

REPORT OF CMI IWG (POLAR SHIPPING) ACTIVITIES

(1 June 2021-9 September 2022)

IWG Membership: Aldo CHIRCOP, *Chair*; David BAKER; Ilker BASARAN; 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 June 2021 to 9 September 2022. The IWG Chair acknowledges updates provided by the subgroup chairs.

In December 2021, the IWG welcomed Dr. Ilker K. Basaran as the newest member following his formal appointment to the IWG by ExCo.

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). The IWG continued to make significant progress while continuing to work through email communications.

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).

The subgroup 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. An initial report containing an initial analysis prepared by Young CMI member Emily Ferguson (McElorys law firm, New Zealand) has been substantially reworked by D. Baker and Stacey Fraser for discussion in the IWG meeting scheduled at CMI Antwerp on 19 October 2023.

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, D. (Duke) Snider (technical expert) and Captain Neil Gardiner (invited at CMI Mexico City to advise on COLREGS). 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 completed a working paper on Arctic passenger shipping under the lead authorship of L. Rosenberg Overby with inputs from the team covering the comparative legal positions in Canada, Denmark (Greenland/Kalaallit Nunaat), Norway, Russian Federation, and the United States. The working paper has been uploaded to the CMI website ([file:///C:/Users/chirc/Downloads/CMI-IWG-Polar-Shipping-Working-Paper-on-Polar-Passenger-Rights-Final-Report%20\(1\).pdf](file:///C:/Users/chirc/Downloads/CMI-IWG-Polar-Shipping-Working-Paper-on-Polar-Passenger-Rights-Final-Report%20(1).pdf)) and will be published in the CMI Yearbook in due course.

E. Mallach led the development of a parallel working paper focusing on Antarctic passenger shipping as lead author and with inputs from subgroup members. The draft working paper will be discussed in the IWG meeting scheduled at CMI Antwerp on 19 October 2023.

4. CMI ANTWERP

The IWG will be meeting at CMI Antwerp to discuss work in progress and explore proposals for new tasks. The IWG will also convene a session on Polar Shipping at the International Conference with the following speakers:

POLAR SHIPPING

Chair: Aldo Chircop, Chair, CMI/IWG Polar Shipping

"The legal framework for ship's passenger rights in Arctic waters"
Lars Rosenberg Overby, Partner IUNO

"The legal framework for ship's passenger rights in Antarctic waters"
Esther Mallach, Solicitor, Arnecke Sibeth Dabelstein

"Questions on 'Liability Annex VI: Financial Security' to the Protocol on Environmental Protection of the Antarctic Treaty"
Dharshini Bandara, Barrister, Fleet Hamburg

Respectfully submitted,

Aldo Chircop
Chair, IWG (Polar Shipping)
9 September 2022