

Arctic ‘Best Practice Declaration’ Consultation Document

Consultation Period:

08 April 2013 until 1800 GMT 23 April 2013

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1. **Reason for Consultation (the Consultation) and Background**

a) **Introduction.**

Having participated in, heard the views of, and taken note of the following, we have produced a voluntary 'Best Practice Declaration' (the Declaration) for marine operations in the Arctic:

1. Discussions with a wide cross section of industry and scientific experts on 14th December 2011 organised by the Canadian High Commission, the Foundation for Science & Technology, the British Antarctic Survey, and the Natural Environment Research Council.
http://www.foundation.org.uk/events/pdf/20111214_Summary.pdf
2. Lloyd's 2011 Arctic Report; *An Arctic Opening Opportunity & Risk in the High North*.
http://www.lloyds.com/~media/Files/News%20and%20Insight/360%20Risk%20Insight/Arctic_Risk_Report_20120412.pdf
3. Discussion with a wide cross-section of Government and industry experts at the British Embassy in Oslo in April 2012;
4. Recent geographically specific Declarations in the Arctic: Rosneft- Statoil, and ExxonMobil -Rosneft.
<http://www.rosneft.com/news/pressrelease/23112012.html>
<http://www.breakbulk.com/breakbulk-news/general-industry/company-news/exxonmobil-and-rosneft-sign-arctic-shelf-protection-declaration/>
5. Discussions with the OGP Arctic Coordination Task Force;
6. Discussions with the Sustainable Development Working Group of the Arctic Council;
7. Discussions with the International Union for Conservation of Nature;
8. Discussions with experienced marine experts, marine companies, and representative organisations of marine companies operating in the Arctic;
9. Discussions with the Insurance Industry whose clients operate in the Arctic; and;
10. Taking note of Canada's stated aims to develop resources carefully in conjunction with the indigenous community using responsible best practice.
<http://norj.ca/2013/01/arctic-council-to-work-more-closely-with-business/>

b) Conclusions about unique Arctic Environment and requirement to act in a co-ordinated manner.

It is apparent from the above discussions and reports that:

1. The Arctic region is unique with its extreme climate and sensitive nature. As well as being wealthy in natural resources - energy and mineral deposits – it is a place of outstanding natural beauty, rich in animal life, flora, fauna, and unique indigenous activity.
2. With advances of technology, there are new opportunities for development of the resources, as well as for transport and logistics, which have the possibility of benefiting the Arctic region as well as society outside the Arctic.
3. In developing the Arctic it must be recognised that development has to be long-term, and carried out in a sustainable manner, in order to prevent harmful or negative social or ecological consequences for the indigenous people, and the environment of the Arctic region as a whole. If the Arctic is to be developed in a sustainable manner, it must, in addition to those already operating, attract responsible companies that will play a key long-term role in its development. Significant investments have to be made in the development of know-how, and technology needs to be specifically developed for use in the Arctic.
4. It is acknowledged that there is a significant lack of information in relation to the Arctic, and whilst industry is working with academia, at present this needs further emphasis for the sustainable development of the Arctic and to develop best practice.
5. It is clear that long-term investment requires a stable legal and regulatory framework respecting the long-term nature of the investments. Investments are best protected through operating with best environmental practice and using best available technology.
6. The imminent developments in the Arctic region will require the development of laws, regulations and guidelines to protect the sensitive environment and its inhabitants.
7. There is a high degree of public interest regarding the Arctic environment as well as political agendas capturing these. In order to work legitimately in view of the public interest companies have to demonstrate their commitment to responsible operations and demonstrate their commitment to the development of appropriate rules and regulations.

Therefore in order to carry out operations sensibly it has been recognised that there needs to be cross jurisdictional regulatory understanding. It is clearly recognised in the industry, and experience elsewhere has shown, that even with the best will in the

world, to expect each country to enact similar legislation is unrealistic, and in the absence of international conventions in relation to certain aspects of Arctic operations, such legislation is unlikely in the near future. What some participants from the industries concerned feel is that this situation creates political illegitimacy even in circumstances where members of industry are carrying out their operations in accordance with best practice and to the highest standards. This has, of course, been exacerbated by the legacy of the Macondo Oil Spill. One of the recent developments of significance in the Arctic is evidence enough of this desire to demonstrate good practice – the Statoil –Rosneft and ExxonMobil-Rosneft Declarations.

Accordingly, and in view of these conclusions, it has become apparent that there is a real appetite to formulate an industry led ‘Declaration’ of standards in the Arctic region that go beyond the current regulatory regimes of individual countries.

2.

Aim of the Declaration

By acting responsibly, and over and beyond compliance with current laws and regulations, industry can foster a culture of responsible development. By signing up to the Declaration industry can illustrate its commitment to protect the environment and to reduce the impact of any marine activity, exploration, or extraction of resources, by following the principles of ecologically sustainable and responsible development of the Arctic.

