

EXECUTIVE COUNCIL

RESTRICTED

Title of Report: Application to Register Commercial Motor Launch 'B-Mar' –
Beauchene Fishing Company Ltd

Paper No: 24/09

Date: 27 January 2009

Report of: Registrar of Ships

1.0 Purpose

1.1 To consider an application from Beauchene Fishing Company Ltd to register a commercial motor launch on Part I of the Falkland Islands Register of Ships.

2.0 Recommendation

2.1 Honourable Members are invited to advise approval of this application for the new build commercial motor launch 'B-Mar' to be registered in the Falkland Islands subject to:

- a. the requirements of Regulations 7. to 9. of the Merchant Shipping (Registration of Ships) Regulations 2001 in relation to qualifying ownership and Falkland Islands connection are maintained, and;
- b. the vessel will satisfy and maintain the normal safety standards applicable to vessels of its type, and;
- c. the owners are informed that the vessel may be removed from the Register by the Registrar of Ships in any of the circumstances described under Regulation 51 of the Merchant Shipping (Registration of Ships) Regulations 2001.

3.0 Summary of Financial Implications

None

4.0 Background

4.1 The directors of Beauchene Fishing Company Ltd have advised the Registrar of Ships that they have commissioned the building of a 10.85 metres length motor launch which they intend to operate commercially in the Falkland Islands and although there is no requirement to register a non foreign going vessel, wish to register it in the Falkland Islands with the name of 'B-Mar'.

4.2 It is intended to operate this work boat in support of their fishing vessels ‘Igueldo’ and ‘Baffin Bay’, the longliner ‘Viking Bay’ and in business ventures such as the transportation of tourists during the summer to wildlife destinations and places of interest.

4.3 By nature of its size the vessel is not subject to the full safety and classification surveys as applicable to larger vessels however the owners are fully aware that it must be operated in accordance with the relevant United Kingdom codes of practice pertaining to small ships which apply in the Falkland Islands and have been taking advice from the Maritime and Coastguard Agency in this regard.

4.4 Beauchene Fishing Company Ltd is a company incorporated in the Falkland Islands of which the owners qualify to register merchant vessels in the Falkland Islands and whose details and beneficial shareholding interests in the company are:

<u>Individual Owner</u>	<u>Shareholding Interest</u>	<u>Eligibility</u>
Cheryl Ann Spencer ROBERTS	60%	Falkland Islands status
Peter James ROBERTS	40 %	Falkland Islands status

4.5 The principal particulars of the ‘B-Mar ’ are:

Yard No:	GBSMG35011B901
Date of Build:	Estimated completion date of mid February 2009
Type of Vessel:	Seaward 35 single hulled work boat with cargo and passenger carrying capabilities
Length:	10.85 metres
Beam:	3.44 metres
Draft:	1.16 metres
Estimated Tonnage:	9.82 tons (displacement)
Main Propulsion:	Two x Yanmar 370 hp diesel engines

Relevant Registration Legislation

4.6 The Merchant Shipping Ordinance 2001 and the Merchant Shipping (Registration of Ships) Regulations 2001 came into effect in the Falkland Islands on 15 September 2003. In respect of merchant vessels, regulations 7. to 9. stipulate the requirements in respect of qualifying ownership and eligibility & Falkland Islands connection:-

7. - (1) The following persons are qualified to be the owners of ships which are registered on Part I of the Register—

- (a) British citizens;
- (b) British Dependent Territories citizens;
- (c) British Overseas citizens;

- (d) persons who under the British Nationality Act 1981(f) are British subjects;
 - (e) persons who are British Nationals (Overseas);
 - (f) bodies corporate incorporated in the Falkland Islands;
 - (g) bodies corporate incorporated in the United Kingdom or in any relevant British possession and having their principal place of business in the United Kingdom or in any such possession.
- (2) A person who is not qualified under paragraph (1) to be the owner of a British ship may nevertheless be one of the owners of such a ship if —
- (a) a majority interest in the ship (within the meaning of regulation 8) is owned by persons who are qualified to be the owners of British ships; and
 - (b) the ship is registered on Part I of the Register.

Falkland Islands connection and majority interest

8. - (1) A ship shall not be registered in the Falkland Islands unless the Governor has informed the Registrar that he consents to that ship being registered on the Register.

(2) Without prejudice to regulation 12 (eligibility of fishing vessels for registration under this Part) the Governor shall not consent to registration of a ship on the Register unless he is satisfied that —

- (a) a majority interest in the ship is owned by one or more persons qualified to be owners of British ships; and
- (b) one or more of the following requirements is satisfied in respect of the ship —
 - (i) it is beneficially owned to the extent of at least 25% of the shares therein by persons having Falkland Islands status;
 - (ii) it is owned to the extent of at least 25% of the shares therein by one or more qualifying companies;
 - (iii) it is owned to the extent of at least 25% of the shares therein by a combination of persons having Falkland Islands status and one or more qualifying companies.

(3) In paragraph (2) —

- (a) “owned” means beneficially owned;
- (b) a company is a “qualifying company” if the following requirements are satisfied —
 - (i) the company is incorporated in the Falkland Islands;
 - (ii) at least 75% of the issued share capital (and where there is more than one class of share capital at least

75% of each such class) is beneficially owned by persons having Falkland Islands status,

- (c) “Falkland Islands status” has the same meaning as it has for the purposes of section 17 of the Constitution (now section 22).

(4) Nothing in subparagraph (b) of paragraph (2) applies in respect of any ship in which at least 33 shares are owned by an agency of Her Majesty’s Government in the United Kingdom.

Supplementary to regulation 8.

9. For the purposes of regulation 8 (Falkland Islands connection and majority interest) -

- (a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or in those persons, taken together, the legal title to 33 or more shares in the ship (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not entitled to be an owner of a British ship); and
- (b) one or more persons shall be treated as owning 25% or more of a ship if there is vested in that person or in those persons taken together, the legal title to 16 or more shares in the ship (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not either —

- (i) a natural person who has Falkland Islands status, or
(ii) a qualifying company as defined in regulation 8(3)(b)).

4.7 On the basis of the information contained on the Declaration of Eligibility form received by the Registrar of Ships as outlined at paragraph 4.4 it is clear that Beauchene Fishing Company Ltd meet the ownership and Falkland Islands connection criteria as described.

4.8 Regulation 51 provides for the removal of vessels from the Register and of particular note are sub- paragraphs:

a. Removal of vessels on instruction of the Governor in accordance with Regulation 52, (condition and safety),

b. On a ship no longer being eligible (e.g. change of ownership share interests),

5.0 Financial Implications

5.1 None

6.0 Legal Implications

6.1 None

7.0 Human Resources Implications

7.1 None