



Office of Hon Murray McCully

Minister of Foreign Affairs

18 December 2009

Steve Roest
Sea Shepherd Conservation Society
PO Box 2616
Friday Harbour WA 98250
UNITED STATES OF AMERICA

Dear Mr Roest

I write in response to the Initial Environmental Evaluation (IEE) submitted by the Sea Shepherd Conservation Society on behalf of the New Zealand-flagged vessel, *Ady Gil*, on 6 December 2009 in accordance with the Antarctica (Environmental Protection) Act 1994 (Act) regarding the proposed voyage of the *Ady Gil* to Antarctica from 7 December 2009 to 15 March 2010. Under the Act, Antarctica is defined as the area south of 60 degrees south latitude.

Under sections 2 and 18 of the Act, I am required to make an assessment as to whether an IEE in respect of a proposed activity in Antarctica indicates that the activity is likely to have no more than a minor or transitory effect on the Antarctic environment.

In evaluating this case, I have considered both your IEE and past incidents involving vessels operated by the Sea Shepherd Conservation Society.

You plan "to non-violently interfere" with Japanese whaling operations. No description is provided in your IEE of the nature of this non-violent interference. While you refer to the MARPOL and SOLAS Conventions, there is no mention of other relevant international instruments such as the International Regulations for Preventing Collisions at Sea, which stipulate requirements to be observed by all vessels navigating on the high seas to avoid collisions, and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, under which it is an offence to intentionally cause damage to ships.

My concern, particularly in light of previous incidents between Sea Shepherd Conservation Society vessels and Japanese whaling vessels, is that the *Ady Gil* may well engage in activities which could endanger human life and the Antarctic environment.

under s18 of the Act the proposed activities are likely to have no more than a minor or transitory effect on the Antarctic environment.

Under the Ministerial directions, the *Ady Gil* must not interfere with vessels of the Japanese whaling fleet in ways that may risk human safety or result in marine pollution with a risk of more than a minor or transitory effect on the Antarctic environment.

The vessel must also avoid conditions where there is a significant risk of encountering ice. During a safety inspection of the *Ady Gil*, Maritime New Zealand indicated that the vessel was not approved for a voyage in ice. I am very concerned about the serious risks to the vessel and to its crew should it enter parts of the Southern Ocean where such conditions are likely.

In my letter of 4 December 2009 I reminded Pete Bethune of his responsibility as master to ensure the safety of his vessel and crew, and to ensure that his vessel operates in a way that is safe and responsible, complies with New Zealand law, and adheres with the requirements of international law.

Officials have separately advised Mr Bethune of his reporting requirements should his vessel enter the New Zealand search and rescue region. The *Ady Gil* should report its positions, courses and speeds (and the time these were logged) twice daily (reporting times are at the convenience of the Master). The reports should be made to the Taupo Maritime Radio/ZLM via: Inmarsat C 582 451200067, HF radio (frequencies as listed in the Admiralty List of Radio Signals, Vol 1, New Zealand section) or email: maritime@kordia.co.nz or telephone +64 4 914 8333). You should be aware that failure to continue position reporting will not initiate search and rescue operations. This will only take place if the Rescue Coordination Centre becomes aware that a vessel is in need of assistance.

In no way should my determination be taken as condoning the *Ady Gil's* proposed voyage. Any wilful breach of the Ministerial directions will be considered an offence under section 10 of the Act.

Yours sincerely



Hon Murray McCully
Minister of Foreign Affairs