The focus of the Declaration is on what is achievable in the short term. By focusing on marine operations in the Arctic area and committing to the draft Polar Code as well as existing international guidelines, the Declaration should find popular support. It can be signed by the oil companies as well as the operators of ships, drilling rigs, and other marine infrastructure, and should be capable of being supported by all international organisations concerned with responsible Arctic development, thereby enabling speedy steps to be taken towards a common platform for responsible operation.

The objective is to promote good examples in Arctic operations, and to prevent the risk of emergencies from ad-hoc operations set up without careful planning which use potential loop-holes in the existing regulatory process. The Declaration will, in essence, create a 'level playing field' in Arctic marine operations, whilst protecting the reputation of those acting responsibly. ExxonMobil, Statoil and Rosneft have all recently signed bi-lateral agreements regarding protection of the Arctic environment. The Declaration is offering practical steps that can be implemented operationally to supplement such agreements.

In to order to develop best practice it is important to share know-how in a coordinated manner both within industry and academia. It is envisaged that the Arctic Council should take a leading role to facilitate that process.

Having listened to industry participants, the Declaration has been formulated in a straight forward manner that tries to create responsibility in all industries concerned, whilst highlighting the special environment of the Arctic, and drawing on good work that has already been carried out, such as by the IMO with their draft Polar Code.

In summary the Declaration focuses on what can be achieved in the short term which is deemed a necessity in order to create political legitimacy for the industries involved who want to get things right. By focusing on marine operations and committing to the draft Polar Code as well as existing international guidelines the Declaration is gathering industry support on a cross-jurisdictional basis.

3. **Instructions for recipients of Consultation**

Whether you are an industry participant, a body representative of industry participants, a service provider, insurer, or observer of industry participants, please send any comments, including whether or not you wish to support, or see the Declaration supported in principle, before 1800 GMT on 23rd April 2013 by email to:

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4. **What Happens after the Consultation Closes on 23 April?**

This Declaration has been circulated to many industry participants / observers on an informal basis prior to the Consultation, and has received indications of significant support in principle. The Declaration is in line with the work promoted by the Arctic Council under the current Swedish Chairmanship. Canada has proclaimed marine safety and responsible resource development as priorities when taking over the Chairmanship in May 2013. On 23 April 2013 all comments received during the Consultation will be considered and referred to the Sustainable Development Working Group of the Arctic Council, for their consideration. We will, in the meantime, re-circulate a final version of the Declaration for signature. The signed copies will then be submitted to the Sustainable Development Working Group of the Arctic Council for consideration by the Arctic Council prior to their Summit on 15th May in Kiruna, Sweden. It is our belief that the Arctic Council should look favourably upon the Declaration, following what we anticipate will be Arctic industries' responsible approach during the Consultation.

5.

Conclusion

The Declaration helps industry to move forward proactively and at the same time to send out the right message about responsibility. Without such an initiative now, the likelihood is that individual States will implement regulatory processes that could be prejudicial to the sustainable development of the Arctic. Alternatively an incident could occur because a party has failed to adhere to best available practice. By participating in and supporting the Declaration industry can show responsible leadership, which will influence sensible and considered regulation. Industry would thereby be at the forefront of the process.

The Declaration will assist the development of clear and transparent rules and regulations for the Arctic that can be adopted for local conditions in the different Arctic countries.

It is a non- political document that simply focuses on a voluntary commitment to use best practice on a reasonable basis.

The Declaration is made on a voluntary basis. It will not be a binding legal document, save for those circumstances where it may be incorporated into private contractual relations between parties.

Industry will benefit from adopting the Declaration and should be encouraged to do so by all parties with an interest in the Arctic environment.

The Declaration, put simply, is about showing responsible leadership for the protection of the reputation, lives, and livelihood of all the participants living in and involved in the Arctic and its environment.

6.

Arctic Marine Best Practice Declaration

Preamble

The Arctic region is unique with its extreme climate and sensitive nature. As well as being wealthy in natural resources- energy and mineral deposits – it is a place of outstanding natural beauty, rich in animal life, flora, fauna, and unique indigenous activity. With advances of technology, there are new opportunities for development of resources, as well as for transport and logistics, which have the possibility of benefiting the Arctic region as well as society outside the Arctic.

In developing the Arctic it must be recognised that development has to be long-term, and carried out in a sustainable manner, in order to prevent harmful or negative social or ecological consequences for the indigenous people, and the environment of the Arctic region as a whole. If the Arctic is to be developed in a sustainable manner, it must, in addition to those already operating, attract responsible companies that will play a key long term role in its development. Significant investments have to be made in the development of know-how, and technology needs to be specifically developed for use in the Arctic.

