

REPORT OF CMI IWG (POLAR SHIPPING) ACTIVITIES

(1 November 2020-31 May 2021)

IWG Membership: Aldo CHIRCOP, *Chair*; David BAKER; Phillip BUHLER; Kim CROSBIE; Peter CULLEN; Gen GOTO; Tore HENRIKSEN; Stefanie JOHNSTON; Kiran KHOSLA; Didem LIGHT; Esther MALLACH; Young-Kil PARK; Bert RAY; Nicolò REGGIO; Henrik RINGBOM; Lars ROSENBERG OVERBY; Donald ROTHWELL; Alexander SKARIDOV; David (Duke) SNIDER, *Technical Advisor*

1. INTRODUCTION

This report covers the reporting period from 1 November 2020 to 31 May 2021. The IWG Chair acknowledges updates provided by the subgroup chairs.

2. IWG ACTIVITIES SINCE THE LAST REPORT

The IWG continues to operate through three subgroups, namely on Antarctic Shipping (chaired by David Baker), COLREGS in Polar Environments (chaired by Stefanie Johnston) and Cruise Passengers' Rights (chaired by Lars Rosenberg Overby). While progress has been made, unfortunately the prolonged COVID-19 pandemic has continued to affect aspects of the IWG's work.

3.1 Antarctic shipping

D. Baker chairs this subgroup composed of P. Buhler, K. Crosbie, G. Goto, K. Khosla, D. Rothwell and Haco van der Houven van Oordt (AKD Benelux Lawyers). Professor Goto and Mr. van der Houven van Oordt agreed to join the subgroup at the meeting in Mexico City.

The subgroup has continued work on a study of the interface between the IMO liability regimes (including the Wreck Removal Convention) and the Liability Annex under various scenarios, including the applicability of the IMO regimes in Antarctic waters in the event the Annex does not enter into force. Young CMI member Emily Ferguson (McElorys law firm, New Zealand) has prepared a draft report containing an initial analysis for the subgroup's consideration.

3.2 COLREGS in polar environments

The membership of the COLREGS subgroup consists of S. Johnston (chair), A. Chircop, P. Cullen, Y-K Park, L. Rosenberg Overby, A. Skaridov, and D. (Duke) Snider (technical expert). In Mexico City it was agreed that the subgroup chair would invite Captain Neil Gardiner, a Master Mariner who has acted as expert witness in judicial and arbitral proceedings in the UK and abroad, to advise the subgroup.

The goal of the subgroup is to produce a working paper exploring the application of the COLREGS in polar environments. The IWG Chair has not received updates on the subgroup's work at the time of submission of this report.

3.3 Cruise passengers' rights

The subgroup has the following members: L. Rosenberg Overby (chair), P. Buhler, K. Crosbie, E. Mallach and D. Rothwell. After the meeting in Mexico City the subgroup chair and Esther Mallach agreed to work together to lead studies on Arctic and Antarctic shipping.

The subgroup chair has produced a substantial draft of the working paper on Arctic passenger shipping with inputs from the team covering the legal position in the five Arctic States. The subgroup is currently reviewing the document and the plan is to complete the report in two months time. E. Mallach continues to lead a parallel report on the Antarctic passenger shipping.

4. CMI TOKYO

The IWG remains committed to convening panels on Arctic and Antarctic shipping for the postponed Tokyo conference, as reported in our last report.

Respectfully submitted,

Aldo Chircop

Chair, IWG (Polar Shipping)

21 May 2021