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MANDATORY CODE FOR OPERATING SHIPS IN POLAR WATERS

Environmental protection in the Polar Code

Submitted by Friends of the Earth International (FOEI), the World Wide Fund for Nature (WWF), Pacific Environment and the Clean Shipping Coalition (CSC)[1]

SUMMARY

Executive summary:	Environmental NGOs are concerned that despite clear original intentions insufficient attention has been given to environmental protection issues in preparing the Polar Code. It is imperative that delegations agree to initiate immediately a work plan for step two that will address this important gap.
Strategic direction:	5.2
High-level action:	5.2.1
Planned output:	5.2.1.15
Action to be taken:	Paragraph 16
Related documents:	DE 55/12/3, DE 55/INF.2, DE 55/22; MEPC 60/21/1; MEPC 63/23; MEPC 64/2; MEPC 65/22; MEPC 66/21; MEPC 67/9, MEPC 67/12/6 and MSC 93/WP.7

Introduction

1 This document is submitted in accordance with paragraph 6.12.5 of the *Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.4/Rev.2), and comments on document MEPC 67/9, report of the Polar Code Correspondence Group (CG), sets out the views of the co-sponsors on the CG discussions, the latest content of the draft Polar Code part II-A and part II-B, and identifies urgent issues requiring further consideration, either by MEPC 67 or in step two of the work on the Polar Code.

[1] The preparation of this document was assisted by the Antarctic and Southern Ocean Coalition (ASOC).

Polar Code, part II-A

2 The co-sponsors are confused by the fact that the title of part II refers only to "pollution prevention," since there are a range of wider environmental protection matters which need to be addressed and, indeed, some are referenced in part II-B of the Code. We understand that it was always the intention of the Polar Code to have a wider remit to address environmental protection, and this should be pursued in step two.

3 The co-sponsors believe that the tank protection requirements as proposed by SDC 1 should not only apply to categories A and B ships but also to category C ships which will operate in ice (MEPC 67/9, paragraphs 13 and 16). There will be some category C ships that are ice-strengthened and are permitted to operate in ice. In order for the highest standards of environmental protection in polar waters to be achieved, it is important that measures aimed at reducing the risk of an oil or chemical spill should apply to all ships operating in ice. Indeed, the stated goal of the Code is to protect the polar environment by addressing the risks present in polar waters (not just ice-covered polar waters). We submit that the structural requirements of chapter 1 (1.3) and chapter 2 (2.2.3) should be reworded to encompass categories A and B ships and those category C ships that will be operating in ice.

4 The co-sponsors do not support the proposal for a phase-in period of 5 years for the zero discharge requirement for category A ships intended to operate in ice for extended periods of time (MEPC 67/9, paragraph 15). The discharge of oil or oily mixtures from machinery spaces of ships is already prohibited in the Antarctic area and in Canadian Arctic waters and we submit that similar requirements should be applied in the entire Arctic.

5 In relation to chapter 4 "Prevention of pollution by sewage from ships", the distances proposed from any ice shelf or land-fast ice and areas of ice concentration exceeding 1/10 are arbitrary and are likely to result in ships discharging, in some case, raw and untreated sewage (which has to be discharged more than 12 nm from any ice) directly into marine mammal and seabird feeding grounds. Furthermore, MARPOL Annex IV only applies to ships on international voyages. This is a major concern for operations in the Antarctic where a large number of cruise ships leave port in one country and return to the same port without having entered the waters or port of another country. The co-sponsors submit that the provisions of chapter 4 should apply to all ships operating in polar waters.

6 Chapter 4 (paragraph 4.3.2) currently prohibits the discharge of sewage into the sea from categories A and B ships and all passenger ships constructed on or after a given date – the date of entry into force is proposed – unless an approved sewage treatment plant is used (MEPC 67/9, paragraph 26 and chapter 4.3.1). The concern about sewage discharge, however, is not restricted to categories A and B ships. Many ships operate in close proximity to ice and in ice-free waters that will become ice-covered again at different times of the year and in relatively short timescales (days/weeks). Pollutants discharged during ice-free months may not completely disperse or assimilate into the system between the times of ship operating and the reformation of ice cover. They could therefore harm the biota that use the ice as a breeding and feeding habitat during the ice-covered season.

7 The CG agreed that chapter headings of the Polar Code should be consistent with the corresponding MARPOL Annex headings (MEPC 67/9, paragraph 8) and further agreed that chapter 3 "Prevention of pollution by harmful substances carried by sea in packaged form" should be retained as a placeholder (MEPC 67/9, paragraph 21). The co-sponsors submit that a further placeholder chapter should be included in part II-A of the Code to reflect that MARPOL consists of six Annexes, and not five as currently reflected by the existing Polar Code chapter headings. We propose that a new chapter be inserted into the Polar Code following chapter 5 – as follows:

> Insert "CHAPTER 6 – PREVENTION OF AIR POLLUTION FROM SHIPS
> Kept blank intentionally."

Polar Code, part II-B

8 The co-sponsors are concerned that, during the development of part II-B containing additional guidance, the proposed inclusion of text highlighting the differences between the Antarctic and the Arctic in terms of environmental protection has been removed. The value of including this comparison has been recognized during earlier discussions, and we submit that it is valuable to clarify the differences in environmental protection between the Antarctic and the Arctic and that this information should be included in part II-B.