It is clear that long-term investment requires a stable legal and regulatory framework. Investment is best protected by operating with best environmental practice and employing best available technology. As well as providing increased security for such investment, responsible practice will help influence appropriate laws, regulations, and guidelines, to protect the sensitive environment and its inhabitants. This will assist the development of clear and transparent rules and regulations for the Arctic that can be adopted for local conditions in the different Arctic countries.

In using best practice industry can foster a culture of responsible development, and by signing up to this voluntary declaration it can illustrate its commitment to protect the environment and to reduce the impact of any marine activity, both in normal marine operations, and in the exploration or extraction of natural resources.

Declaration

We the undersigned endorse the following guidelines and best practice and undertake to:

1. Follow the draft IMO Polar Code.
2. Operate according to best environmental practice, and with best available technology – (applicable definitions of terms can be found in Annex B of the Arctic Council’s ‘Arctic Offshore Oil and Gas Guidelines’ (2009).
3. Follow ISO 19906 Arctic Offshore Structures as applicable.
4. Make a detailed and quantifiable analysis in order to determine what ice conditions that might occur in the intended area of operations.
5. Not to operate in an area with potential ice conditions before in-depth, verifiable analysis is made in relation to the sustainability of the vessels intended to perform duties in the ice conditions that could occur in the area of operation.
6. Illustrate the operational margin for ice management operations with respect to ice conditions (4) and vessel performance (5).
7. Implement a systematic approach to ice know-how and ensure that each operation is performed in such a way that operational judgment decisions can be made timeously, on an informed basis, and based on relevant experience.
8. Share knowledge gained in operations in order to increase the common competence and capacity building of the safety and environmental aspects of Arctic operations.
9. Positively encourage operators and contractors in Arctic waters to make space available on board for training during Arctic operations.
10. Ensure that all operators and contractors employed have internal systems in force that comply with the ISM code.
11. Encourage each operator and contractor to ensure that the appropriate crew competences are in place supported by suitable operating manuals, shore-side support, auditing, spare parts for equipment, and reserve equipment suitable for the operating environment.
12. Share Environmental data collected during operations in order to support environmental research under the framework of the Arctic Council.

13. Support the creation of branch specific business councils (committees), which will contribute to practical input regarding best practice in relation to the construction and operation of vessels for Arctic Waters.
14. Be ready to make our Arctic resources available in support of efforts to prevent, combat or mitigate a major accident that could pose a hazard to lives or the environment.
15. Not to use suppliers of services, or buy data from service providers from companies not following the 'rules' laid down by this declaration.

Signed

Dated

The Consultation and Declaration have been prepared by the following group of professionals on a voluntary basis with no outside funding. Their work is carried out as individuals. The opinions expressed are those of the authors personally and do not necessarily reflect those of the organisations that they work for. The motivation of the individuals has been the conviction that this is the 'right thing to do' following their lengthy informal consultations within and in relation to Arctic industry as referred to herein.

Captain Anders Backman. B.Sc.

Anders is a Master Mariner, and Chairman of Viking Ice Council. He was born in 1940 and served as an Officer in the Royal Swedish Navy from 1963-1977 and 1988-91. Anders has extensive Icebreaker experience. From 1962 he served as a junior officer and from 1971 as officer and Master of icebreakers. He was Master of MV "ODEN" during several Polar expeditions, including 1989, 1990, 1991 and 1996. The MV "ODEN" was the first non-nuclear ice breaker to reach the North Pole in 1991 under Anders command. Anders was also the Project Manager of the construction and delivery of MV "ODEN" from 1986 until her delivery in 1989. Anders was also Head of the Swedish Icebreaking Service between 1999 and 2003.

Åke Rohlén

Ake has worked in the shipping industry for over 25 years in various Operational and Commercial positions. During last 10 years he has focused on Arctic and Russian business in the field of Arctic Offshore Operations. Åke Rohlén is currently a partner in Arctic Marine Solutions AB, a Swedish company specialising in high Arctic operations.

Michael Kingston

Michael is an Associate Partner in the Commercial Insurance team at DWF LLP, London, concentrating on Marine, Trade & Energy. He works closely with Lloyd's of London and their Emerging Risk Team on marine and energy matters and has contributed to a number of recent Lloyd's reports including '*Drilling in Extreme Environments*', '*An Arctic opening; Opportunity and Risk in the High North*', and '*The Challenges and Implications of Removing Shipwrecks in the 21st Century*'. He has been involved in monitoring and participating in the regulatory reviews following the Macando Oil Spill. Michael is qualified as a solicitor in both England and Wales and the Republic of Ireland, and has a family background in the Marine and Energy Industry.