

Summary of the Detention Case 39-01-2021

I. General

Ground for detention

The ship was detained due to the following detainable deficiency:

01117 International Oil Pollution Prevention (IOPP) - IOPP cert. - Annual Endorsement, out of window. The last annual endorsement has been carried out on Oct. 12, 2020 and the expiration date of the mention certificate is 9 July 2022. Therefore the range for carry out the annual survey is from 9/Apr. to 9/Oct. 2020.

Dispute

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

1. The owner of the vessel requested to schedule IOPP Survey on 05 October 2020, which was within the survey window 9 April 2020 – 9 October 2020, the IOPP Annual Survey was consequently completed on 12 October 2020 at the first port of arrival but 3 days after the end of the survey window;
2. In accordance with IMO Assembly Resolution A.1138(31) paragraph 2.4.2, if there is the evidence from the review of the ship's certificates that a certificate or certificates are invalid, it would be the clear grounds for a more detailed inspection; and
3. The lack of the revalidation clause "Overdue Mandatory Annual Survey/Intermediate Survey completed on 12-Oct-2020 based on IMO Assembly Resolution A.1140(31) paragraph 5.6 was an administrative oversight of the RO, however it did not affect the equipment related to the certificate in question.

Based on the above, the detention was unjustified.

The port State Authority is of the opinion that:

1. The IOPP certificate of the vessel was considered invalid since it was not revalidated in accordance with paragraph 5.6 of the "Survey Guidelines under the Harmonized System of Survey and Certification (HSSC)" (Resolution A.1120(30));
2. The vessel has been sailing since October 12, 2020 with the invalid IOPP certificate, because the annual endorsement was out of window, without having been detected by its crew, the Company, the RO or the Flag State, until this situation was detected by the PSCO; and
3. In order to avoid the detention and to clarify the situation, its Authority contacted the RO, but did not receive an immediate response, before the PSCO finish the inspection.

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:

1. The IOPP certificate of the vessel was considered invalid since the annual survey was out of the survey window period (i.e. 9 April – 9 October) and the revalidation of the certificate was not in compliance with 5.6 of the Survey Guidelines under the Harmonized System of Survey and Certification (HSSC) (Resolution A.1140(31));
2. The master/vessel, the company, the RO or the flag State did not aware that the vessel sailed with the invalid IOPP certificate since 12 October 2020 until it was detected by the PSCO; furthermore, the port State Authority provided the opportunity to the RO to clarify/rectify the issue but did not receive the response;
3. Although the invalid certificate/documentation alone may not render the vessel unseaworthy, the invalid documentation may render insurance certification invalid and this could have significant environmental consequences (e.g. Had an incident occurred, and insurance refuses to pay for cleanup costs due to the invalid certification, this would likely have dire consequences on any coastal or port State affected); and
4. It would also be an issue relating to the ISM Code that, despite of 6 months survey window, the vessel/company requested the annual survey just 4 days before the closing of the window and the vessel sailed with the invalid certificate for a half year.

Taking the above into account, the detention is justified.

Opinions not in favour of the detention

Six 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:

1. The overdue annual survey detected by the PSC Officer would be an issue for the validity of the IOPP certificate, which would be a clear ground for more detailed inspection in accordance with IMO Procedures for PSC (Resolution A.1138(31)); however, there was no indication/information about whether the more detailed inspection as required had been carried out;
2. There were also no deficiencies recorded on the equipment related to the IOPP certificate during inspection such as oil filtering equipment, standard discharge connection or sludge tanks, which could prove/ascertain the unreasonable threat of harm to the marine environment by the vessel proceeding to sea;
3. In accordance with IMO Procedures for PSC (Resolution A.1138(31)), the overdue intermediate/annual survey itself cannot justify immediate detention; and
4. Considering that the annual survey was completed on 12 October 2020 and the vessel hold the IOPP certificate issued on the same day of inspection (i.e. 30 March 2021), the validity of the certificate would be considered restored in accordance with 5.6 of the “Survey Guidelines under the Harmonized System of Survey and Certification (HSSC)” (Resolution A.1140(31)); moreover, another factor may be considered that the case of passing the deadline for the survey could be related to the postponement of the survey due to the COVID-19 pandemic (for such a case, the Interim Guidance relating to COVID-19 circumstances should also be referred to for pragmatic approach on ship certification).

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

III. Conclusion

The majority of the panel members (6 of 10) 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.