Managing Fishing Vessels
Antarctic and Southern Ocean Coalition

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Abstract
This paper identifies recent developments and existing measures relevant to the management of fishing vessels operating in the Southern Ocean. It identifies that currently a piecemeal approach has been taken to the management of the safety and environmental impact of fishing vessels resulting in an ad hoc patchwork of regulation. The paper identifies a new opportunity for review, amendment, improvement and consolidation of the existing framework through the development of a mandatory Polar Code. However, recognizing that the work on the Polar Code is unlikely to be completed for another two years proposes two conservation measures which would harmonize requirements for fishing vessels throughout the Convention Area.

1. Background
In the past two years, a number of International Maritime Organization (IMO) committees and sub-committees have considered new measures of relevance to the management of vessels operating in the Southern Ocean. A detailed assessment of recent developments was provided to the Wellington Antarctic Treaty Meeting of Experts and also to the last Antarctic Treaty Consultative Meeting (ATCM)\(^1\). Of particular note are:

- revised Guidelines for Ships Operating in Polar Waters\(^2\) which were adopted by IMO Assembly Resolution\(^3\) in December 2009, and take effect from 1\(^{st}\) January 2011,

- a proposed ban on the use and carriage of heavy fuel oil on vessels operating in the Antarctic Area\(^4\) which was approved by the 59\(^{th}\) session of IMO’s Marine Environment Protection Committee (MEPC), adopted at the 60\(^{th}\) session in March 2010\(^5\), and will take effect from 1\(^{st}\) August 2011, and

- a decision by IMO’s Maritime Safety Committee (MSC)\(^6\) to instruct the Sub-Committee on Ship Design and Equipment (DE) to develop mandatory regulations for ships operating in Arctic and Antarctic waters.

Following the work to extend existing Guidelines for ships operating in the Arctic to cover Antarctic waters, and publication of the report\(^7\) into the sinking of the M/V Explorer, in 2009 Antarctic Treaty Parties (ATPs) agreed a resolution\(^8\) which supports the urgent need for work to commence to develop mandatory requirements for ships operating in Antarctic waters.

2. CCAMLR Fishing Vessel Measures
Over the last 10 – 15 years, CCAMLR has adopted a number of conservation measures and resolutions relating to the safety and management of fishing vessels operating in the Convention Area:

- CM 10-01 (1998) on Marking of fishing vessels and fishing gear

- CM 10-02 (2008) on Licensing and inspection obligations of Contracting Parties with regard to their flag vessels operating in the Convention Area

- CM 10-04 (2007) on Automated satellite-linked Vessel Monitoring Systems

- Resolution 19/XXI Flags of non-compliance

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\(^1\) Presented to ATCM XXXIII as IP11 New Zealand International requirement for ships operating in polar waters.
\(^2\) IMO Resolution A.1024(26)Guidelines for Ships Operating in Polar Waters.
\(^3\) Guidelines for Ships Operating in Polar Waters adopted by IMO Assembly Resolution A .1024 (26) on 2 December 2009.
\(^4\) IMO’s MARPOL Convention defines the “Antarctic Area” as the sea area south of latitude 60\(^{o}\) S.
\(^5\) The ban was adopted through an amendment to the International Convention for the Prevention of Pollution from Ships 1973 and Protocol of 1978 (MARPOL 73/78). Annex I, which contains provisions addressing prevention of pollution by oil and also defines heavy grade oils, is ratified by 150 contracting states representing over 99% of the world’s shipping tonnage, including all CCAMLR Members States.
\(^6\) MSC 86/26 Paragraph 23.32, June 2009.
- Resolution 20/XXII Ice-strengthening standards in high-latitude fisheries (which only applies south of 60°S)
- Resolution 23/XXIII Safety on board vessels fishing in the Convention Area
- Resolution 28/XXVII Ballast water exchange in the Convention Area
- Resolution 29/XXVIII Ratification of the Salvage Convention by Members of CCAMLR.

3. **Annex IV of the Protocol on Environmental Protection to the Antarctic Treaty**

Annex IV⁹ of the Antarctic Treaty Protocol on Environmental Protection or Madrid Protocol address prevention of marine pollution from ships. It applies to all vessels of any type operating in the marine environment of the Antarctic Treaty Area¹⁰. Annex IV does not apply to Convention waters north of latitude 60° South. It includes:

- a prohibition on the discharge of oil or oily mixtures except in cases permitted under MARPOL 73/78 Annex I,
- a prohibition on the discharge of any noxious liquid substances and any other chemical or other substances in quantities or concentrations that are harmful to the marine environment,
- a prohibition on the disposal into the sea of all plastics, all other garbage including paper products, rags, glass, metal, bottles, crockery, incineration ash, dunnage, lining and packing materials,
- provisions detailing circumstances under which food wastes can be discharged,
- provisions detailing circumstances when untreated sewage can be discharged,
- provisions on waste reception facilities, and
- provisions on contingency plans for marine pollution response.

