

Summary of the Detention Case 35-01-2020

I. General

Ground for detention

The ship was detained due to the following detainable deficiency:

04114 Emergency source of power - Emergency generator: Emergency generator does not automatically connect emergency switchboard.

Dispute

The flag State did not agree with the detention by the port State Authority and expressed views that:

1. The detainable deficiency (Emergency generator does not automatically connect emergency switchboard) was due to failure of a fuse of the emergency switchboard, which had been already damaged as the consequence of the explosion of the batteries, a non-detainable deficiency (action code 17) recorded during the first visit of PSCO on the previous day; therefore, this is considered an equipment failure occurred accidentally;
2. If the crew could have been given sufficient time for the installation of the new batteries and running the tests on their own before the second boarding of the PSCO, the damaged fuse would have been identified and restored by the crew in advance; unfortunately, this was not the case since the PSCO came onboard without invitation/request by the vessel; and
3. The damaged fuse was identified and replaced by the crew in a very short period of time; such meant enough to allow the vessel to rectify the defective item before departure instead of detention.

Based on the above, the flag State is of the opinion that the detention was not supported technically and, therefore, action taken code 30 needs to be downgraded to code 17.

The port State Authority is of the opinion that:

1. The PSCO did not detain the vessel for the explosion of batteries during the first visit but the failure of emergency generator to connect to emergency switchboard was a separate issue, which would be a detainable deficiency in accordance with IMO Res. A.1138 (31) – Procedures for Port State Control, 2019;
2. After receipt of notice by the chief engineer that the system was ready to be tested, the PSCO checked the emergency generator sequence test and, after identified the failure of the emergency generator to connect to the emergency switchboard, the PSCO gave extra time for the deficiency to be rectified but, by the end of the inspection, the emergency generator was still unable to connect to the emergency switchboard; and
3. There is no requirement under its national legislation to require a PSCO to be invited to a ship before boarding for a follow up inspection.

Based on the above, the detention was appropriate and correct.

II. Opinions of the panel

Opinions in favour of the detention

Six panel members considered the detention justified with the opinion that:

1. Based on SOLAS Chapter II-1/Reg.43 and IMO Res. A.1138 (31) – Procedures for Port State Control, 2019, the failure of emergency generator to connect to emergency switchboard automatically would be considered a detainable deficiency;
2. The PSCO gave time for the vessel to get the issue to be resolved but the deficiency could not be rectified and also the cause of the failure was not identified until the end of the inspection;
3. It was mutually agreed between the vessel and the PSCO during first visit that the emergency generator sequence test would be conducted upon replacement of the batteries; therefore, when the chief engineer notify the PSCO that it was ready to check the sequence test, the emergency generator should be functioning well and whether the damaged fuse was linked to the battery explosion would not be relevant; and
4. There is no requirement in IMO Res. A.1138(31) – Procedures for Port State Control, 2019 to request PSCO to be invited for follow-up inspection; it would not be rational to dispute a detention on the basis of no advance notice by PSCO for follow-up inspection.

Taking the above into account, the detention is justified.

Opinions not in favour of the detention

Three panel members were of the view that, although the detainable deficiency itself would be justified, the detention would need to be reconsidered based on the following:

1. Although the emergency generator failed to connect to the emergency switchboard was considered a detainable deficiency, in accordance with criteria 3.1.1 in Appendix 2 (Guidelines for the detention of ships) to Resolution A.1138 (31), the vessel should detained upon the first inspection but this specific detention was made during the follow-up inspection/second visit;
2. In connection with the above, it is considered not appropriate to detain the vessel during follow-up inspection based on based on the MOU guidance on action taken code usage that action code 30 is not a next available deficiency action code for action code 17, i.e. once the action code 17 is issued, it should not be changed to 30. That echoes the same principle in the above mentioned IMO Res. A.1138(31);
3. Although the PSCO issued a separate paper initial inspection/detention report in accordance with the MOU procedure that new deficiency found during follow-up inspection should be recorded as a separate initial inspection, but only one inspection report is entered in the database;
4. It appears that, if effective communications between ship and PSCO could have been carried out, the chief engineer would not have felt time pressure and would do a verification first before the test; and
5. It would be prudent that PSCO would have exercised more considerable professional judgement and flexibility for cases like this before issuing detention over zealously.

Based on the above, the detention is not justified.

III. Conclusion

The majority of the panel members (6 of 9) are of the opinion that the decision of detention was justified. Therefore, the port State Authority would not be asked to reconsider the decision of the detention.