6 January 2009

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Dear Kenneth

Thank you for your letter of 24 December 2009 responding to our 'update' letter to Catherine Taylor.

Thanks for your explanation about how the owners of *Anatoki* satisfied Maritime NZ by drilling holes in their ship that they had complied with NZ maritime rules, but we still don't understand how the drilling of holes actually physically shortened the loadline length. Despite asking this question of a lot of people in the industry, the answer is always "good question!' Can you please give us an understandable explanation?

Secondly, your letter does not give any response to our request to check all qualifications on *Anatoki*, *Rangatira* and *Pelican* in regard to the 500 gt restriction on NZOM tickets.

And thirdly, your letter does not mention anything about our request to urgently progress on the investigations into the Pelican safety incident and her manning for coastal voyages (I understand the manning has been carried out),

Thanks also for your explanation that in Rule 31B, (in relation to *Rangatira* and *Anatoki*), there are no gross tonnage restrictions. But as we explained in our letter of 8 December, the only problem is that the Offshore Master ticket issued by Maritime NZ allows a person to work on a ship of no more than 500 gt. The ticket is designed for ships like *Baldur*, which is less than 45 m and less than 500 gross tonnes. Part 31B and the NZ Offshore Master ticket perfectly fit this type of ship and operation. But both *Rangatira* and *Anatoki* are bigger than 500 gt.

As you know, 500 gt is not the only restriction placed on some officers' tickets. Some of them have 3000 tonne limits. And as you know too, engineers can also have limits of up to 3000 kW. If Maritime NZ does not care about the limits on NZOM tickets, maybe it won't care either about restrictions on other officers such as 3000 gt or 3000 kW. Or perhaps we are just dealing here with special treatment for companies who employ Offshore Master ticket holders?

Part 31A, para 31A.4 "Application", at 1(b) says that the rule applies to New Zealand non-passenger ships of 45 m or more in length which operate outside the restricted area. Rule 31A.13 refers to Table 4 which provides for non-passenger ships of 500 gross tonnes or more to have Master (3000 gt), Mate and Watchkeeper (OOW unlimited). It looks to us like Part 31A is in collision with Part 31B.

MVs *Rangatira* and *Anatoki* are shorter than 45 m (Part 31B), but more than 500 tonnes (Part 31A), but, because of STCW, it is not a matter of Maritime NZ choosing which rule to apply to these vessels. STCW applies, and they must be treated as ships of more than 500 gt. Furthermore, the Offshore Master ticket does not allow its holder to work on ships of

more than 500 gt. And we do not believe that this is a situation where the Director is empowered to give any dispensations under STCW95 Article VIII.

If the NZ maritime rules, with their 45 m criteria, catch on, tomorrow we could have on the coast ships which are 45m long and 40 m wide (i.e. purpose-built to exploit NZ's convenient 45m rules). These days a lot of ships are built with thrusters that can push the ship in any direction (360 degrees). Usually there is more than one thruster. I have been told that, in order to satisfy MAF regulations for length of the ship, at least one vessel (Independent 1), was purpose-built to come within the rules. And she looked like a box. Also, to satisfy NZ maritime rules, another shipowner, removed the propellor from its tanker, and declared it no longer a tanker.

Turning back now to STCW 95, Article II, Definitions, says at (g) that a "*Seagoing ship*" is a "*ship[] other than [one] which navigate[s] exclusively in inland waters or waters within or closely adjacent to, shelftered waters or areas where port regulations apply*." This definition tells us that all ships trading outside inland waters or areas where port regulations apply are "*seagoing ships*" to which STCW applies.

In this case, *Rangatira*, *Anatoki*, and *Pelican*, are all "*seagoing ships*", and both SOLAS 1974 and STCW 95 apply to them all as they are all more than 500 gt.

Under STCW 95 Article 1, 'General obligations under the Convention', any party to the Convention must give "full and complete effect" to it. The Convention takes precedence over a party's laws and regulations, and if those laws and regulations conflict with the Convention, they must be changed.

The special limit of 15nm for Pelican, does not comply with STCW 95.

We even think that Part 20 Operating Limits, does not fully comply with Article II of STCW95.

The NZ Offshore Master ticket is issued under STCW and has limits: "NZ Offshore Limits (near coastal limits) and 500 gt".

Maritime Rule Part 31A Table 3 includes both length and tonnage, but 500 gt is connected not with 45 meters but with 24 meters.

Therefore MVs *Rangatira, Anatoki and Pelican*, can work with Offshore Masters in command only in inland waters or areas where port regulations apply - STCW95 Article II(g). For any areas further than that, the mimimum manning must comply with Regulations II/1 and II/2. Regulation II/3 does not apply to them as they are all bigger than 500 gt.

If, as Maritime NZ has told us recently, the shipowner is responsible for the proper crewing of its own ship, s/he should read STCW 95/98 before manning any vessels. STCW 95/98 provides for recognition of *foreign going* qualifications issued by another party. The *domestic* tickets held by Dave Cheong (Master Class III, Australia), and Brian Hyslop (Master Class IV, Australia), do not come within this recogntion. Maritime NZ (or any other maritime safety authority around the world) can accept these tickets for use in their waters if they satisfy their requirements. But until Maritime NZ (or any other maritime authority around the world) endorses these foreign domestic tickets, the shipowner has no idea on what level they will be endorsed, if at all.

In other words, putting Messrs Cheong and Hyslop in command of *Pelican,* a NZ flagged ship with their Australian domestic tickets and without a NZ endorsement, is a breach of international and New Zealand maritime rules and regulations. Severe penalties should be put onto the shipowners (operators) for such breaches.

It is not clear why Maritime NZ is trying to defend drafting errors in the New Zealand maritime rules. In the case of any troubles with MVs *Anatoki, Pelican and Rangatira*, Maritime NZ could be blamed, and taxpayers' money could be involved and wasted because of Maritime NZ's mistakes. And as mentioned above, you never know what kind of vessels can be specially designed to have a maximum length of 45m but an unrestricted number of hulls or width; or on which side the shipowner will put the propellors, just to come within the NZ maritime rules.

It is absolutely clear in STCW that the restrictions are in tonnes and kilowatts. This is understandable for everybody around the world, and should be the criteria applied here in NZ. Or are we now waiting for the owner of *Jaguar* to drill holes? Or perhaps *MV Pelican* will start using her bow thruster as a main engine so she can move sideways and then suddenly shrink to 11.2m long?

Yours sincerely

Helen McAra
GENERAL SECRETARY