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Arctic Shipping Best Practices Information Forum's Terms of Reference (ASBPIF-ToR)

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October 3, 2017

To: Arctic Council Senior Arctic Officials
Re: PAME Heads of Delegations (HoDs)
Subject: Arctic Shipping Best Practices Information Forum – Status Update

Background:

- ✓ The PAME I-2017 Meeting (Feb. 2017) *adopted a RoD approving Terms of Reference (ToR) for the Arctic Shipping Best Practices Information Forum and requested its Shipping Expert Group Co-Chairs with Finland as the incoming Chair of the Arctic Council and the PAME Secretariat to organize the first meeting of the Forum in London on 5-6 June 2017.*
- ✓ The PAME 2017-2019 Work Plan, approved by SAOs and Arctic Ministers in May 2017, includes a project to operationalize the Forum; the ToR was attached to the Work Plan as an Annex.
- ✓ The 2017 Fairbanks Declaration, paragraph 3 states: *note with appreciation the establishment of the Arctic Shipping Best Practices Information Forum to promote the implementation of the [IMO's Polar Shipping] Code.*

Recent Developments:

The PAME II-2017 Meeting (Sept. 2017) adopted a RoD amending the Forum's ToR to ensure consistency and conformity with the Arctic Council's Rules of Procedures. i.e.:

Paragraphs 18, 19, 22, 24, 25-27: adjustments to clarify that participation in the Forum does not convey membership in an Arctic Council subsidiary body and that any decisions taken under the ToR regarding what information may be posted to the Forum's web portal are made by the Arctic States only.

Paragraph 23: modification to clarify that only the Forum Chair may invite experts to attend a Forum meeting.

PAME II-2017 also agreed to a process to finalize the Forum's draft Methods of Operations, draft Communications and Outreach Strategy (largely mirroring the Arctic Council Strategy), and draft Eligibility Criteria for Information to be Posted to the Web Portal.

The Forum provisionally plans to launch its web portal on 22 February 2018 in Helsinki at Finland's *International Conference on Harmonized Implementation of the Polar Code*.

The Forum's next meeting is tentatively scheduled to take place in conjunction with the 72nd Session of the IMO's Marine Environment Protection Committee (April 2018) or the 99th Sessions of IMO's Marine Safety Committee (May 2018).

Arctic Shipping Best Practice Information Forum (the FORUM)

Terms of Reference

(Revisions and final as per PAME II-2017)

Preamble

1. The Arctic region is unique. A home to indigenous communities for many generations, the Arctic is environmentally and ecologically sensitive, experiences extreme weather and climatic events, and is rich in both flora and fauna and in living and non-living natural resources. With advances in technology and changing environmental conditions, there is a growing focus on the development of these resources (*e.g.*, oil and gas, mineral deposits, fish stocks) and the expansion of maritime activity. The Arctic is also a region of timeless and diverse indigenous practices and customs which must be included in any critical assessment of contemplated maritime activity.
2. As the Arctic changes, maritime activity must be carried out in an environmentally sustainable manner to prevent or mitigate any negative social and ecological consequences.
3. In order to increase the safety of ships' operation and mitigate the impact on the people and environment in the remote, vulnerable and potentially harsh polar waters, the International Maritime Organization (IMO) in 2015 adopted the *International Code for Ships Operating in Polar Waters* (the Polar Code) which sets out international safety and pollution prevention requirements for ships operating in Arctic and Antarctic waters.
4. IMO Contracting Parties developed the Polar Code to supplement existing IMO instruments with the objective of increasing the safety of ships as well as reducing possible negative impacts of international shipping activities on the peoples and environment in the Polar Regions.
5. The Polar Code imposes additional requirements on ships and their operations beyond the existing ones set forth in the *International Convention for the Safety of Life at Sea (SOLAS), 1974*, the *International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto as amended by the 1997 Protocol (MARPOL)*, the *International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978*, and other relevant IMO instruments.
6. The Polar Code acknowledges that operations in Polar Regions impose navigational demands on ships beyond those normally encountered in other latitudes. For example, in many Arctic areas, nautical charts may lack adequate specificity or may not be sufficiently up-to-date for safe navigation of the intended operations. Despite annual fluctuations in sea ice cover, sea ice hazards are also pervasive. Coverage of the region by communications satellites is limited.

7. Complementing the role of the IMO as the international organization globally responsible for addressing safe, secure, and environmentally sound maritime navigation, the Arctic Council's Working Group on the Protection of the Arctic Marine Environment (PAME) has a mandate to address policy and non-emergency pollution prevention and control measures related to the protection of the Arctic marine environment from sea-based activities.

8. PAME is fully cognizant of the relationship between safety measures and protection of the marine environment and recognizes that safety measures taken to reduce the probability of a maritime accident are likely to lower the risk of damage to the environment.

