

## **Summary of Detention Case 04-02-2006**

### **General**

#### **Ground for detention**

The vessel was detained due to the detainable deficiency - "Technical Files for auxiliary engines for generator-not available on board".

The Technical Files for auxiliary engines were subsequently presented and the vessel was released next day.

#### **Dispute**

The flag State does not agree with the detention and is of the opinion that:

1. Since the deadline for full compliance with MARPOL Annex VI, including certification requirements for EIAPP and Technical File, is 19 May 2008 (4 June 2007 for the vessel), it would not be mandatory to request the vessel to carry Technical Files at the moment of inspection; and
2. The inability of the Master to locate and produce the Technical File for the generator engine was just a matter of minor human error, not evidence that the engine was not in compliance with MARPOL Annex VI requirements.

The port State Authority expressed that, in accordance with Regulation 13 of MARPOL Annex VI, control of NOx emission from ships applied to each engine with a power output of more than 130 KW, which is installed on a ship constructed on or after 1 January 2000, from the date of the entry into force of MARPOL Annex VI (19 May 2005). Therefore, no matter the vessel held the IAPP certificate or not, the Technical File must be available on board as required by the NOx Technical Code.

### **Opinions of the panel**

As result of discussion and re-consideration, there remains two different opinions among the panel members, i.e. one side considers that the detention was justified and the port State Authority needs not to re-consider its decision while the other is of the opinion that the port State Authority should consider and revoke the detention. The opinions of the two sides are summarized below:

#### **Views/reasons concurring with the port State**

Although it may not be mandatory for the vessel to be issued with IAPP certificate, however, the provisions of regulation 13 of the Annex, relating to NOx and Technical Files, applied to this vessel from the date of entry of the Annex (19 May 2005). Therefore the vessel should have been able to produce the technical file for the generators and demonstrate an understanding of the operating parameters to ensure compliance with the NOx requirements. Meanwhile, it is advisable for the PSCO in this very specific case to ask firstly the ship or her RO to submit some evidence proving the compliance of the equipment and then make his final decision on ship/RO's submission.

### Views/reasons requesting the port State to re-consider the detention

During the PSC inspection the master could not show the Technical Files for the generator engine. This is correctly identified by the PSCO under code 2530, ISM related resources and personnel - not familiar with Marpol An.VI with an action taken code 18. So why should the ship be detained if the PSCO is giving 3 months for ships personnel to familiarize with the ships documents. Further more the Technical Files for the generator were presented to the PSCO the next day, the files were on board it was only a matter of time to locate this file, PSCO could have asked that the deficiency be rectified before departure, the files were not missing or invalid for the type of machinery. It seemed that the PSCO did not carried out further check or investigation to confirm whether the generator was actually complied with the requirements but just detained the ship for not showing a document during initial inspection.

### **Conclusion**

Since there is no unanimous opinion reached by the panel, no recommendation would be made on the case.