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Your ref: 200505015

Our ref:

Longyearbyen, 10.08.10

Hearing – Draft amendment Svalbard Environmental Protection Act

Reference is made to your letter of May 10, 2010 with proposal for amendment of Svalbard Environmental Protection Act (of June 15, 2001).

AECO finds several of the proposals to be potential improvements of current legislation and also want to commend the Ministry for bringing the legislation more in accordance with practice on some areas.

AECO's comments are limited to a few areas.

Polar bear safety

As tour operators we are, according to the Regulation relating to tourism and other travel in Svalbard, obligated to safeguard guests and staff also against polar bear attacks. The Governor may, with authority in the same regulation, also place specific responsibilities and obligations on us. An authority and clause in the Svalbard Environmental Protection Act will not involve larger differences to us and we do not have objections to the principle proposed in §30.

It is important, however, that any obligation such as “knowledge”, “suitable equipment” and “necessary actions” are further explained e.g. in a regulation passed by the Governor with authority in §30, 3. paragraph.

Safety zones around cultural heritage objects

Current legislation gives automatically protected cultural heritage objects an automatic safety zone of 100 meters in all directions. In addition, the Governor can decide on other, also larger, safety zones.

The Ministry suggests that the Directorate for cultural heritage (RA) is given the authority to protect cultural heritage younger than 1945. It is also suggested that the

RA can decide on safety zones around these cultural remains “when it is necessary to keep the effect of the cultural heritage in the environment or to protect scientific interests connected to it”.

AECO does not understand why the Governor can decide on safety zones on a general bases while it is considered necessary to give RA further instruction to when security zones can be decided on.

Furthermore, we object to the last part of the sentence “protect scientific interests”. The objectives of Svalbard Environmental Protection Act are to protect the environment in Svalbard – not scientific interests. Science and other activities may find a place when it is not in conflict with the objectives of this environmental protection Act. It would conflict with the objectives of the Act if the amendment is passed with a provision protecting the scientific interests instead of the cultural heritage.

Regulation on traffic at sea

In § 82 the Ministry proposed to move the authority to pass regulations on motorized traffic on sea and waterways from the Governor of Svalbard to the Ministry of Environment.

Svalbard Environmental Protection Act was passed before the Harbor and Fairway Act and the Sea Safety Act was made applicable in Svalbard. A lot of other larger and smaller regulations and reviews have been implemented since the Act came into force, such as; (a) heavy fuel oil ban, (b) new mapping, (c) AIS. (d) port state control, (d) the ongoing consideration of the obligation to carry Arctic Pilot and others. The need for an additional authority to pass regulations of these areas is highly discussable. If such an authority should still be included in the Svalbard Environmental Protection Act, it would only make sense if the authority stays with the Governor.

The Ministry of Environment does not have the competence to pass sea safety, shipping or maritime regulations. The areas are generally more or less covered by other regulations and the competence and authority lies with other authorities, which is the way it should remain. But AECO acknowledges the need to be able to act urgently and ad hoc to unforeseen challenges in Svalbard waters. This can best be done by a local authority who knows the area and is able to act promptly. Therefore AECO strongly objects to the suggested amendment of § 82, 4. paragraph.

Heavy fuel oil ban

AECO is in favor of a general heavy fuel oil ban in Svalbard and believes it is an important step in the right direction to protect the environment in Svalbard. If the ban

had been proposed in general, both in the Act and in the newly passed protected areas regulation we would have had no further comments. But as the Norwegian authorities have made exemptions for certain areas and activities, we find it necessary to comment on it.

While the heavy fuel oil ban has very minor or no direct consequences for our part of the cruise industry it will have major consequences for the conventional cruise traffic to Svalbard and as a result will also impact local activities and indirectly may impact our activity. As long as Norwegian authorities do not intend to ban heavy fuel all over Svalbard, it can be asked if the needs of the cruise industry could have been better met without larger risks for the environment.

Norwegian authorities will permanently allow heavy fuel on vessels sailing to and from the coal industry in Sveagruva owned by the Norwegian state – through the long and difficult vanMiljenfjorden, while disallowing a 140 year old traditional cruise traffic to much shorter and much easier sailed Magdalenefjorden from 2015. Also sailing to the Norwegian settlement in Longyearbyen will be allowed with heavy fuel in the future. This can be seen as discrimination of an industry and perhaps protection of Norway's own interest which may be in conflict with the Svalbard Treaty.

As long as heavy fuel oil are allowed in vanMijenfjorden and Isfjorden it can be argued that cruise vessel should be allowed in and out a corridor in Magdalenefjorden to the traditionally visited site on Gravnesodden. If necessary new mapping and marking of the fjord can be done, but a newly issued report from Det Norske Veritas on assignment from Kystverket, concluded that the oversea cruise traffic did not represent a major threat in Svalbard. Allowing oversea cruise traffic to Magdalenefjorden will probably be enough for cruise vessels to continue to visit Svalbard - and the local industry connected to it to continue business.

When a heavy fuel oil ban is a reality for all other shipping in Svalbard, included coal transportation, it should also be enforced on the cruise traffic in general.

We hope our comments can be taken into account and wish you good luck with the continuing process.

Kind regards,

Frigg Jørgensen
General secretary

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