

Summary of the Detention Case 37-03-2020

I. General

Ground for detention

The ship was detained due to the following detainable deficiencies:

07105 Fire doors/openings in fire-resisting divisions - FIRE PROTECTION SELF-CLOSING DOOR LEADING TO ENGINE ROOM FROM MAIN DECK FOUND OUT-OF-ORDER;

15199 Other (ISM) - ABOVE SHOWN DEFICIENCIES ARE OBJECTIVE EVIDENCE OF A FAILURE, OR LACK OF EFFECTIVENESS OF THE IMPLEMENTATION OF THE ISM.

Dispute

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

1. The fire door in question was in good working order as it was demonstrated that the fire door was fully closed by its self-closing device, without any gap and closed/tightened up with fully operational manual closing device, therefore the fire door was in compliance with SOLAS CII-2/R9;
2. Multiple deficiencies on cleanliness were raised based on observed stains rather than any leakage at the time of the inspection;
3. Most of the deficiencies were rectified before completion of the inspection e.g. navigation lights, funnel lights, placard, etc.; and
4. There was no objective evidence to prove a serious failure of safety management system onboard, for which the vessel was detained.

Based on the above, the detention was unjustified.

The port State Authority is of the opinion that:

1. The inspection was conducted in accordance with relevant PSC procedures;
2. The fire protection self-closing door leading to engine room was not closing appropriately due to that the door fixing device was faulty, such was considered a serious violation of fire-protection condition; in accordance with guidelines for the detention of ships (Appendix 2 to IMO Res. A.1138 (31)), it would be a detainable deficiency;
3. In addition, this engine room fire protection self-closing door is also equipped with the code door lock for prevention of unauthorized access to the engine room. The non-working condition of the code lock of a door violates the security protection requirements established on the vessel that, in principle, it is direct violation of the Ship Security Plan; and
4. Considering a significant number of different-natured deficiencies, including serious one, which were indicated as objective evidence of a failure, or lack of effectiveness of the implementation of the ISM, therefore, the ship was detained by ISM Code in accordance with guidelines for the detention of ships (Appendix 2 to IMO Res. A.1138 (31)).

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

II. Opinions of the panel

Opinions in favour of the detention

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

Detainable deficiency No.1: Fire protection self-closing door leading to engine room from main deck found out-of-order

1. The fire protection self-closing door leading to engine room was not closing due to faulty fixing door device. According to SOLAS Chapter II-2/Reg.9, "doors fitted in boundary bulkheads of machinery spaces of category 'A' shall be reasonably gastight and self-closing". The fire door in question was for "dual function" purpose, as it was both fire-protection door and security door equipped with the code door lock for prevention of unauthorized access to the engine room. Nonfunctional of the code door lock violated the vessel's established security protection requirements as per the Ship Security Plan. Taking the procedure of 3.4.5 of Appendix 2 to Resolution A.1138 (31) into account, the self-closing fire-protection door capability to ensure integrity of fire-resistance division in accordance with SOLAS was not completely met;

2. There appeared no argument that, at the time of inspection, the fire protection self-closing door was defective;

Detainable deficiency No.2: Failure or lack of effectiveness of the implementation of the ISM based on deficiencies observed

3. The collective nature of the deficiencies indicates a non-compliance with the cleanliness and shipboard operations under ISM; and

4. The number (i.e. 22 in total) and nature of the deficiencies identified by the PSCO collectively indicate a failure or lack of effectiveness in the implementation the ISM Code element 7, 10 and 12.

Taking the above into account, the detention is justified.

Opinions not in favour of the detention

Five 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:

Detainable deficiency No.1: Fire protection self-closing door leading to engine room from main deck found out-of-order

1. The door and its closing mechanism are functioning as per requirement even though the latch bolt of the digital lock may be defective. This does not, in any way, compromise the integrity of the fire door and its closing arrangement as per the design as the door can still self-close automatically; As such, it would be inappropriate or misleading to describe the issue as the self-closing fire door out-of-order;

2. It is possible that the defective latch bolt only serves to prevent the door from opening properly rather than closing tightly which is not what the deficiency is about. Hence a Code 17 would suffice for the deficiency as per recorded;

3. Furthermore, if the PSCO is concerned that there is non-compliance in meeting the security protection requirement, it should be recorded as an ISPS deficiency;

Detainable deficiency No.2: Failure or lack of effectiveness of the implementation of the ISM based on deficiencies observed

4. The majority of the deficiencies are related to housekeeping rather than indicating a serious failure or lack of effectiveness of the SMS implemented onboard. While there are some operational and equipment malfunction, they do not pose an immediate risk to ship, crew and marine environment except for the engine room damper out of order; and

5. In accordance with Tokyo MOU guidelines on the ISM Code (Section 3.2.-7 of PSC Manual), if failure or lack of effectiveness related to more than one element of the ISM Code, then PSCO would use deficiency code 15199 Other (ISM) with the wording to outline the elements of the Code that have failed or show a lack of effective implementation but the outline of elements as requested in the guideline are not provided.

Based on the above, the detention needs to be reconsidered.

Additional comments/observations by panel members

Apart from the above, following observation and comments are made by several panel members:

1. it would be better that the PSCO could have used their professional judgement to combine some of the deficiencies, which were under the same category/code but just worded differently;
2. in addition, based on information/materials available, there appeared lack of objective evidence to justify findings of stain of oil/gas leakages or dirty by oil by PSCO as deficiencies for constituting the major non-conformity of ISM; and
3. although there were no objective evidences from both the flag and port States to ascertain whether the deficiency of fire protection self-closing door was rectified during the inspection, if, as appealed by the flag State, the defect was rectified during the inspection, and not considered by the attending PSCO, this would appear to be in breach of Code of Good Practice for PSCO.

III. Conclusion

The majority of the panel members (5 of 9) are of the opinion that the decision of detention was not justified. Therefore, the port State Authority would be asked to reconsider the decision of the detention. Furthermore, the port State Authority should note the additional comments/ observations above by panel members.