Implementation of the International Code for Ships Operating in Polar Waters in vessels flying a Chilean flag and their control in Chilean jurisdiction waters

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1. **Summary:**

The purpose of this document is to make the members of the Antarctic Treaty System (ATS) aware of the process of implementing the Polar Code in Chile, as well as recommendations to achieve its prompt global implementation.

1. **Background:**

The IMO adopted the International Code for Ships Operating in Polar Waters (Polar Code), as well as corresponding amendments to the International Convention for the Safety of Life at Sea (SOLAS) and corresponding amendments to the International Convention for the Prevention of Pollution from Ships (MARPOL Convention), in order to make said Code mandatory. The Polar Code entered into force on 1 January 2017, thus marking a historic milestone in the IMO’s work both to protect ships and also the people travelling on board, whether seafarers or passengers, in the inhospitable environment of the waters surrounding the two poles. The Code is divided into a Part A that contains the mandatory prescriptions and a Part B that is recommendatory.

# By means of Supreme Decree (MINREL) No. 219, dated 22 February 2021, enacted in Chile the International Code for Ships Operating in Polar Waters (Polar Code) and the amendments to the SOLAS (International Convention for the Safety of Life at Sea) and MARPOL (International Convention for the Prevention of Pollution from Ships) and STCW (International Convention on Standards of Training, Certification and Watchkeeping for Seafarers) conventions, as well as resolutions IMO MSC. 385(94) and MEPC. 264(68).

By means of Ordinary Resolution of the General Directorate of the Maritime Territory and Merchant Navy (D.G.T.M. y M.M.) 12600/368 Vrs., dated 12 September 2022, approved Circular O-75/005, which implements the International Code for Ships Operating in Polar Waters (Polar Code) in ships flying the Chilean flag and their control in Chilean jurisdictional waters.

Note No. 5 of the organisation of the XLV Antarctic Treaty Consultative Meeting is an invitation to a thematic session that aims to facilitate the understanding and challenges imposed by the implementation of the Polar Code, and promote the sharing and exchange of experiences between the States Parties and the organisations that participate in polar maritime transport, according to the approach encapsulated in the following questions:

* How can we ensure a harmonised implementation of the Code?
* Is there a need to improve the Code and any possibilities to do so?
* What role should the parties to the Antarctic Treaty have in the implementation of the Code and in its development?

1. **Assessment:**

The Polar Code was fully implemented in our country and in this regard, considering the importance of Antarctic Affairs, the prescriptions of Part A (mandatory) and B (recommended) were established as mandatory in the aforementioned circular.

Regarding what is stated in Note No. 5, we can declare the following:

1. **Implementation of the Polar Code:**

Each member state of the IMO (International Maritime Organization) undertakes to ratify and implement the requirements of the Conventions and Codes; the case of the Polar Code is not exempt from this responsibility. We therefore recommend that the states ratify the aforementioned Code, even when acting as flag states, with the understanding that its implementation is a fundamental contribution to the safety of navigation and protection of the marine environment, in this case of the Southern Ocean.

1. **Need and possibility of improving the Code:**

Regarding this point, we estimate that there is still no information base that can guide towards raising the need to amend the Code. From our experience, we can note that in Chile there is one (1) ship certified as Polar and another in the process of undergoing certification by considering the recognition guides of the 2022 Harmonized System of Survey and Certification (HSSC). As an opportunity for improvement, we recommend that the ships comply with the Polar Waters Operations Manual (PWOM), since the Code stipulates their preparation and provides general guidelines of what said manual should contain, but it does not stipulate their revision or approval by the Administration.

1. **Role of the Parties to the Antarctic Treaty in the implementation and development of the Code.**

The States that have implemented the Code have the responsibility of exercising control either as a Flag State, based on its implementation and the certification of the ships, or as a Port State, carrying out the inspection of foreign ships in national ports.

Regarding the latter, it can be noted that our country is part of two Memorandums of Understanding (MOU), these being the TOKYO MOU and the Viña del Mar Agreement, organisations that seek greater regional coordination for the purposes of exercising control over the ships that call at the ports of the region.

Bearing in mind all the above, and under the objectives of the National Antarctic Policy to promote Chilean activities and specifically those of the Magallanes and Chilean Antarctic Region, we consider this a favourable time to analyse the feasibility of strengthening the task of exercising control as a Port State in said region, once the operation of foreign ships increases, and specifically those certified under the Polar Code