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16713/5/2  
September 29, 2021

Greggory B. Mendenhall PLLC  
3278 Franklin Avenue, Suite 5  
P.O. Box 65  
Millbrook, NY 12545

Dear Mr. Mendenhall:

I am responding to your letter dated February 26, 2021, with exhibits, received by e-mail. You requested a preliminary foreign rebuild determination, in accordance with 46 C.F.R. § 67.177(g), with respect to proposed work to be done in a foreign shipyard (specifically, COSCO Nantong China Shipyard) to the vessel HORIZON RELIANCE, official number 625873 (the "Vessel"). Your request was made on behalf of the Vessel's owner, Sunrise Reliance LLC, which has authorized its direct parent company and the demise owner of the Vessel, Sunrise Operations LLC, to contract with the foreign shipyard to do the proposed work. Both the owner of the Vessel and the demise owner are affiliate companies of Pasha Hawaii Holdings LLC, the time charterer of the Vessel.

I also refer to your letter dated May 18, 2021, with exhibits, by which you responded to questions and requests for clarification raised by our office concerning your initial submission and transmitted to you by e-mails dated March 26 and 27, 2021.

The Vessel is a C9 class sister ship to the HORIZON SPIRIT, official number 624457, and both vessels, HORIZON SPIRIT and HORIZON RELIANCE, were the subject of a preliminary foreign rebuild determination dated June 12, 2013, issued by the National Vessel Documentation Center ("NVDC"). The findings made at that time, supported by the review and analysis of the Coast Guard's Naval Architecture Division ("NAD"), were, with specific reference to the Vessel in this case, (i) that the discounted steel weight of the Vessel, was 10,874 Mtons (10,680 Ltons), and (ii) that, with regard to the application of the considerable part test in particular, discussed below, the steel to be removed (which was greater than the steel to be added) was 58 Mtons or 0.533% of the discounted steel weight of the Vessel.

As you know, and as is discussed in the NAD's Steel Weight Criteria Memorandum which is posted on the NVDC website at the foreign rebuild determinations tab, the 7.5% steel weight limit (per 46 C.F.R. § 67.177) is considered a service life cap for the vessel based on its original (as delivered) discounted steel weight. Thus, in application of the considerable part test, the allowable steel weight change for a foreign rebuild would be reduced by the total cumulative weight changes of previous rebuilds. In this case, however, you have informed us that the work described in the 2013 determination was never initiated nor completed. Your letter of May 18,

2021, confirmed that in response to our e-mail of March 26, 2021. Consequently, no adjustment need be made to the analysis of the work to be done in this current case to accommodate work that was proposed in 2013 but not done.

Your letters and their exhibits have provided extensive data, including narrative descriptions, architectural drawings and weight calculations concerning the work proposed to be done in this case. Very briefly, however, the foreign shipyard would (i) remove the existing equipment in the engine room, including foundations, and (ii) install a complete new propulsion system (which includes a single slow-speed dual fuel diesel propulsion engine, reduction gear, three diesel generators, auxiliary systems and associated piping, electrical, and control systems).

In order to accommodate the new larger and heavier diesel engine, the engine room will be lengthened, a bulkhead will be removed and replaced, and the double bottom in the vicinity of the engine foundations will be substantially rebuilt. The bulkheads provide transverse structural strength to the hull and the double bottom is part of the hull's longitudinal structure. Therefore, these modifications must be included in both the removed and added steel weight totals.

In addition, two LNG fuel tanks will be installed inside a new LNG enclosure on the aft main deck.

Finally, the original port and starboard stack houses over the engine room will be removed and replaced with a new centerline stack house and new deck-top container stowage area. Other non-structural modifications, such as ventilation ducting, access stairs and electrical installations for reefer container connections, will also be made.

You have requested a preliminary determination that in accordance with the regulatory standards set forth at 46 C.F.R. § 67.177 with regard to work done in foreign shipyards to vessels built in the United States (as this Vessel originally was), the Vessel will not be deemed to have been rebuilt foreign and consequently, that its coastwise eligibility will not be adversely affected by the proposed work.

46 C.F.R. § 67.177 establishes a two-part test to determine whether any considerable part of a vessel's hull or superstructure has been built upon or substantially altered outside of the United States. The consequence of such a determination is that such a vessel would be deemed "rebuilt foreign" and as a further consequence of that determination, it would no longer be eligible to engage in the coastwise trades of the United States.

The first test, which has come to be known as the "major component test", requires that a vessel be deemed rebuilt foreign "when a major component of the hull or superstructure not built in the United States is added to the vessel" 46 C.F.R. § 67.177(a). Although the term "major component" is not defined by statute or regulation, by longstanding agency practice, affirmed by the Courts (Shipbuilders Council of America v. U.S. Coast Guard, 578 F. 3d 234 (4<sup>th</sup> Cir. 2009)), "major component" has come to refer to new, completely-constructed units, built separately from

and added to the vessel that weigh more than 1.5 percent of the steelweight (or discounted lightship weight) of the vessel prior to the work.

