

Guest Editorial

IMO Polar Code: New Governance for the Southern Ocean

The new International Maritime Organization (IMO) *Code for Ships Operating in Polar Waters* ('Polar Code') is a significant governance regime and ushers in a new era of ship regulations in both polar regions. The Polar Code is mandatory for all commercial carriers and passenger vessels of 500 tons or more and is applicable in all Antarctic waters south of 60°S, corresponding to the Antarctic Treaty area. The Code is a uniform, non-discriminatory set of rules and regulations, many mandatory and some voluntary, on marine safety and environmental protection for ships operating in polar conditions. Importantly, the Polar Code amends three existing IMO conventions: the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Pollution from Ships (MARPOL), and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). Signatory states implement its binding, regulatory components using domestic legislation for: enhanced ship structural standards; polar marine safety equipment; the training of officers and crew; a *Polar Ship Certificate* issued by the flag state; an onboard *Polar Water Operational Manual* tailored for a given ship's capabilities; and, environmental rules on the discharge of oil, noxious liquids, sewage and garbage.

After many years of negotiations, the Polar Code initially came into force on 1 January 2017; STCW mariner requirements were added on 1 July 2018. Now the main challenge for the 'flag states' party to both the Code and the Antarctic Treaty is development of effective plans for implementation *and* enforcement of the Code. This will require close cooperation with several critical stakeholders worldwide including the ship owners, flag state maritime administrators, as well as the ship classification societies and the marine insurance industry. Many of the technical details of the Code are still evolving within the individual ship classification societies. For the marine insurers, the new international rules should provide a much-needed framework for establishing risks and setting suitable rates. Enforcement of the Code may take on somewhat different strategies in Arctic waters compared to the Southern Ocean. In the north there are ports within the jurisdictions of the sovereign Arctic states (e.g. Nome, Alaska and Nuuk, Greenland) where state authorities can inspect foreign ships for compliance to the Polar Code under 'port state control', an international agreed on regime that allows foreign ship inspections in national ports. Since there are no formal 'national' ports within Antarctica, ports outside the Treaty area such as Ushuaia, Punta Arenas, Cape Town, Hobart and Lyttleton could become influential locations for enforcement of the Code prior to ships sailing in Antarctic waters but an agreement among the Antarctic Treaty nations is probably a key step here. However, the responsibility for compliance enforcement of the Polar Code ultimately falls to the flag states and to some extent, the classification societies that assist them in IMO certifications.

The Polar Code is not as comprehensive as many NGOs and others would like. It does not address black carbon from ship emissions; ballast water discharge (being addressed by another IMO convention); other ship types such as fishing vessels and vessels less than 500 tons; heavy fuel in the Arctic (already banned in the Antarctic); and marine protected areas. But the Code is designed to be flexible and additional amendments are anticipated. Of critical importance to the IMO and its maritime community at present is progress in adoption of the Code and experience in operating polar ships under its new mandate. Only with practical experience can the Polar Code be adjusted effectively to respond to future polar marine challenges of the 21st century.

LAWSON W. BRIGHAM

