

## Summary of the Detention Case 06-04-2006

### **General**

#### Ground for detention

The vessel was detained due to the detainable deficiency - "The type of ship "Oil tanker" removed from DOC on 22nd March 2006, even though the ship loaded oil cargo". The situation of the case is that:

1. the category of "Oil tanker" was deleted from the DOC by the flag State on 22 March 2006;
2. SMC certified the ship as "Oil/Chemical tanker"; and
3. the ship loaded with both oil and chemical cargoes at the time of inspection.

#### Dispute

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

1. It is not reasonable to detain the ship only because of the improper/incorrect entry in certificates since improper/incorrect entries in certificate do not create an immediate safety, health and environment hazard;
2. There is no any deficiencies found onboard the ship which present an immediate threat to the ship, its personnel or environment;
3. No detailed/expanded inspection has been performed to determine if the ship and her crew were posing a significant hazard to safety, health and environment; and
4. The lesser action code, rather than detention, would have been more appropriate.

The Authority is of the opinion that:

1. The ship should be treated as Oil/Chemical tanker based on SMC and actual loading condition;
2. But, as consequence of deletion of the category of "Oil tanker" from the DOC, the company would not be allowed to manage oil tankers; and
3. Therefore, the relevant SOLAS regulations and the ISM Code are not complied by the company.

### **Opinions of the panel**

Having reviewed information/materials provided, the following general opinions were received:

1. In accordance with Regulation 1(4) of MARPOL Annex I and 6.1.1 of the Unified Interpretation given for Annex I, the vessel was by definition both a chemical tanker and an oil tanker and, therefore, the vessel should have held a Safety Management

Certificate (SMC) **and** a Document of Compliance (DOC) relevant to both ship types;

2. Based on 3.7.1 of Resolution A.787(19) as amended, a SMC is **not valid** unless the company holds a valid DOC for that ship type and, in this case, the company did not hold a DOC for this ship type;
3. It was in order to detain the ship when the PSCO had reason to believe that the company was not qualified to operate an oil tanker; and
4. Lack of valid certificates may warrant detention is one of the general procedures and the only way to ensure rectification of this major non-conformity before allowing the ship to proceed to sea is to detain it.

Based on the above, members of the panel confirmed that the detention order made by the PSC officer at the time of inspection was justified.

However, one of the members also expressed the following views that:

- It was a 'technical error' in the ISM certification.
- No material deficiencies were found on the ship which would render it unsafe to proceed to sea.
- While it was reasonable to 'detain' the ships till the doubts on the ISM certification were cleared, it was NOT reasonable not to delete the detention record after the doubts were cleared.

*Note: Based on the agreement by the MOU-SWG, the panel considered the case as a special reference case, without making conclusion or recommendation to the port State Authority. Therefore, the summary only contains views expressed by the panel members.*