

Optimism as new voyage limitation guidance tabled as Polar Code reaches final stages

The need for regulation in the polar regions has been highlighted by the Deepwater Horizon and Costa Concordia disasters

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This week in London, delegates are gathering at International Maritime Organization (IMO) headquarters for the last scheduled Maritime Safety Committee (MSC 94) meeting in respect of the Polar Code's safety elements for ships operating in polar waters. These elements are scheduled to become law as an amendment to the Safety of Life at Sea Convention in January 2017. The insurance industry is playing a key role in this process.

The importance of the requirement for regulation in the Arctic and Antarctic has been highlighted by an increased focus on the polar regions, particularly the Arctic, following events such as the Deepwater Horizon disaster in 2010 and the *Costa Concordia* disaster in 2012.

In 2012, Lloyd's issued its report entitled *An Arctic Opening; Opportunity and Risk in the High North* and, in 2013, *The Challenges and Implications of Removing Shipwrecks in the 21st Century*. Both reports highlighted the difficulties that are faced in polar waters. The

focus on the Arctic in particular has been re-emphasised by the recently established House of Lords ad hoc select committee on the Arctic.

Last month, in London, the environmental aspects of the Polar Code were agreed at IMO headquarters at the Marine Environment Protection Committee (MEPC67) meeting, which will become law through the Marpol Convention.

This week, at MSC94, a very important addition to the Polar Code guidelines in respect of voyage limitation is being formally tabled for the first time, which has had heavy input from the world's insurance industry.

Ice regime

The system of limitation, known as Polaris (Polar Operational Limit Assessment Risk Indexing System), is seen as being critical to the operationalising of the Polar Code, without which it would not be functional, and indeed could provide some industry participants with a false sense of security when presented with a risk analysis. This position was highlighted by DWF in conjunction with Transport Canada at the IMO in February.

Agreement in principle had been reached at that stage in the draft Polar Code on definitions for the different categories of ship and the requirements for safe operation in different ice types in polar waters.

All ships operating in polar waters will require a polar ship certificate and a polar waters operation manual, which is intended to give guidance for a range of planned and possible situations to determine the worst-case scenario in the conditions that may occur.

However, insurers' concerns were that this is only possible if there is an ice regime and guidance from a jurisdiction with that ice regime; then you know the extremes of ice that may occur and can plan for a worst-case scenario.

Canada and Russia have ice regimes but in new areas of operation and in areas where temptation is opening up to the inexperienced – such as around Greenland – no ice regimes are in place. Therefore, without knowing the nature of a risk, shipping cannot plan for a worst-case scenario – as there was no ice regime system referenced in the proposed Polar Code.

If some flag states with little experience approve polar water operation manuals and operators obtain their polar ship certificate based on a lack of analysis of the risk because no ice regime is referenced, then this is a recipe for disaster if such an incomplete analysis of risk were to slip through the insurance net.

Despite such a worrying scenario, behind the scenes a lot of hard work was being carried out to try to solve this problem to link the various elements coherently, tying together an ice regime and Ice Class, with industry best practice.

Discussions at a conference in London in March organised by the Swedish Ministry of Foreign affairs and Nordic Council, involving leading insurers such as Lloyd's, CEFOR, IUMI, the LMA, Allianz, RSA, Zurich, The Swedish Club, and Gard, with leading ice

experts, and attended by IMO secretary general, Koji Sekimizu, and a further ice workshop in Lloyd's Adam room, resulted in strong recommendations about an ice regime that were then made to the Arctic Council in time for its meeting with Sekimizu in Yellowknife, Canada.

Polaris

Polaris has been developed following these discussions, and at IMO Marine Safety Committee 93 in May, it was discussed informally. An informal technical working group was formed, led by the International Association of Classification Societies, with input from Arctic State delegates, and others.

The aim of Polaris is to provide a standard approach for the evaluation of risks to the ship in the ice conditions expected to be encountered by providing a risk index in any geographical area that the ship is intending to travel. This is a system similar to the established Canadian Ice regime, for other ice areas of the Arctic or Antarctic, and effectively creates a Polar ice regime, drawing also on the very experienced Finnish-Swedish Baltic system and the Russian system, with heavy input from those jurisdictions.

Polaris uses a risk index outcome (RIO) value to assess limitations for operation in ice. For each geographical area encountered, the risk index values (RVs) assigned to the ship, based on the ice class, are used to determine an RIO that forms the basis of the decision to operate or limitation for operation.

If the RIO is zero or positive, the ship can proceed without speed limitation; if the RIO is between -1 and -10, the ship can proceed with speed limitation, such speed is calculated by Polaris; and if the RIO is below -10, the ship cannot proceed. There are also provisions for ice areas broken by icebreakers, so icebreaker assistance is taken into account in the calculations. The limitations determined by Polaris are to be included in the polar ship certificate. This will undoubtedly make it much easier for insurers to analyse the intended voyage.

A draft of Polaris was circulated by the technical working group and it recently gathered further momentum when delegates met at MEPC67. Delegates and industry participants worked into the long hours in informal discussions when the official MEPC67 discussions closed each day.

This progress bodes well for the drive to formally adopt Polaris at MSC94 this week. But nothing is guaranteed and we have to wait and see what happens, and hope the member states at the IMO understand the extreme importance of the proposal and do the right thing. There is, in addition, a parallel drive to establish a forum for best practice in the Arctic Council.

There is much work to do this week in London. It is incumbent on everyone in industry, governments and international regulators to push for the highest standards. It seems the message is getting through. The insurance industry is playing its part. Those of us present are working into the long hours to try to achieve Polaris, leaving no stone unturned.

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