

## Summary of the Detention Case 41-01-2022

### I. General

#### Ground for detention

The ship was detained due to the following detainable deficiencies:

01104 Cargo Ship Safety Radio (including exemption) - CARGO SHIP SAFETY RADIO CERTIFICATE, INVALID;  
01199 Other (certificates) - CLASSIFICATION CERTIFICATE, INVALID;  
01117 International Oil Pollution Prevention (IOPP) - INTERNATIONAL OIL POLLUTION CERTIFICATE, INVALID;  
18321 Heating, air conditioning and ventilation - AIR CONDITIONING, OUT OF ORDER.

#### Dispute

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

1. The three certificates in question were actually valid at the time of inspection although, due to a human error, invalid certificates were presented to PSCO during inspection; the Class/RO confirmed the validity of certificates and informed the PSCO but was not accepted; and
2. The inoperable air conditioner was under maintenance at the time of inspection and the same was informed to the PSCO before commencement of inspection; the maintenance/repair of the air conditioner was completed before departure; since this was not considered as "repeated breaches", it would not be appropriate to detain the vessel.

Based on the above, the detention was unjustified.

1. The certificates presented were found invalid upon checking QR code by the PSCO; no valid certificates were able to be provided to the PSCO prior the conclusion of the inspection; in accordance with Guidelines for the detention of ships (Appendix 2) contained in the Procedures for port State control 2021 (Res. A.1155(32)), lack of valid certificates as required by relevant conventions may warrant the detention of the ship; and
2. Failure of air conditioner would be considered a serious violation of MLC 2006.

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

### II. Opinions of the panel

#### Opinions in favour of the detention

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

#### Detainable deficiencies for invalid certificates

1. The vessel provided hard copy of certificates via its agent to the Harbour Master Office for obtaining port clearance, during which three e-certificates (i.e. Safety Radio, IOPP and class) were found invalid upon verification through the website of RO (i.e. CCS) by barcode scanning; based on the above, the PSC inspection was initiated where the master also provided/showed the wrong/invalid certificates; since, at the time of inspection, the vessel/master was unable to provide/present valid certificates, in

accordance with Guidelines for the detention of ships contained in Appendix 2 to Procedures for port State control 2021 (Res. A.1155(32)), lack of valid certificates (including IOPP and Safety Radio) may warrant the detention;

2. Although it was consequently confirmed that there were valid certificates which had been issued to the vessel, it would be considered a serious issue that valid certificates would not be readily available onboard for verification; the proof of availability of valid certificates obtained from the RO was presented to PSCOs after pointing out the detainable deficiencies, which would be considered insufficient/inadequate for turning over the detention, since the decision of PSCO could only be based on information/evidence available at the time of inspection;

*Detainable deficiency for Air Conditioner*

3. Although the chief engineer informed the PSCO of the air conditioner not in working condition, there was no evidence to demonstrate that the issue was reported when submission of sailing declaration for port clearance or that a plan of action to rectify the deficiency was discussed and agreed between the vessel and PSCO; and

4. In accordance with the “Guidelines for port State control officers under the MLC, 2006” as adopted by ILO, air conditioning that is not working adequately could warrant a decision to keep the ship in port (in the absence of agreement on a proposal for a plan of action to rectify the deficiency).

Taking the above into account, the detention is marginally justified/accepted.

Apart from the above, one of the two panel members expressed the following observations about the detainable deficiency for air conditioner:

1. the chief engineer had informed the PSCO of the out of order of air conditioner and it was in the process of repairing it at the start of inspection;

2. the deficiency related to air conditioner would not be considered to make the vessel unsafe to sail or sufficiently serious to merit a PSCO returning to the ship to satisfy himself that the deficiency has been rectified before the ship sail; and

3. based on the above, it would be appropriate to reconsider this detainable deficiency.

Opinions not in favour of the detention

Five panel members were of the view that the detention would need to be reconsidered based on the following:

*Detainable deficiencies for invalid certificates*

1. In accordance with Procedures for port State control 2021 (Res. A.1155(32)), it is considered appropriate that, if PSCO found issues/problems relating to ship certificates, such issues should be treated as clear grounds for the more detailed inspection and the more detailed inspection would be initiated in order to confirm whether the relevant condition and equipment of the vessel would present unreasonable danger to the safety, health, or the environment before making decision of detention; however, in this case, the port State did not provide objective and sufficient information about the areas/items covered by the more detailed inspection and the findings thereof, as such the more detailed inspection was seemed only limited to validity of certificates by QR code scanning;

2. It is noted that, although the RO provided confirmation of the ships' survey status and the validity of certificates to the PSCO while the inspection was still on-going and the port State Authority appeared to confirm that the intervention took place, but the port State Authority did not explain why the evidence and confirmation of certificate status provided were not accepted; moreover, it was confirmed that the certificates in question were actually valid consequently;

3. It is considered insufficient that the PSCO determined the three e-certificates invalid only by QR code scanning since, apart from more detailed information, the step/procedure for confirmation of validity of certificates via consultation with the flag and/or the RO appeared not being taken appropriately and, in addition to QR code scanning, other methods for verification of e-certificate (e.g. using unique tracking number (UTN) or contact for emergency circumstances) provided in the instructions for verifying the information contained in the electronic certificate (i.e. in this case: (2018) Technical Information by RO);

4. Although the vessel did not submit the valid/correct certificates at the time of inspection, which could be recorded as a deficiency by the professional judgement of the PSCO, but the vessel should not have been detained taking the above into account.

*Detainable deficiency for Air Conditioner*

5. Although the deficiency of inoperable air conditioner would be a valid deficiency, which would not be considered detainable, since the chief engineer informed the PSCO at the start of inspection that the air conditioner was under rectification/maintenance; in accordance with paragraph 1.2.4.1 of criteria in Section 3.1-4 of the PSC Manual, malfunctioning or routine maintenance of machinery or equipment while the ship is in port would not warrant the detention of the vessel if the master has initiated rectification action and advised the PSCO of this situation prior to the start of the inspection;

6. There was no objective evidence/indication found by the PSCO to prove the deficiency of inoperable air conditioner to be long standing and/or the serious/ repeated breach of the requirements of the MLC 2006; therefore, it is considered excessive to use code 30 (detention) in this case.

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

### **III. Conclusion**

The majority of the panel members (5 of 7) 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.