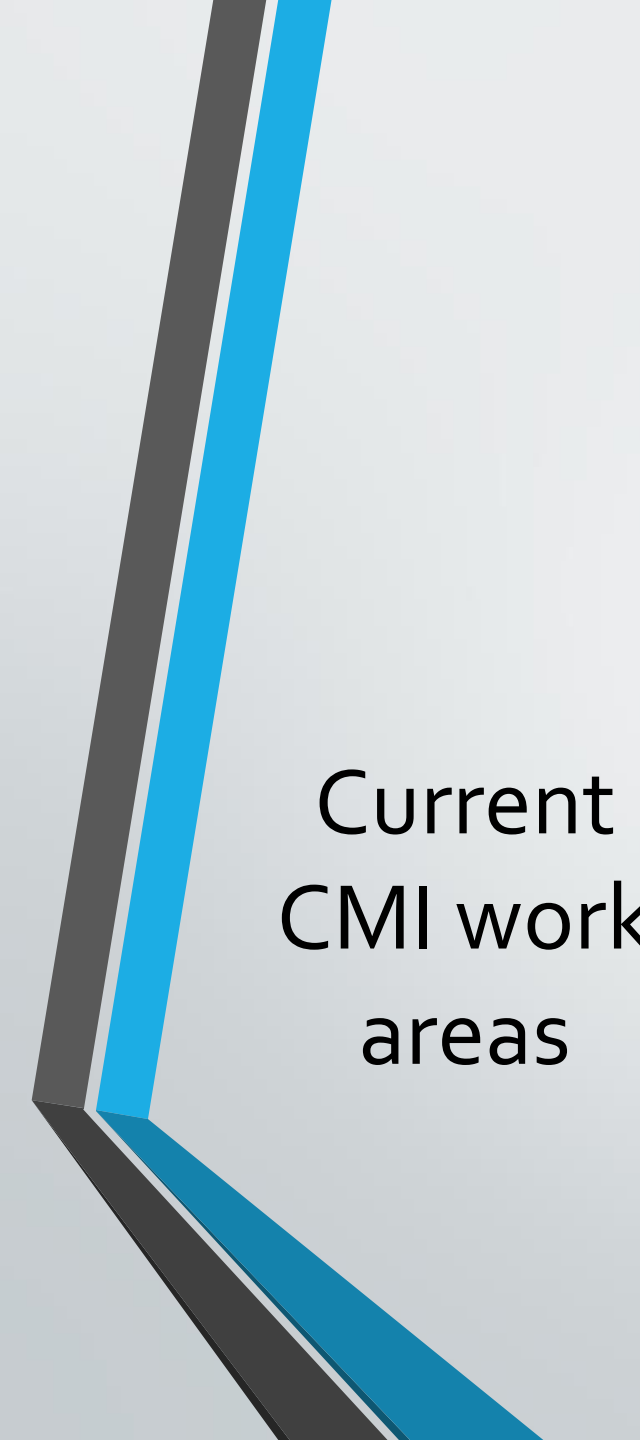
International Working Group on Polar Shipping

Presentation to PAME-I 2018 by Aldo Chircop, IWG Chair

<<http://www.comitemaritime.org/Polar-Shipping/0,2793,19332,00.html>>

The CMI

- Established as a not-for-profit international organization in Antwerp in 1897:
 - “ ... to contribute by all appropriate means and activities to the unification of maritime law in all its aspects.”
 - “To this end it shall promote the establishment of national associations of maritime law and shall co-operate with other international organizations.”
 - Brussels Diplomatic Maritime Conferences to adopt maritime conventions
- Member associations in 56 countries (approximately 11,000 persons engaged in maritime law around the world)
- Consultative status with IMO, UNCITRAL and UNCTAD
- Governance & work: Assembly, Executive Council, President, Secretary-General, subcommittees, international working groups



Current CMI work areas

- Acts of Piracy and Maritime Violence
- Arbitration
- Arrest of Ships
- Cape Town Convention/Ship Financing Security Practices
- Classification Societies
- Cross-Border Insolvency
- Cybercrime in Shipping
- Database for Judicial Decisions on International Conventions
- Fair Treatment of Seafarers in the Event of a Maritime Accident
- Guidelines on General Average
- Implementation/promotion of Maritime Conventions
- Judicial Sales of Ships
- Jurisprudence on International Conventions
- Lex Maritima
- Marine Insurance
- Maritime Law for Unmanned Craft
- Offshore Activities
- **Polar Shipping**
- Recognition of Foreign Judicial Sale of Ships
- Rotterdam Rules
- Ship Financing Security Practices
- Ship Nomenclature
- Study relating to Liability for Wrongful Arrest
- Unmanned Craft

The IWG

- First established by a CMI Assembly decision in 2011 as an ad hoc group of experts on polar shipping to identify legal issues concerning Arctic and Antarctic shipping
- Converted to a full IWG in 2012
- Mode of work: subgroups; email; meetings (Fairbanks, 2011; Beijing, 2012; Tromsø, 2013; Hamburg, 2014; Istanbul, 2015; New York, 2016; Genoa, 2017)



IWG membership

Aldo CHIRCOP [Canada, Chair]

David BAKER [UK]

Kim CROSBIE [USA]

Peter CULLEN [Canada]

