

Human Environment and Transport Inspectorate  
Ministry of Infrastructure and the Environment

Director for Maritime Affairs  
Directorate-General for Mobility and Transport  
P.O. Box 20901  
2500 EX The Hague

Human Environment and  
Transport Inspectorate  
Shipping Inspectorate  
Weena 723  
Rotterdam  
Postbus 16191  
2500 BD The Hague  
www.ilent.nl

Contact

E.J. van Leeuwen

Inspector

Tel +31 (0)70 456 4562

Evert.van.Leeuwen@ILenT.nl

Date

18 October 2013

Our ref

ILT-2013/39853

## Memorandum

*Arctic Sunrise* incident of 18 September 2013

Dear colleague,

Following a request from the Ministry of Foreign Affairs (BZ), the Human Environment and Transport Inspectorate / Shipping Inspectorate ('the Inspectorate') has examined and assessed the *Arctic Sunrise* incident of 18 September 2013. An opinion was also requested on the possible consequences of the way in which the ship has been laid up.

In this memorandum I have set out my expert opinion on the incident, which is based on the information available at [www.greenpeace.org](http://www.greenpeace.org), one of the parties in the dispute (*Home>News>Feature Stories>LIVE-Latest Updates from the Arctic Sunrise activists*) and emails between Greenpeace and BZ.

### *The incident*

On 18 September 2013, rigid inflatable boats (RIBs) from the *Arctic Sunrise* approached the Russian oil platform Prirazlomnaya. According to the information, the *Arctic Sunrise* remained at a three mile distance from the platform and briefly came within 3 miles of the platform. The RIBs transported activists to the platform, who proceeded to climb the side wall of the platform as a form of protest. The protest was then disrupted by the Russian authorities, and the activists arrested. Later the RIBs' mother ship, the *Arctic Sunrise*, was detained and the crew arrested.

### *Role of the Inspectorate*

Under Dutch law, sea-going vessels owned by a foundation (*stichting*) with an idealistic object are registered as pleasure craft. The *Arctic Sunrise* is registered as a pleasure craft. The RIBs with which the protests were carried out are regarded as belonging to the *Arctic Sunrise*. The rules governing pleasure craft and the associated powers of the Inspectorate are limited. Other than with respect to environmental certificates for sea-going vessels that exceed 400GT, the Inspectorate does not have enforcement powers with respect to any further requirements relating to pleasure craft. An expert opinion may be given on operational aspects, such as the vessel in question's compliance with maritime navigation rules but the Inspectorate



does not have any powers to impose any sanctions that may be appropriate. Any material damage arising from the protest and the actions of Greenpeace and the Russian authorities falls outside the scope of the Inspectorate's responsibilities. Similarly, climbing onto objects at sea falls outside the scope of the Inspectorate's responsibilities.

Human Environment and  
Transport Inspectorate  
Shipping Inspectorate

Date  
18 October 2013

Our ref  
ILT-2013/39853

#### *Good seamanship*

The incident described above does not give rise to any question of compliance with the navigation rules (the Regulations for Preventing Collisions at Sea). Those regulations are only relevant insofar as assessing compatibility with the principle of good seamanship is concerned.

Based on the information available to me, I would not conclude that the actions and approach of those on board the *Arctic Sunrise* and the accompanying RIBs were unsafe for vessels, those on board, the environment or the platform.

#### *Platform's safety zone*

International regulations make it possible to establish safety zones around mining installations such as the oil platform. The breadth of these zones remains unspecified, although it is stipulated that it may not exceed 500 metres. From nautical publications it can be concluded that in this case a safety zone of three miles was established around the platform. It is clear in any case that the RIBs entered that zone to reach the platform. If there is an established zone, an offence may have been committed when the RIBs sailed to the platform and dropped the crew off at the platform. It is unclear whether the mother ship *Arctic Sunrise* committed this offence in this case because the safety zone exceeds the maximum permitted under international regulations. Any such offence and the expertise to determine whether it gives rise to criminal liability falls outside the scope of the responsibilities of the Human Environment and Transport Inspectorate.

#### *Conclusion based on the information available*

On the basis of the information available, it does not appear that the *Arctic Sunrise* and the accompanying RIBs posed a danger to ships, maritime traffic, those on board, the environment or the platform. There is no question of poor seamanship.

In the absence of any action contravening the principles of good seamanship, the Inspectorate sees no reason to institute a further investigation. If you wish an investigation to be conducted of whether criminal offences may have been committed, for instance entry into the safety zone, I would suggest that you submit the matter to the Public Prosecution Service.

#### *The detention of the Arctic Sunrise*

The incident prompted the Russian authorities to detain the *Arctic Sunrise* and remove the entire crew from the vessel. According to information from Greenpeace, since then the ship has been moored unmanned at the quayside and a variety of technical problems have already arisen on board.



Leaving a vessel that is not in operational condition at the quayside does not in itself necessarily give rise to problems, provided that the ship has been sufficiently prepared for this. If no preparations are made, a ship cannot be laid up directly after being fully operational without the risk of damage. Substantial problems may arise in such a case upon putting the ship back into operation, particularly in view of the local weather conditions.

Human Environment and  
Transport Inspectorate  
Shipping Inspectorate

Date  
18 October 2013

Our ref  
ILT-2013/39853

Yours faithfully,

[signature]  
E.J. van Leeuwen  
*Inspector*

-----  
This is to certify that the above is a true translation of the original Dutch document.

L.J. van Foreest-Blood, sworn translator,  
registered under no. 2001 with Bureau WBTv  
(Bureau for Sworn Interpreters and Translators)  
of the Dutch Legal Aid Council