PAME Objectives for the Polar Code

9. The Polar Code entered into force on 1 January 2017. As a set of fundamental obligations concerning international shipping activity in the Arctic, its terms must be fully understood, consistently implemented, and faithfully adhered to.

10. To promote effective implementation of and compliance with the Polar Code, PAME recognizes the need to raise awareness of its provisions amongst all those involved in or potentially affected by Arctic marine operations, including ship owners and operators, Flag, Port and Coastal States, classification societies, marine insurers, financial institutions funding Arctic activity, and indigenous and local communities.

11. In particular, a forum open to those decision makers and stakeholders engaged with Arctic marine operations as identified in paragraph 18 will support broad understanding of the inputs for best navigational practices and operational limitations as listed, but not limited to those enumerated in paragraph 14.

12. To obtain a Polar Ship Certificate under the Polar Code, a ship operating in Polar Waters is required to carry on board a Polar Waters Operational Manual (PWOM) that provides the owner, operator, master and crew with sufficient information regarding the ship's operational capabilities and limitations in order to support their decision making process.

13. Issuance of a Polar Ship Certificate (PSC) requires the preparation of an Operational Assessment. This Operational Assessment involves taking into consideration the anticipated range of operating and environmental conditions and various hazards that may lead to elevated levels of risk. The outcome of the Operational Assessment informs the PWOM that must be carried on board the ship.

14. Voyage planning and Operational Assessments require knowledge and consideration of environmental and other conditions as they relate to the operation of the ship and the ship's limitations. Essential components of the Operational Assessment are voyage planning (as described in IMO *Guidelines for Voyage Planning*, Resolution

A.893(21) adopted on 25 November 1999) and any defined ship operational limitations require numerous important inputs, which include but are not limited to the following:

- a) Hydrography;
- b) Meteorology;
- c) Ice data;
- d) Crew training;
- e) Search and rescue logistics;
- f) Communication;
- g) Industry guidelines;
- h) Traditional and local knowledge;
- i) marine environmental protection considerations;
- j) Operational understanding; and
- k) Ship equipment, systems and structure.

The Forum

15. PAME has decided to establish a Forum to increase awareness of the Polar Code. The Forum will facilitate the compilation, exchange and public sharing of associated information and best practices, including with respect to the inputs identified in paragraph 14. This compilation, exchange and public sharing of information will assist all those involved in the decision-making processes in relation to Arctic marine operations under the Polar Code.

16. To achieve this objective, PAME will establish and maintain a publicly accessible web portal that will link to and make this information available in one place.

Forum Organization and Membership

17. Arctic States¹ intend the Forum to meet annually under PAME's auspices, with the oversight and guidance of the Co-Chairs of PAME's Shipping Expert Group, and with a representative of the Arctic State that holds the Chairmanship of the Arctic Council at the time the Forum meets serving as Chair of the Forum. This may be a virtual meeting facilitated by, where practicable, teleconference or videoconference.

18. Arctic States intend Forum participation to be open to Arctic States, Permanent Participants and Arctic Council Observers as well as any widely-recognized professional organization dedicated to improving safe and environmentally sound marine operations in the Arctic as demonstrated by expertise and experience in Arctic shipping and/or related issues (*e.g.*, hydrography, meteorology, nautical charting, ice data, high-latitude communications, ecological information, search and rescue, marine insurance, naval architecture, pilotage, traditional and local marine knowledge).

¹ The Arctic States are Canada, the Kingdom of Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden, and the United States of America.

19. Any decisions taken by Arctic States under paragraphs 15 and 16 are to be by consensus.
20. The PAME Secretariat, in consultation with the Forum Chairperson and the Shipping Expert Group Co-Chairs, will invite participants by letter to each annual Forum meeting.
21. The Forum intends to review and update the web portal content at each Forum meeting.
22. Forum participants may communicate intersessionally to identify web portal updates and address other Forum matters as necessary.
23. The Forum Chair in consultation with the PAME Shipping Expert Group Co-Chairs and with the assistance of the the PAME Secretariat may, invite one or more experts to attend a Forum meeting and, if appropriate, to submit information to and/or make a presentation at such meeting. Any Forum participant may propose to the Forum Chair that he or she invite an expert to a Forum Meeting.
24. When appropriate, Forum participants intend to take notice of and post to the web portal relevant information related to maritime operations in the Antarctic which meets the eligibility criteria described in paragraph 25.
25. Arctic States may decide by consensus upon methods of operation to guide Forum meetings and eligibility criteria for information proposed to be posted to the web portal. Such methods of operation may be updated from time-to-time (refer to paragraph 17).
26. Each Forum participant is to provide a single point of contact to the PAME Secretariat. The PAME Secretariat is to maintain a current list of Forum participant points of contact. Such points of contact are to be posted on the Forum's web portal.
27. These Terms of Reference are not binding under international law. Activities by Forum participants under these Terms of Reference are undertaken voluntarily and are subject to the availability of funds and other resources. The Forum has no authority over participants.