Environmental protection and the Polar Code

9 The co-sponsors acknowledge that step one of the Polar Code deliberations primarily focused on safety and navigation and less on environmental protection. Given the increase in industrial activity in the Arctic and rapid loss of sea ice during the Polar Code negotiations, a significant gap remains in the Polar Code to address environmental protection. We support the need for enhanced safety measures but reiterate that ensuring environmental protection in both polar regions is fundamental. This was envisaged from the beginning (DE 53 in 2010) and document DE 55/22 (paragraph 12.13) "reiterated that an environmental protection chapter would be included". Document MEPC 63/23 (paragraph 11.11) noted the decision to develop an environmental protection chapter in the draft Polar Code and endorsed the specific decisions taken so far by the Sub-Committee (DE 55) with regard to various environmental aspects of the Polar Code. Document MEPC 63/23 (paragraph 11.12) also recalled "that at MEPC 60 the decision had been taken to refer document MEPC 60/21/1 (Norway), presenting an overview of environmental issues to be considered, to the DE Sub-Committee". This consequently provided the mandate for this work. MEPC/64/22 (paragraph 11.14) noted the decision of the Sub-Committee to develop an environmental protection chapter in the Code. This work must proceed without further delay.

10 The IMO website states that the Code embraces "the full range of … environmental protection matters relevant to ships operating in the inhospitable waters surrounding the two poles", but its environmental "chapter" has been reduced to provisions on the prevention of pollution (oil, noxious liquids, sewage and garbage) and a recommendatory part providing information and additional guidance to earlier sections. Part I-A on voyage planning covers the need to consider populations of marine mammals while planning voyages. A large number of important environmental issues, such as emissions to air, discharge of grey water, and the introduction of alien species were raised during the negotiations but set aside in order to progress safety issues.

11 The Arctic Council's 2009 AMSA report identifies the most significant shipping threat to the Arctic marine environment being the release of oil through accidental or illegal discharge. DNV found (2012) that 28% of ships operating in the Arctic with HFO accounted for some 75% of total bunker mass onboard all ships in the region. The potentially serious consequences of an HFO spill in the Arctic demand in depth consideration. Circumstances in the Antarctic justify the complete banning of HFO there. AMSA also noted that ship emissions such as SO_X and NO_X may have unintended consequences for the Arctic environment requiring IMO regulation. AMSA acknowledged that black carbon (BC) has proven significant climate forcing effects, as well as its effects on snow and ice albedo, accelerating the retreat of Arctic sea ice. These air pollution issues including their environmental and climate impact have not even been discussed. Even though black carbon is now regarded as second only to CO_2 in its climate warming effect, particularly in close proximity to its point of emission and to reflective snow and ice, both of them apply to shipping emissions in both polar regions. Norway (MEPC 67/12/6) notes that in times and regions of high transit in August, BC emissions on the Arctic surface are dominated by shipping, even where permanent human communities and related emissions exist (Svalbard).

Norway and the Arctic Council both concluded that shipping's contribution in the Arctic is increasing and large enough to warrant action. Step two needs to incorporate any recommendations on BC agreed once the work of the PPR Sub-Committee is completed.

12 Additional potential impacts of Arctic ships include ship strikes on marine mammals, the introduction of alien species, disruption of migratory patterns of marine mammals and anthropogenic noise produced from marine shipping activity. Measures addressing some issues now apply to the Antarctic but little discussion on Arctic impacts has yet been made. Indeed, industry noted (MEPC 65/22) "many proposals were not accompanied by data based on evidence or justification in the form of studies addressing the actual environmental impact assessment, cost benefit analysis or scientific justification." But issues were dismissed without due debate either due to time, being "too controversial" or because discussion elsewhere was ongoing. Work on these issues must be resumed as soon as possible.

13 "The request…to develop a Polar Code for shipping arose out of a spate of incidents occurring in the polar regions involving a range of vessel types. Member States raised the question as to whether the existing environmental controls on shipping through MARPOL and other instruments adequately addressed the environmental concerns and increased sensitivity of the polar regions. MSC 86 decided to develop a Polar Code including environmental concerns and shipping guidelines" (DE 55/12/3). New Zealand went on to recommend adopting the precautionary approach when developing the Polar Code due to the pristine nature of the polar environments and the difficulties experienced in responding to incidents in these areas. That recommendation has not been followed. The Arctic will remain less protected by international law compared to the Antarctic.

14 The Cambridge Workshop (DE 56/INF.3) identified a list of environmental issues and concerns. One raised repeatedly was the lack of data and information on the impact of environmental hazards and thus the difficulty of determining appropriate additional controls. That situation has changed little. Now that the major safety concerns are being addressed, IMO has the opportunity under step two to address the lack of such information including black carbon and other air pollution impacts. Reduced ship speed (already constrained in ice) as a means to reduce fuel consumption, fauna strikes and hull penetration risks is another area identified in Cambridge that has not been addressed.

15 The co-sponsors propose a work program be agreed at MEPC 67 specifically to develop a comprehensive environmental chapter (or chapters) which would be incorporated as soon as possible into step two of the Polar Code. Such discussions should include: issues around HFO use in the Arctic (noting that MEPC 65 agreed that regulation now was premature but future regulation might be desirable/possible); carriage of heavy-grade oil in the Arctic; environmental and climate impact of ship air pollution; black carbon (subject to progress at PPR/MEPC); ballast water management; hull fouling; underwater noise; ship speed as related to safety and environmental protection; grey water discharges (currently unregulated in any manner); broader voyage planning elements; lube oils; ice strengthening/damage stability arrangements for category C ships operating in ice.

Action requested of the Committee

16 The Committee is invited to note the information provided and consider proposals to finalize parts II-A and II-B, and the recommendation to establish a step two work program as soon as possible to develop full and robust environmental provisions in the Polar Code.