Nigel FRAWLEY [Canada]

Gen GOTO [Japan]

Tore HENRIKSEN [Norway]

Stefanie JOHNSTON [UK]

Kiran KHOSLA [UK]

Young Kil PARK [Korea]

Bert RAY [USA]

Nicolò REGGIO [Italy]

Henrik RINGBOM [Finland]

Lars ROSENBERG OVERBY [Denmark]

Donald ROTHWELL [Australia]

Alexander SKARIDOV [Russia]

David (Duke) SNIDER [Canada, technical
advisor]

Plus other invited participants in subgroups

Subgroups

1. Review of Private Maritime Law Conventions (work completed, 2016)
2. Legal Framework for Civil Liability for Vessel-Source Oil Spills in Polar Regions (work completed, 2017)
3. Load Lines in Polar Shipping (ongoing work)
4. Collision Avoidance Rules in Arctic Shipping (ongoing work)
5. Antarctic Shipping (new, started in 2017)
6. Passenger Rights (new, starting in 2018)

1. Private Maritime Law Conventions

Chair: Nigel Frawley

- Circa 40 international private maritime law conventions (in force and not in force) reviewed
- Topics: salvage, underwater cultural heritage, liner conferences, immunity of state-owned vessels, registration of ships, carriage of goods, oil and bunker pollution liability and compensation, wrecks, intervention, emergency response cooperation, ballast waters, collisions, limitation of liability, liens and mortgages, nuclear ships and materials, transport terminals
- Most conventions do not appear to pose issues for application to Arctic shipping; different concerns with Antarctic
- Recommendations with respect to Wreck Removal, Ballast Waters Management, HNS conventions

2. Civil Liability for Vessel-Source Oil Spills

Chair: Lars Rosenberg Overby

- Purpose: to study how existing pollution liability regimes and other relevant conventions actually apply to spills from shipping in polar regions
- Overview of:
 - Key global instruments: CLC 1992, Fund Convention, Intervention Convention, OPRC, Bunker Convention, HNS Convention, LLMC 1996
 - National regimes of Central Arctic Ocean States
 - Applicable law to high sea areas in polar regions and Antarctic waters
 - Preventive measures (e.g., Polar Code) and emergency preparedness and response (including Arctic Council work)

Civil liability discussion & conclusions

- Extensive international & domestic legal infrastructure for civil liability
- Qualifications:
 - No one uniform regime and not all Arctic States are parties to all compensation regimes
 - Strict, but limited liability in international regimes (ensuring insurability)
 - International regimes apply if criteria are met (e.g., qualifying oil for CLC & IOPCF)
 - Compensability of response measures dependent on their 'reasonableness'
 - Sufficiency of current compensation limits for a major spill in a remote polar area is unknown (many variables); Supplementary Fund is thought to address likely scenarios
 - High seas = a gap!
 - Antarctic waters = additional concerns

3. Load Lines in Polar Shipping

Chair: Aldo Chircop

- A study of load line standards and practices applicable to commercial shipping in polar waters against the backdrop of change in polar waters
- Discussion and initial findings (Paper 1):
 - International Convention on Load Lines is one of the most important safety instruments, together with SOLAS, STCW, etc.
 - Load lines were not addressed during the development of the Polar Code
 - LLC provides rules and standards for load lines by marine region; with the exception of waters off Eastern Greenland, Arctic waters do not have a dedicated standard; in default, the load line practice is guided by North Atlantic Winter Zone 1
 - IACS Unified Requirements for Polar Class, while referring to ice loads for polar class ships and providing for upper and lower ice waterlines, do not address load lines

Next stage of study

- How, if at all, do Arctic States and other key States address load lines requirements for Arctic shipping in their domestic practice?
- How, if at all, do IACS safety requirements address load lines for polar shipping?
- What does the latest science indicate as possible concerns for load lines in Arctic shipping?

4. Collision Avoidance Rules in Polar Shipping

Chair: Stefanie Johnston

- A study of how the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS) is expected to apply to navigation in polar waters, especially in Arctic waters
- COLREGS were not addressed during the development of the Polar Code
- The Polar Code refers to COLREGS only with respect to the stern light of a ship that has stopped when in convoy
- Several rules are being studied: (5) proper look out; (6) safe speed; (7) risk of collision; (8) action to avoid collision; (9) narrow channels; (13) overtaking vessel; (17) action by stand-on vessel; (18) responsibilities between vessels

5. Antarctic Shipping

Chair: David Baker

- Study concerns the liability provisions of Annex VI to the Protocol on Environmental Protection to the Antarctic Treaty Liability Arising From Environmental Emergencies
- Annex VI applies to environmental emergencies in the Antarctic Treaty area relating to scientific research programmes, tourism and all governmental and nongovernmental activities
- Focus of the study is on clarifying aspects of the liability regime and its relationship to other treaty-based liability regimes when Annex VI enters into force

6. Passenger Rights in Polar Cruise Shipping

Chair: Lars Rosenberg Overby

- The study concerns the rights of passengers on cruise and venture passenger vessels operating in Arctic and Antarctic waters, given the particular navigational challenges of these regions and their remoteness.
- Task: to explore if there are legal issues with respect to passenger rights in this context and what legal responses might be in place or emerging as good practices.



Thank you for inviting this presentation
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Questions?