Under the second test, which has come to be known as the “considerable part test”, only a certain quantity of hull or superstructure work can be performed on a coastwise-qualified vessel outside of the United States without risk of the loss of its coastwise eligibility. For vessels constructed of steel as in this case, “a vessel is not considered rebuilt when work performed on its hull or superstructure constitutes 7.5 percent or less of the vessel’s steelweight prior to the work” 46 C.F.R. § 67.177(b)(3).

For purposes of the tests described above, the terms “hull” and “superstructure” are defined at 46 C.F.R. § 67.3, as follows (in pertinent part):

“**Hull**” means the shell, or outer casing, and internal structure below the main deck which provides both the flotation envelope and structural integrity of the vessel in its normal operations.

“**Superstructure**” means the main deck and any other structural part above the main deck.”

As is our customary practice, in order to aid our assessment of your proposal we have referred your submission to the NAD for review and analysis with particular focus on (i) the various estimated steel weights provided, including the discounted steel weight of the Vessel prior to the work, and (ii) your categorization of the work as between those portions deemed structural and which would implicate the hull or superstructure of the Vessel and those deemed otherwise.

First, with regard to the discounted steel weight of the Vessel prior to the work, as you have informed us that the work described in the 2013 determination was not done I accept the finding of the NAD, in 2013 as now, that the discounted steel weight of the Vessel is 10,680 Ltons (10,874 Mtons). This is consistent with the discounted steel weight assumed by your submission.

Second, it is well-established by prior determinations applying the regulatory standard at issue here that there is no prohibition against the incorporation into a U.S. built vessel outside of the United States of items, whether or not foreign-sourced, which are not structural components of either the hull or superstructure of a vessel and as such have generally come to be known as “outfit”. For a fuller discussion, if not an exclusive list of such items see the Coast Guard’s Notice of Proposed Rulemaking on Vessel rebuilt Determinations at 60 FR 17290, 17291 (April 5, 1995).

The NAD reviewed your submission and the description of your plans and has found your identification of those items which are appropriately characterized as non-structural outfit to be consistent with its analysis.

The NAD did note that their review included an arrangement not previously encountered; namely, a shelter structure for the two new LNG tanks to be installed on the main deck. In

appearance and construction this shelter was said to resemble a deckhouse enclosure (approx. 94 ft. long x 71 ft. wide x 25 ft. high and weighing 227.8 Ltons) which would normally be included as structural steel weight. However, as further noted by the NAD, its sole function is to protect the LNG tanks from damage during container loading and offloading in the event that a mishandled container might swing wide or drop and strike one of the LNG tanks. For that reason, the LNG shelter was considered to be a protective safety component of the Vessel's fuel system and, therefore, not included as structural steel. I concur with this finding.

Third, with regard to the first prong of the test established by 46 C.F.R. § 67.177, the "major component test", you have represented and the NAD has generally concurred after review that the largest discrete and separately constructed structure to be added to the Vessel will be the new main deck structure associated with the installation of the installation of the LNG tanks. It is described as a new 95 foot x 65 foot deck insert on the main deck where the original stack houses will be removed. The weight of this new deck assembly (plating and stiffeners) is listed as 100.8 Ltons (or 0.9438% of the Vessel's discounted lightship steel weight). Thus, the steel weight of this component falls well below the standard of 1.5% of the Vessels' steel weight at which it would be characterized as a major component. Consequently, we find that your proposal would not violate the "major component test" of 46 C.F.R. § 67.177. However, that steel weight will be taken into account when measuring your proposal against the second prong of the regulatory standard, the "considerable part test".

Finally, with regard to the second prong of the test established by 46 C.F.R. § 67.177, the "considerable part test", we confirm your understanding that the rule consistently applied in calculating the steel weight of relevant work done to a vessel is to count the greater of the steel removed or the steel added. In the 2013 determination the greater of the two was the steel to be removed. In this case, guided by the findings of the NAD, we conclude, consistent with your submission, that the steel to be added will be greater and that it will consist of 485.3 Ltons (or 4.5440% of the Vessel's discounted lightship steel weight). As this percentage falls well below the 7.5% allowed by 46 C.F.R. § 67.177(b)(3), we find that performance of the work described would also not violate the "considerable part test".

For these reasons, I conclude and confirm that performance of the work as described to the Vessel outside of the United States will not result in the Vessel being deemed to have been rebuilt foreign and, consequently, will not adversely affect the Vessel's eligibility to engage in the coastwise trades of the United States. I note, however, that the proposed scope of work that has been the subject of this review does not include other structural steel repairs, if any, which might also be accomplished during the same shipyard overhaul, such as, e.g., replacement of hull plating. I remind you that any such work would impact the findings and conclusions offered here.

I direct you to confirm to this office in writing following completion of the work that the work actually done to the Vessel is as you have described it or, if not in any respect, that you provide documentation of the actual work as done with supporting calculations and appropriate drawings

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and descriptions. I also direct that you confirm to this office in writing if, as occurred following the 2013 determination, you elect not to proceed with the work you have described.

Sincerely,

A handwritten signature in blue ink that reads "Christina G. Washburn". The signature is fluid and cursive, with a long horizontal flourish at the end.

Christina G. Washburn  
Director