

The Russian seamen are forced to go "under the flag"

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In the 90s practically all the civil fleet of Russia went under "foreign" flags. This happened because of some unreasoned laws and unjustified taxes. On a twist of fate, "sea devastation" took place on the background of the diametrically opposed process proceeding in other countries. Leading maritime nations have started to reform laws and taxes having made them acceptable for their own shipowners.

At last, Russia has come to the similar decision though with a great delay: the State Duma has adopted the law on international register of vessels at the first reading. In the event of final adoption of the document, return under the native flag will cease to be, as seamen say "the act of suicide" for the Russian shipowner.

Revival of the fleet which has received much consideration now in high circles means that the infrastructure will begin to revive together with vessels, in particular - ship repair. In order all the things will actually work and begin to bring money in treasury, and so the branch would prosper, the register alone is not enough. It is necessary a number of attendant laws. Otherwise, the vessels risked to hoist the Russian flag would prefer to open sea valves and to sink rather than to go to the home port.

Let's consider the nonsense of the situation existing now by the example of domestic ship repair. According to norms and regulations, the first docking of the vessels is "guarantee". It takes place after a lapse of a year after the vessel leaves the ship repair yard and started to work. Then, a lot of other minor repairs occurs - from planned to seasonal repairs which are necessary, if the vessel is prepared for fishing season, and the ice breaker is prepared for Arctic navigation. There is emergency repair but the vessels do not resort to it before the completion of operation.

The domestic ship-repair branch is unable to provide repair of all Russian vessels. And there is not need for. To maintain docks for all the vessels available in the country is economically unprofitable. For this purpose there is a world specialization.

In this connection, very often the shipowner just has no choice. Seemingly, what is the necessity to transport the vessel to Korean Pusan for minor repair if it is 12-hour travel far from Petropavlovsk ? Nevertheless, it is necessary to transport. Russian repair does not suit seamen neither as to quality nor as to terms and prices. As a result, it is cheaper to bring the vessel to Korea paying for a long passage rather than to repair it in our country. It should be noted that it is well known to Russian customs officers who collect duties at the rate of 5 % and VAT at the rate of 18 % from all our vessels arrived home after repair abroad. Mathematics is simple and everybody can count the shipowner's losses.

Minimal repair costs to the company up to 50 thousand dollars, optimal repair -- up to 300 thousand dollars. In order for calculate the duty, this is added with the cost of transportation of the vessel to the place of repair and back (crew daily allowance, meal, fuel, depreciation charges). As a result, a rather considerable amount accumulates which is large enough to complete the vessel for fishing (to buy production equipment, tare, working clothes, food). But money should be given. Many companies, basically small ones, are ready to pay for all to the customs. But for large enterprises with their big fleet and frequent repairs it is very expensive. That's why, they search for any opportunities to avoid this. For example, many our vessels do not call at home ports for many years. ("News" - Petropavlovsk-Kamchatski).

One year ago the new Customs Code was adopted in which article 276 ("Return import of vehicles temporarily withdrawn") explains the essence of repair. As the article has become available, Russian vessels had a good chance to call at Russian ports after repair carried out abroad. It only remains to apply to the government with a request to reward the persons involved for return of the fleet to the country. However, we shall not hurry up. Customs

officers have shuddered from what they have done and have urgently begun to search for ways of deliverance of Russia from the fleet. To make unsubstantiated statements let us to produce legal calculations from the memorandum:

"The customs treatments "Handling outside the customs territory" and "Temporary export" provide various regulation of relations concerning movement of vehicles across the border and their repair outside the customs territory of the Russian Federation. The treatment "Handling outside the customs territory" does not provide an opportunity of exemption from collection of customs dues and taxes. In the treatment "Temporary export" in accordance with article 276 of the Customs Code, in return import, customs dues and taxes are not paid, if repairs on the vessel consisted in other operations necessary for ensuring of its safety and operation, as well as for maintenance of the vessel in condition in which it was at the date of its placement under the customs treatment "Temporary export".

The basic problem in performing repairs on the vessel abroad is determination of a nature of repair operations. As it follows from article 276 of the Customs Code of the Russian Federation, in order to be exempted from payment of customs dues and taxes the shipowner should prove that repair operation performed on the vessel were limited to maintenance of technical and operational characteristics of the vessel. If it is impossible to prove, the repair operations will be regarded as handling operations and, accordingly, customs dues and value-added tax will be charged on the amount of repair

Unfortunately, for the last several months customs departments of all federal areas recommend subsidiary customs to toughen control over the vessels in their return import after performing repair operations at ports of foreign states. In these recommendations the customs departments specify criteria, the presence of which enable the shipowner not to pay customs dues and taxes. Criteria are the following: actually any repair performed at the foreign port is liable to taxation by customs dues and taxes" (Inmar Legal Co., Vladivostok, Memorandum No. 050708: Repair of a vessel abroad – Customs clearance)

This article has a pretext providing vigilant customs officers with a possibility to "fleece" the shipowner of the dues in full. If the vessel had not to be under repair owing to emergency (such emergency repair is very seldom), the customs will try to do everything to bring the repair to the category which permits to impose duties on it.

Now it is time to remember the endeavor which Russian frontier guards demonstrate for domestic motor-car industry. Both in the case with sales promotion of domestic cars by fleecing the imported foreign cars and in the case with ship repair, the customs becomes a hostage of doubtful quality of Russian repair. It is the thing that forces customs officers to apply to court time after time and to demand dues from seamen, and to lose the cases time after time (for the time being). However, the government represented by the customs services does not stop.

" There are some letters signed by officials of the Federal Customs Service (FCS) who explain to the colleagues in regions that duty for repair in other countries should be collected nevertheless. Among them there is the Head of Legal Department at the FCS G. Balandina who writes that collection of such duties is based on observance of "the interests of Russian organizations which carry out repairs in the territory of Russia that meets the interests of the Russian economy as a whole". (News - Petropavlovsk-Kamchatski).

"...it can be said that if the provisions of the letters are perceived as guide to action that has already taken place, any repair of the vessel carried out outside the customs territory of the Russian Federation, except for emergency one, will be regarded as handling operation, subject to charge of dues and taxes..."(Inmar Legal Co., Vladivostok, Memorandum No. 050708: Repair of a vessel abroad – Customs clearance)

In short, losing the possibility to charge payments for the repair carried out abroad, the customs loses one of the main sources of receipts. In the meantime, these payments - the only index of efficient work of customs officers as output rate for combine operators or miners. The more payments are collected the more is the staff and the higher is the status.

However, the story is not complete. As the practice shows (and not only Russian), absurdity or abnormality of the law is measured in bribes which should be paid for its evading.

The further development of the situation may be counted rather precisely. Unless the customs' "torment" of the destiny of domestic ship repair is stopped in time and strictly by adopting clear and unambiguous laws or amendments to the existing laws, then sooner or later it will gain its goal. By hook or by crook the customs officers will try hard to get a permit to collect dues for any repair abroad, except for emergency. A reply to the same on the shipowner's part will be a splash of "mutilation" at foreign ports. There is no need to be very clever: only to strike with a sledge hammer on the cheapest part in a mechanism being in want of repair and with clear conscience to undergo rather lawful "emergency" repair.

Though it is quite possible that customs officers will show creative approach to the matter by closing this "emergency" loop-hole. But in this event the seamen's patience will be exhausted. The Russian civil fleet will finally say goodbye to the Russian flag and forget a way to home ports. And there will come a time of Russian ship repairmen' indignation for whom the customs generals take care. There will be nothing at our ports to repair.

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