

Summary of the Detention Case 43-02-2023

I. General

Ground for detention

The ship was detained due to the following detainable deficiency:

03102 Freeboard marks - Permanent loadline marks on the stbd side hull not comply with loadline certificate, certificate issued by RO-A on 10-APR-2022 and last annual survey conducted on 18-JAN-2023. Mark of assigning authority for loadline marks on hull is RO-B, while the load line certificate is issued by RO-A.

Dispute

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

1. The subject vessel was re-classified from RO-B to RO-A on 8 April 2022. At that time, the letters of RO-A were painted over RO-B, and the loadline requirements were confirmed by a survey RO-A. The vessel's intent was to wait until dry dock to remove the mark of RO-B and replace with permanent mark of RO-A;
2. However, the abovementioned situation did not affect the vessel's stability or seaworthiness condition. This was confirmed by an annual survey performed by RO-A on 18 January 2023; and
3. It is noted that the painted mark of RO-A was faded at the time of the PSC inspection, but the load line mark was visible and the vessel was in compliance with the load line certificates. Therefore, although the vessel needs to update the permanent markings in accordance with the ILLC regulations, but the deficiency is not considered detainable.

Based on the above, the detention was unjustified and it is requested to downgrade code 30 to 17.

The port State Authority is of the opinion that:

1. The PSCO found two sets of load line markings, the assigning authority marked on starboard side hull was mark of RO-B and the load line certificate ship carried was issued by RO-A, therefore did not comply with the load line certificate;
2. The PSCO found documentation of RO-A stating that the authority mark should be permanently marked at the first possible occasion and that the temporary marking of 'RI' was confirmed as satisfactory at the annual survey on 18 January 2023, however, the temporary marking was absent from the hull at the time of the inspection;
3. In accordance with Regulation 9 of LL Convention, the LL certificate shall not be delivered to the ship until the officer or surveyor acting under the provisions of Article 13 of the Convention has certified that the marks are correctly and permanently indicated on the ship's sides; and
4. According to the Guidelines for the detention of ships contained in Appendix 2 to the Procedures for Port State Control, 2021 (IMO Res. A.1155(32)), "Absence of, or impossibility to read, draught marks and/or Load Line Marks" is an area for detention under LL.

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:

1. At the time of inspection, the Load Line mark corresponding to the LL certificate was not indicated in the starboard side hull while the mark of the previous LL certificate issuing Authority/RO was clearly visible, which were considered not in compliance with Regulations 6 to 9 of the LL Convention; these points were also confirmed/accepted by the flag State;
2. In accordance with the Guidelines for the detention of ships contained in Appendix 2 to the Procedures for Port State Control, 2021 (IMO Res. A.1155(32)), "Absence of, or impossibility to read, draught marks and/or Load Line Marks" and (b) of Article 21 of LL Convention, "the position of the load line of the ship corresponds with the certificate", just like this case, would be a ground for detention/control; and
3. Furthermore, it is recalled that a question of "Do the freeboard marks or other marks appear to be in accordance with the Certificates?" was included in the CIC in 2011 relating to LL, based on the note to the questionnaire, where "No" answer to the question is selected, the ship should be considered for detention.

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

Opinions not in favour of the detention

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

1. In accordance with Procedures for port State control 2021 (Res. A.1155(32)), the deficiency in question would be considered as a ground for more detailed inspection and, taking the results of more detailed inspection into account, a decision of detention of the ship would be then considered; however, in this case, there is no indication that a more detailed inspection had been conducted and that the master was informed of these grounds and provided with an opportunity to contact the ship's flag State or, as appropriate, the RO responsible for issuing the certificate and invite their presence on board;
2. Giving consideration to the technical aspects below, it is considered that the vessel was neither unseaworthy nor in the condition which would constitute an unreasonable and immediate risk to the safety of the ship, crew onboard and/or the marine environment:
 - a) There is no evidence to indicate the LL certificate, which was issued on 10 April 2022 with a last annual survey on 18 January 2023 and expiry date until 2 December 2026, to be invalid;
 - b) In accordance with Regulation 7 of LL Convention, the mark of assigning Authority "*may be indicated*" and, therefore, it is not a mandatory requirement;
 - c) Moreover, Regulation 8 of LL Convention provides that the ring, lines and letters (as required by Regulations 4, 5 and 6) should be permanently marked on the sides of the ships to the satisfaction of the Administration; based on the evidence

available, all mandatory marks and lines were permanently marked correctly, which were certified by the RO during the survey on 18 January 2023; in addition, in the status report dated 6 February 2023, the RO did require correct permanent mark of assigning Authority to be made in the first possible occasion with a temporary mark of Authority to be made in the interim; and

- d) Regulation 9 of LL Convention requires the LL certificate not to be delivered to the ship unless a surveyor has certified the marks are correctly and permanently indicated; the issuance of the LL certificate to the ship means the surveyor/RO confirmed the compliance with the abovementioned regulation; there is no evidence has been provided to indicate the mandatory marks were not correct.

3. Although "Absence of, or impossibility to read, draught marks and/or Load Line Marks" as provided in the Guidelines for the detention of ships contained in Appendix 2 to the Procedures for Port State Control, 2021 (IMO Res. A.1155(32)) is a possible ground for detention, it does not mean that any issue related to the abovementioned area MUST be for detention.

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

III. Conclusion

The majority of the panel members (7 of 9) 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.