

ShipArc 15 Reports by Roving Rapporteurs

Theme 3 Arctic Governance - Michael Grey

This was a very busy day, with “governance” clearly having a variety of different interpretations, with contributions from eleven speakers being delivered during the course of the morning and afternoon, under the chairmanship of David VanderZwaag.

Within our remit, we covered some five different perspectives;

1. Global issues and politics
2. Regional perspectives
3. Policies for non-Arctic states
4. Issues surrounding indigenous communities
5. Gender issues

We ranged widely around these matters during the day, which was exceptionally well served by lively Q&A sessions.

Withing these various categories could be identified a number of challenges that require to be resolved – some sooner rather than later. These may be itemised thus:

- a. Political imperatives, such as the need to consider the Arctic implications of UN processes on bio-diversity and the ways in which the Arctic Maritime Shipping Assessment (AMSA) might be thought to represent a key political turning point in the Arctic Council.
- b. Practical and technical developments at a time of immense changes in technology – a memorable quote was “we have never seen a time of such change”, and this clearly requires appropriate responses.
- c. Similarly rapid and unstoppable environmental changes effectively remove the option to do nothing, because of climate change and not forgetting the greatly enhanced environmental consciousness worldwide.
- d. We are challenged by the need to develop acceptable legal regimes, at a time when there is an obvious requirement for oil and gas and other cargo shipping operations, cruise ship risks, rules for safe navigation in high latitudes, cleanup and emergency response, along with elements not detailed by the Polar Code.
- e. There is a need to reconcile an extraordinarily wide spectrum of different interests, all of them perfectly legitimate. A quotation which seemed to sum up the requirements concisely was –“ we need to live up to a better regime” – which might include benefit sharing, area-based management, technology sharing and much greater levels of collaboration and co-operation between these various interests. The urgency of the situation was emphasised by the relevant quotation –“ we need to find processes NOW!”
- f. The needs of the coastal communities must be kept fully in mind, not just as an afterthought to other processes. There is a requirement to explore more diligently how indigenous communities can co-exist with all that is going on around them, and to fully understand the social pressures and impacts and how the special knowledge and expertise of these people can be used in such areas as SAR and emergency response. This, of course, would have

implications for training. The important word in connection with this relationship with the coastal communities must be “empowerment”.

- g. A major challenge in all forms of Arctic governance was said to be the risk of establishing unwieldy structures, with too many interests, or too much interference from the inexpert or political pressures.
- h. It was judged to be important to assemble the appropriate expertise and then to listen to the experts – not necessarily the loudest voices. It was necessary to identify the real stakeholders and to make sure that they had a voice.
- i. There was a tendency to skirt around matters of money – there was a need to put in place appropriate formula for finance and funding that would be properly stable in the future.
- j. There was a wide discussion on the role and involvement of non-Arctic states and their demand for a greater degree of representation. On one hand there is the obvious wish for a certain exclusivity, for the cited reason to “keep the numbers manageable” with a notable quotation being – “an interest in the Arctic is not a qualification for decision-making” – which summed up the perceived problems of wider participation in the Arctic Council and elsewhere. But if it is considered that the health of the Polar regions affects every person on the planet – maybe that is a different story!
- k. There is a need to understand and properly appreciate the realities of risk in these regions, which are not like other parts of the world in pretty well every respect – the hazards of the climate and weather and the extreme fragility of the environment being examples. This alone ought to drive ideas on such as matters as liability, responsibility, insurance and response, when operating in such places. This may be summed up as the establishment of “best practice”.
- l. Also considered were the very real challenges of avoiding, or backing away from contentious issues which came up in the Arctic Council, IMO and elsewhere, which apparently make consensus impossible. Trans-boundary issues and clashing jurisdictions might be examples of these. It may be that such refusal to confront the difficult or leaving treaties and codes with “square brackets”, gaps, or leaving matters open to interpretation is “just putting off the evil day”. When terrible things happen it may be then too late to be frantically looking around for regulatory solutions.
- m. Also considered was the possibility of using the Polar Code more widely, as a regime for determining matters of seaworthiness or safety, or liabilities.
- n. An interesting solution to many of these notably difficult problems might be to consider the role of “soft” law in making practical progress around intractable obstacles, without necessarily establishing precedents.
- o. Aspects of gender and inclusivity were discussed, along with the challenges of equal participation – there were very revealing contrasts between Scandinavia and other countries in terms of inclusivity. In Arctic coastal communities, where subsistence living had been the norm, there were real problems of the social changes and changing roles of men and women, with particular problems of male unemployment and female mobility. Governance, as Theme 3 illustrated, was a multi-layered subject! Congratulations were due to all those who had presented such fascinating papers and the excellent chairmanship.