In addition, Annex VI¹¹ to the Protocol addresses liability arising from environmental emergencies, however the Annex is limited to those activities requiring advance notice under Article VII(5) of the Antarctic Treaty i.e. expeditions to or within Antarctica, activities related to stations, and activities related to military personnel or equipment.

4. **IMO Instruments of Specific Relevance to Fishing Vessels**

The Torremolinos International Convention for the Safety of Fishing Vessels, 1977 was the first ever international Convention on the safety of fishing vessels, and applied to fishing vessels over 24m in length. Unfortunately it never entered into force for technical reasons and has been replaced by the 1993 Torremolinos Protocol which will enter into force one after it has been ratified by 15 States with an aggregate fleet of 14,000 vessels of 24 metres in length or over. Currently, it has been ratified by 17 States¹² representing 19.78% of the world’s tonnage, but it is not yet in force. The Protocol takes into account the trend towards deep water fishing grounds and on the conduct of fishing operations in distant waters. In an Annex consisting of ten chapters it includes provisions addressing construction, watertight integrity and equipment, stability and associated seaworthiness, fire protection / detection / extinction and fighting, protection of the crew, emergency procedures, radiocommunications, shipborne navigational equipment and arrangements (applicable to all fishing vessels no matter the length). For vessels over 45m in length there are chapters addressing machinery and electrical installations, life-saving appliances and arrangements,

The International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) 1995 is a first attempt to address mandatory international standards of safety for crews of fishing vessels. It has however only been ratified by 14 States¹³ representing 5.49% of the world’s shipping tonnage – it will enter into force one year after it has been accepted by 15 States. Guidance has been produced on training and certification of fishing vessel personnel by the IMO, the Food and Agriculture Organization (FAO) and the International Labour Organization (ILO). In addition, a number of non-mandatory instruments have been prepared by IMO, FAO and ILO including:

- Guidance on Fishermen’s Training and Certification

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⁹ [http://www.ats.aq/documents/recatt/Att011_e.pdf](http://www.ats.aq/documents/recatt/Att011_e.pdf)
¹⁰ The marine area south of 60° South.
¹¹ [http://www.ats.aq/documents/recatt/Att249_e.pdf](http://www.ats.aq/documents/recatt/Att249_e.pdf)
¹² As of 31 August 2010, Bulgaria, Croatia, Cuba, Denmark, France, Germany, Iceland, Ireland, Italy, Kiribati, Liberia, Lithuania, Netherlands, Norway, St Kitts & Nevis, Spain, Sweden.
¹³ As of 31 August 2010, Canada, Denmark & Faroe Islands, Iceland, Kiribati, Latvia, Mauritania, Morocco, Namibia, Norway, Russian Federation, Sierra Leone, Spain, Syrian Arab Republic, Ukraine.
• Revised Code of Safety for Fishermen and Fishing Vessels, 2005

5. **Progress on Developing a Mandatory Polar Code**

The development of a Mandatory Polar Code offers an opportunity to consolidate measures relevant to the operation of vessels in polar waters; refine and fill gaps to ensure that the highest levels of safety and environmental protection are applied; and to, where appropriate, harmonize requirements in Arctic and Antarctic polar waters. A timeframe of two years has been allocated for completion of the work to develop a mandatory Polar Code and in February 2010, the DE Sub-committee commenced work to develop the International Code of Safety for Ships Operating in Polar Waters. Since February, a Correspondence Group has been considering a number of aspects of the future Code and the Correspondence Group Report\(^\text{14}\) will be considered when the DE sub-committee next meets between 25th – 29th October, in parallel with CCAMLR.

Final decisions are yet to be made on the content of the mandatory Polar Code, but it is likely that as a minimum it will address areas covered by the Polar Guidelines including construction provisions, on board equipment, operational arrangements, and environmental protection. It is also likely that it will include both mandatory provisions and recommendatory provisions. An opportunity is presented to ensure that the highest levels of safety and environmental protection are provided for all vessels operating in the Southern Ocean through the Polar Code.

