

Untrue NUC Shall Not Discharge the Liability under COLREGS

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The Shenzhen MSA had recently completed their investigation into a major collision happened in early 2012, in which a container vessel ran into another drifting container vessel causing serious property damage.

The MSA has come to a conclusion that vessels displaying “Not Under Command” (NUC) but in fact capable of navigation was responsible to take active avoidance measures, failing of which she shall take up part of the responsibility for the collision.

It was alleged that at the time before collision, one of the colliding vessels was not making way through water and was displaying “Not Under Command” (NUC) status on AIS, thus shall enjoy the privilege under Rule 18(a)(i). However the investigation found that the drifting vessel did not have engine breakdown or otherwise making her unable to manoeuvre. In fact she had arrived about 10 hours ahead of ETA and the Master decided to drift in order to adjust the arrival time.

Similar practice has become more commonly seen, especially outside those congested ports. Some of these vessels set the AIS navigation status on NUC, even where the vessel is fully capable of navigation. Such practice may cause risk to the surrounding traffic and place other vessels into danger.

The Shenzhen MSA found that according to Rule 3(f), “the term *vessel not under command* means a vessel which through some exceptional circumstance is unable to manoeuvre as required by these Rules and is therefore unable to keep out of the way of another vessel. Main engine breakdown may well be such an exceptional circumstance. But waiting for berthing schedule shall by no means be considered as such circumstance to render a vessel unable to manoeuvre. Therefore drifting vessel is not a vessel not under command; rather as a power driven vessel “not at anchor, or made fast to the shore, or aground”, she is a vessel *underway* provided by Rule 3(i).

Given visibility was restricted, the two vessel, both power-driven vessels underway, shall act in accordance with Rule 19 and shall not have the privilege under Rule 18(i). Moreover, under Rule 35, the making way vessel as a power-driven vessel making way shall sound at intervals of not more than 2 minutes one prolonged blast, which she did; and the drifting vessel, being a “power driven vessel underway but stopped and making no way through water” shall sound at intervals of not more than 2 minutes two prolonged blasts in succession with an interval of about 2 seconds between them, which she had failed to comply. In fact, the drifting vessel had not emitted any sound signal until immediately before the collision.

This accident should sound an alarm over all those ship officers, as well as the shipowners and managers. It is not a legitimate conduct to display NUC signals while drifting off ports waiting for berth without the exceptional circumstance rendering the vessel unable to manoeuvre. Drifting but capable vessels must act in accordance with the rules of a power-driven vessel underway, and drift in safe waters.

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