



Oil industry: Stepping up its interest

BEST PRACTICE BREAKTHROUGH

Michael Kingston charts the progress of the Arctic Council Best Practice Information Forum and how it can assist with the implementation of the Polar Code next year



Collaboration: Big oil requires teamwork

In view of the impending implementation of the Polar Code in January 2017 there is a requirement to educate all concerned about its provisions and the required data to be relied upon, including operators, flag states, insurers, financial markets, and port state control.

In order to do this effectively, a proposal for a Best Practice Information Forum to be set up to achieve this has been made to the Arctic Council's Protection of the Arctic Marine Environment Working Group (PAME). The Proposal was tabled at PAME's Jan/Feb meeting in Stockholm.

Previously in FE, we have commented that we would wait with interest to see how the Arctic Council receive the formal suggestion but noted that under the US Arctic Council Chairmanship, which lasts for two years (until April 2017), navigational safety is the number one focus, and there is hope that this suggestion may be prioritised.

The argument that was put forward in Stockholm earlier this year is that the Polar Code is an example of what we can

achieve before a major disaster occurs - but it will only be as good as we make it through education and enforcement and that we all have a duty to assist in that process. It is important that all concerned are aware of the rules so that a third party or a rogue operator does not bring the house down for everyone in a sensitive place like the Arctic.

Access to information

In Stockholm the case was put that we need the forum to focus on the inputs that will determine the worst case scenario that may occur which need to be explained in the Polar Waters Operation Manual, inputs such as hydrographic data, meteorology, crew training, communication, ice charting etc. Were we to get the best standards for these inputs, this would equate to navigational safety, and it will help to educate all the decision makers in the stages of the process about the best standards in those areas: operators, flag states, insurers, financial institutions, and port state control.

All parties will be invited to participate

in a meeting on an annual basis to explain the latest developments in their area. Additionally, it is suggested that they would automatically update a website with the best standards as and when they are produced. Each participant would be responsible for gathering the latest developments in their area of expertise on a cross-jurisdictional basis and for updating the forum. The ultimate aim being that everyone would know where to go to get the best information, and so on, on a continual basis, or at least where to find out how to make productive further enquiries.

We need to know what the best information is at any point in time and currently that knowledge is lacking in the various decision making stages of the process: operators, flag state, insurers, financiers, and port state control. Put simply, people do not know where to get reliable information.

Clearly this is a great opportunity for the Arctic Council to show how they are working with industry and the International Maritime Organisation



In the chair: Finland takes over the Arctic Council next year

A collaborative effort

PAME unanimously backed further investigation about this proposal and work is currently being carried out by their Expert Shipping Group in relation to this forum and further discussions will take place at their next meeting in the State of Maine this September.


The hope is that the proposal will then be recommended to the senior Arctic ambassadors from each Arctic state with a recommendation to each country's minister for states that it be established.

Clearly this is a great opportunity for the Arctic Council to show how they are working with industry and the International Maritime Organisation (IMO), and it is refreshing to see the leadership being shown by PAME and representatives from other Arctic Council groups that are involved. It is also noteworthy that at an important meeting of several of the NGO's (such as the World Wildlife Fund, the Pisces Foundation, Pacific Environment, the

Wildlife Conservation Society, Ocean Conservatory, the Oak Foundation and Climateworks) regarding Arctic shipping in Seattle previously, they too unanimously agreed with this proposal in principal. This meeting was organised and facilitated by the Gordon and Betty Moore Foundation and the work that they are doing and supporting is commendable.

Important timing

There is a possibility with a supreme effort that such a forum could be established in time for the handover of the Arctic Council Chairmanship from the US to Finland in April 2017. Of course, the Polar Code comes into force on January 1, 2017 so this effort is timely and extremely important.

A further update will follow as matters progress, but it is great to see such cross-jurisdictional collaboration across the Arctic working that also includes governments, industry, NGO's, the indigenous community and other players which will help to promote the correct behavioural atmosphere in relation to marine operations, the impact of which can extend to operations not covered by the Polar Code at present, such as fishing and leisure craft. 

Michael Kingston is a partner in DWF LLP's Marine Trade & Energy Group in London and was awarded Lloyd's List Global Maritime Lawyer of the Year 2014- 2015 and the United States Coast Guard Challenge Coin in July 2015 for his work on Arctic risk and the Polar Code. He has been representing the International Union of Marine Insurance in relation to the finalisation of the Polar Code. For further information contact Michael.kingston@dwf.law