ASOC, in association with members with consultative status at the IMO, has developed and submitted a number of papers addressing the scope of a Mandatory Polar Code\(^\text{15}\). ASOC’s vision is for a mandatory Polar Code that consolidates and harmonizes the management and environmental protection provisions applicable to vessels. ASOC submits that the Code should be broad enough in scope to address mandatory measures for vessel design and construction, equipment, operations and planning, environmental protection, as well as crew training, search and rescue capabilities, environmental response, and infrastructure support including monitoring and information systems, port state control, and compliance for all vessels operating in Antarctic waters. Attached in Annex I is a briefing on ASOC’s priority outcomes for a mandatory polar code. ASOC urges that the Polar Code should be applicable to all vessels, including fishing vessels operating in polar waters, and that, where appropriate, provisions should be applied to existing vessels, particularly those being converted for polar use.

6. **Improving the Management of Fishing Vessels**

Currently the approach to the regulation and management of all vessels operating in the Southern Ocean has been ad hoc and the result is a patchwork of provisions, with gaps which compromise safety and environmental protection, and poor implementation and enforcement. The development of a mandatory Polar Code provides an opportunity for review, amendment, improvement and consolidation of existing regulations, however it is likely to be two years before the work to develop a mandatory Polar Code is completed. In the meantime, CCAMLR has an opportunity to harmonize regulation of fishing vessels throughout the Convention Area.

ASOC proposes that:

a) CCAMLR adopts a conservation measure which eliminates the carriage and use of heavy fuel oil on all fishing vessels operating in the Convention Area, thus harmonising requirements for fishing vessels operating throughout the Area (currently the heavy fuel oil ban, due to take effect from August 1, 2011, will apply to all vessels, including fishing vessels, operating in the Antarctic Area as defined by the MARPOL Convention - i.e. south of 60°S); and

b) CCAMLR adopts a conservation measure on ice strengthening standards for all fishing vessels operating within the Convention Area.


Briefing

Priority outcomes for a Mandatory Code for Polar Shipping

ASOC considers that a Mandatory Code addressing Antarctic Shipping should:

1. apply to the full extent of Antarctic polar waters south of the Antarctic Polar Front,
2. be relevant to the full range of vessels operating south of the Antarctic Polar Front, including dedicated provisions for fishing vessels,
3. require retrospective application to existing vessels where practicable, particularly where vessels are being converted for polar service,
4. include a full and unambiguous definition of polar ice-covered waters which provides clear guidance on which waters will be considered ice-covered and which waters will be considered polar but not ice-covered,
5. require that only polar class vessels with adequate ice-strengthening operate in polar ice-covered waters,
6. comprehensively address vessel safety, remote search and rescue and environmental response, and environmental protection, explicitly cross-referencing both existing instruments which are specific to Antarctic waters, and those which are relevant to Antarctic waters,
7. ensure that the highest possible standards for the stability of all vessels (both intact and damaged) are required for vessels operating in Antarctic waters, taking into account the possible extreme sea and storm conditions,
8. ensure that the threat of icing, both build-up on a vessels’ structure and icing of equipment, is adequately addressed, through prevention and mitigation, and including reference to the environmental and vessel characteristics that can influence sea icing,
9. require that proper life-saving equipment and operational provisions are applied to all vessels operating in Antarctic waters,
10. require high standards of training for ice-navigators including both classroom / simulation training and “on the job” training alongside experienced ice-navigators,
11. require tailored procedures for the protection of the polar environment under normal operations be included in the ship’s operating manual and tailored procedures for operations under accident conditions, which recognise the remoteness and sensitivity of polar environments, be included in the shipboard oil pollution emergency plan,

12. include comprehensive provisions for environmental protection for all vessels operating in Antarctic waters, such as more stringent provisions for sewage and grey water discharge, garbage discharge, and air emissions in sensitive polar waters,

13. address the need for the identification and establishment of mandatory navigation routes and areas to be avoided to reduce the risk of accidents, minimise impact of routine vessel operations in environmentally sensitive areas and reduce vessel disturbance to marine mammals,

14. address inspections and controls over vessels operating in the Antarctic area in order to ensure strict compliance with the highest safety and environmental standards,

15. address vessel reporting on a regular basis to the relevant regional maritime rescue coordination centres while operating in Antarctic waters, and

16. address the need for the development of a vessel traffic monitoring and information system for Antarctic waters.