

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Vessel Documentation Center

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16713/5-2
June 23, 2004

Kevin C. O'Rourke, Esq.
Senior Vice President and General Counsel
Matson Navigation Company
555 12th Street
Oakland, California 94607

Dear Mr. O'Rourke:

We refer to your letter of June 15, 2004.

We have completed our analysis of your submissions regarding your proposed project to modify one or more of Matson's C9 class vessels in a shipyard in The Peoples' Republic of China, in part, and the balance in a shipyard in the United States. The vessels at issue are the sister ships M/V MOKIHANA (O.N. 655397), M/V MAHIMAHU (O.N. 653424) and M/V MANOA (O.N. 651627) (the "Vessels"). Your specific concern is whether the work contemplated in a shipyard outside of the United States will result in a finding that the Vessels will be deemed to have been rebuilt within the meaning of the Second Proviso of Section 27 of the Merchant Marine Act, 1920, 46 USC App. § 883 (the "Second Proviso"), resulting in a loss of coastwise privileges.

The Vessels, all configured as container ships, were built in New Orleans, Louisiana, in the early 1980's and owned by a coastwise qualified citizen. However, since they were built with Construction Differential Subsidy, they have been operating since then in foreign service under registry endorsements as a result of a contractual agreement with the Maritime Administration. We do not address here the status of the Vessels under that contractual agreement. Rather, your letter requests a preliminary determination that they will not permanently lose coastwise eligibility as a consequence of the work to be done in a shipyard outside of the United States.

In order to accommodate the demand for rolling cargo between Hawaii and the mainland, Matson proposes to convert the aft end of one or more of the Vessels for this purpose, with a portion of the work to be done in The Peoples' Republic of China and the balance in the United States. In summary, the work will involve conversion of the container stowage aft of the machinery casing to rolling cargo both above and below deck. The entry point for rolling cargo will be a new opening on the starboard side at the Second Deck level. A series of internal ramps will provide access above and below deck. Most or all of the decks will be enclosed and provided with ventilation and fire protection systems.

The work to be done in The Peoples' Republic of China will comprise part of the Upper Deck and all decks, platforms and side shell below the Upper Deck, including associated outfitting and mechanical/electrical systems. The work to be done in the United States will comprise the remainder of the Upper Deck and the automobile garage, including associated outfitting and mechanical/electrical systems.

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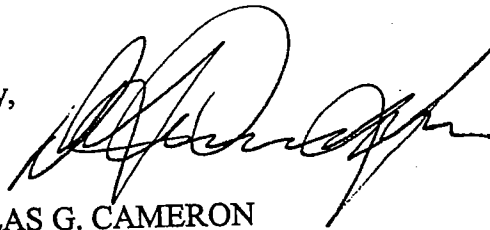
In evaluating potential rebuildings, the Coast Guard determines the amount of work performed on the hull and superstructure and compares it to the steelweight of the vessel. If the weight of the steel work performed on the hull or superstructure is less than 7.5% of the vessel's steelweight prior to the work having been done overseas, the vessel has not been rebuilt within the meaning of the Second Proviso. If the weight of the steel work performed on the hull or superstructure is more than 10% of the vessel's steelweight prior to the work having been done overseas, the vessel is deemed rebuilt within the meaning of the Second Proviso. If the weight of the steel work performed on the hull or superstructure is between 7.5% and 10% of the steelweight prior to the work having been done overseas the vessel may, or may not, be deemed rebuilt. 46 CFR § 67.177(b)

In view of the fact that the Vessels have been unaltered since their original construction other than by minor changes to suit different sizes of containers and to mitigate some local cracking problems, the analysis drawn from original ASI estimates at construction adequately establishes the steelweight of the Vessels at 12,097 long tons. The weight of the relevant steel work to be done in The Peoples' Republic of China, excluding non-structural work, is 815.5 long tons. Consequently, the steel work to be performed overseas amounts to 6.7% of the vessels' steelweight and falls within the regulatory threshold defining clearly permissible work.

Your understanding that the work described in your submission in a shipyard outside of the United States will not result in a finding that the Vessels have been rebuilt within the meaning of the Second Proviso is confirmed. The work described will not result in the loss of coastwise privileges if performed outside of the United States.

You are cautioned that this is a preliminary determination based upon the estimates provided. If the steel work performed exceeds the current estimate, it is possible that the regulatory threshold defining clearly permissible work may be exceeded. If at the conclusion of the project as to any of the Vessels the steel work performed exceeds 907 long tons, which represents 7.5% of the steelweight prior to the work having been performed, it will be necessary to submit an application for a final determination in accordance with the provisions of 46 CFR § 67.177(e).

Sincerely,



DOUGLAS G. CAMERON
Staff Attorney
By direction