

Summary of the Detention Case 07-01-2007

General

A request is received from the flag State concerning detention of 10 vessels by port State Authority during a three-month period.

Description of the detentions

1. vessel No.1, a tugboat with gross tonnage of 47 tons, was detained at port 1. The detainable deficiency recorded is "0230-Manning specified by the minimum safe manning document--Master and officers must holding unlimited voyages certificate of competency".
2. vessel No.2, a tugboat with gross tonnage of 50 tons, was detained at port 1. The detainable deficiencies are "0135-Minimum Safe Manning Document--No manning certificate on board" and "0230-Manning specified by the minimum safe manning document--To be for unlimited voyage".
3. vessel No.3, a general cargo ship with gross tonnage of 134, was detained at port 1. The detainable deficiencies are "0135-Minimum Safe Manning Document--No manning document on board ship" and "0221-Certificates for master and officers--Master and officers must holding unlimited voyages certificate of competency".
4. vessel No.4, a general cargo ship with gross tonnage of 142, was detained at port 2. The detainable deficiency is "0135-Minimum Safe Manning Document--Not available on board".
5. vessel No.5, a tugboat with gross tonnage of 25 tons, was detained at port 2. The detainable deficiencies are "0135-Minimum Safe Manning Document--Not available on board", "0620-Inflatable liferafts--Liferaft expired" and "0740-Fire pumps--Fire pump not working".
6. vessel No.6, a tugboat with gross tonnage of 97 tons, was detained at port 2. The detainable deficiency is "0221-Certificates for master and officers--Master & all officers must holding unlimited voyages".
7. vessel No.7, a tugboat with gross tonnage of 75 tons, was detained at port 2. The detainable deficiency is "0221-Certificates for master and officers--Master & all officers must holding unlimited voyages".
8. vessel No.8, a tugboat with gross tonnage of 98 tons, was detained at port 2. The detainable deficiency is "0230-Manning specified by the minimum safe manning document--Master and officers must holding unlimited voyage certificate of competency".
9. vessel No.9, a tugboat with gross tonnage of 99 tons, was detained at port 2. The detainable deficiency is "0221-Certificates for master and officers--Master and officers certificate of competency must be for unlimited voyage".

10. vessel No.10, a tugboat with gross tonnage of 204 tons, was detained at port 2. The detainable deficiency is "0221-Certificates for master and officers--Must for unlimited voyages".

Additional information

The flag State, after the above mentioned detentions, made an application to the port State Authority for permission of operating 35 near-coastal vessels (including 10 detained vessels) in waters of the port State. The port State Authority gave permission to the 35 vessels.

Dispute

The flag State disagreed with the above detentions by the port State Authority, and expressed views that:

1. All the vessels concerned are not required to carry minimum safe manning document since they are below convention size (i.e. less than 500 tons); if the port State Authority requires such vessels to have the manning document, they should request the flag State to specify the required number of crew and its composition and to issue a document as quickly as possible in accordance with procedures provided in Resolution A.787(19) but should not detain the vessel;
2. The officers onboard are holding Certificate of Competency issued by a neighbouring country which are only valid for near coastal voyages as defined by the neighbouring country (a member of ASEAN) and Certificates of Competency for the officers onboard are endorsed by flag State in accordance with regulation I/10 of STCW; It is unacceptable and untenable that the port State Authority requests officers serving on near coastal vessels to hold certificates for unlimited voyages because such request contravenes regulation I/3 of STCW; and
3. The vessels concerned have been trading regularly in port State for many years and have good records for PSC in that country (i.e. without detentions) during period of 2002-early 2007; the mentioned detentions are results of a discriminatory circular by the port State Authority under which its flag and some other flags are targeted.

The port State Authority is of the opinion that:

1. Ships were detained under PSC due to manning requirements not in accordance with STCW convention;
2. **Regulation II/3 Chapter II of STCW Convention** requires Master and officers manning vessel below 500 gt operating beyond Near Coastal waters of party to hold an appropriate certificate for ships of 500 gross tonnage or more;
3. All the vessels are manned by Master, Chief Officer and Engineers Holding Competency Certificate (COC) Class V issued by a neighbouring country. Class V of the neighbouring country (COC) is meant for vessel below 500 gt operating in Near Coastal waters define by that country; and

4. No Provision under STCW Convention which allow a party to trade within another party near coast limits under the excuse were manned by officer or engineer certificates of competency issued by that particular party concerned.

Opinions of the panel

The panel members reviewed all relevant information and materials received. As the result of evaluation of grounds for the detentions, panel members reached general opinions as follows:

Minimum safe manning document

It is not justified to put unavailability of minimum safe manning document as detainable deficiency for vessels below 500gt since the minimum safe manning document is only required for vessels of 500gt and above in accordance with SOLAS. If the port State Authority requests the vessel to carry the minimum safe manning document or the equivalent, the port State Authority should contact the Flag State for that purpose.

Certificate of competency for unlimited voyages

- (a) If the port State has a doubt regarding safe manning, they should request the flag State to specify the required number of crew and its composition prior to detention in accordance with PSC procedures;
- (b) The vessels concerned are engaging in the “near-coastal waters” as defined by that port State and the crew onboard hold certificate of competency for near-coastal voyages issued by its neighbouring country and endorsed by the flag State, therefore port State should not impose the stringent standards in excess of requirements for its own flag vessels engaged in near-coastal voyages to foreign vessels engaged in near-coastal voyages of its own country in accordance with regulation 1/3 of STCW (i.e. it is not appropriate to request crew onboard to hold certificate of competency for unlimited voyages if that Authority does not require the same for crew onboard its own near-coastal vessels); and
- (c) On the other hand, the flag State should have proved that the vessels concerned are engaging only in the near-coastal area as defined by port State in order to receive the privilege. It is observed that, if the flag State made application to port State for permission of operating the vessels in near-coastal waters of the port State earlier, some of the detentions can be avoided.

Liferaft expired

It is not justified to record “liferaft expired” as detainable deficiency for vessel No.5 because the date for re-inspection of the liferaft is still valid (not overdue) on the day of inspection.

Fire pump not working

The detainable deficiency regarding fire pump for vessel No.5 is justified because the fire pump should be maintained in working condition all the time and there is no evidence that the master/owner instructed the crew to repair the fire pump before the PSC officer pointed out the deficiency. However the assignment of RO responsibility to this deficiency needs to be re-considered unless there is evidence showing that the fire pump was not in working condition at time of survey by the RO.

Conclusion

The panel members unanimously agreed that:

1. the Port State Authority should be asked to re-consider the detentions of vessels No.1-4 and 6-10;
2. the Port State Authority should be asked to re-consider the detainable deficiencies of “Minimum safe manning document-not available on board” and “Liferaft expired” for vessel No.5; and
3. the Port State Authority should be asked to re-consider the assignment of RO responsibility for the detainable deficiency of “Fire pump not working” for vessel No.5.

Action taken by the port State

The port State Authority accepted recommendations made by the detention review panel. Upon re-consideration, the Authority decided to withdraw all the related detentions.