

Summary of the Detention Case 45-01-2025

I. General

Ground for detention

The ship was detained due to the following detainable deficiency:

10101 Pilot ladders and hoist/pilot transfer arrangements - BOTH SIDES
ACCOMMODATION LADDERS FOR PILOT NOT PROVIDED, DUE TO THE SHIP CAN
NOT ENSURE WHENEVER THE DISTANCE FROM THE SURFACE OF THE WATER
TO THE POINT OF ACCESS TO THE SHIP IS LESS THAN 9 M. (Reference:
SOLAS/CV/Regulation 23)

Dispute

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

1. The light condition is the vessels lightship and not a stability compliant seagoing condition, and as the vessel will not operate in this condition, this regulation is not applicable;
2. In the lightest stability compliant seagoing condition, a freeboard of 8.805m is attained resulting in a distance of less than 9m and as such only a pilot ladder is required and that in this condition, at a list of 15 degrees, the pilot ladders provided meet the requirement of SOLAS V/R.23.3.3.4 and meet the water within a single length; and
3. The PSCO, being informed of modification of the ship to fit accommodation ladders would require structural work not possible at the time of detention, changed the Action Code from 30 to 99 and released the vessel with no corrective action taken on this detainable deficiency; such indicates that the PSCO did not consider the deficiency sufficiently serious to merit the PSCO returning to be satisfied that it has been rectified before the ship sails and, therefore, the detention is not in accordance with Resolution A.1185(33) "Procedures for Port State Control".

Based on the above, the detention was unjustified.

The port State Authority is of the opinion that:

1. The term "whenever" in SOLAS/V/Reg.23.3.3.2 imposes a mandatory requirement for vessels to deploy an accommodation ladder in conjunction with the pilot ladder in all draft conditions where the freeboard exceeds 9 meters;
2. Based on the Stability Information Book of the vessel, the freeboard exceeds 9 meters under Lightship Condition, Docking Condition, and Speed Trial condition;
3. The presence of a 9-metre freeboard marking on the vessel serves as an acknowledgment of this requirement; and
4. The current arrangement does not comply with above mentioned SOLAS requirements, as there is no valid exemption or alternative arrangement documented.

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

II. Opinions of the panel

Opinions in favour of the detention

One panel member considered the detention justified with the opinion that:

1. The argument/view by the flag State that the “Light Ship Condition” as asserted by the Port State is not legally compliant seagoing condition and that a vessel, in practice, never sails with such a condition, is not valid, taking account of the following:

- .1 According to SOLAS Chapter V, Regulation 23.3.3.2, the term “whenever” broadly encompasses all possible situations without presupposing any specific navigation condition. The regulation only specifies a distance criterion of “9 meters.”;
- .2 Situations such as towing into port or sea trials may involve the vessel being in a lightship or docking condition, and such conditions, even temporary, can occur at any time;
- .3 It is not appropriate to selectively interpret and apply provisions from other SOLAS Chapters (which define requirements for equipment or ship types) in a manner favorable to the ship (the flag State), especially to describe a condition where the vessel is not practically seaworthy; therefore, the minimum length requirement for accommodation ladders stated in MSC.1/Circ.1331 cannot be regarded as an installation (applicability) criterion for combination arrangements with pilot ladders; and
- .4 The term “lightest sea-going condition”, as defined in SOLAS Chapters II-1 Regulation 3-9 and III Regulation 3, as well as MSC.1/Circ.1331, pertains specifically to ship structure and life-saving, which should not be applied to this matter.

2. Since the matter is related to the vertical distance from the surface of water to the pilot's point of access exceeding 9 meters, the view by the flag State that, based on a freeboard of 8.805 meters, the vessel is equipped with a pilot ladder of 12.73 meters in length, which satisfies an adverse list of 15° requirement, and that the requirements for a combined arrangement do not apply under such list would not be considered relevant; and

3. Regarding the view by the flag State that the detention was not in accordance with re-inspection criterion for detention contained in paragraph 3.1.2 of Guidelines for the Detention of Ships (Appendix 2 to Resolution A.1185(33) “Procedures for Port State Control”) as the vessel was released with no corrective action taken on this detainable deficiency, with the deficiency Action Code modified to Code 99 with a date of the next renewal survey, which indicates the deficiency to be not sufficiently serious to merit the PSCO returning to be satisfied that it has been rectified before the ship sails, it is considered that the view by the flag State was based on a misinterpretation of the procedures and does not address the substantive legal justification for detention and that the lacking of corrective action for this case does not alter the fact that the deficiency constituted a breach of the relevant conventions and justified the detention.

Based on the above, the detention is considered justified.

Apart from the above, that panel member suggested that, in order to minimize potential disputes between flag and port States regarding the application of combination arrangement requirements for pilot ladders in similar cases, it is recommended that a unified interpretation (UI) be proposed for discussion at a future session of the IMO Maritime Safety Committee (MSC). This UI should clarify, inter alia, the criteria for

applying the “freeboard distance in all conditions (whenever)” as stipulated under SOLAS Chapter V, Regulation 23.3.

Opinions justifying the deficiency but suggesting reconsideration of the detention

One panel member was of the view that:

1. Based on the materials provided, the absence of accommodation ladders on both port and starboard sides may be considered non-compliant with SOLAS Chapter V, Regulation 23, which specifies requirements for pilot transfer arrangements when the height of access exceeds 9 meters;
2. Giving considerations of ship's operational profile and the technical challenges of retrofitting, the timeline (i.e. by next renewal survey) for resolving the issue appears reasonable, if the pilot safe transfer could be ensured through alternate compliant arrangements; and
3. Although the detention appears to be technically justified, it would be appropriate for the port State to reconsider the decision upon the corrective action being planned.

Taking the above into account, the deficiency is technically justified however the detention would be reconsidered.

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:

1. This case is about the argument between the flag State and the port State on the applicable condition of SOLAS Chapter V Regulation 23.3.2; it should be noted that the mentioned regulation, as well as its interpretation in SOLAS Convention itself, and the circulars and resolutions in the footnotes, do not provide any further clarification on the conditions of application of the rule;
2. It is considered that the view by the flag State that lightship is not a stability-compliant seagoing condition, and SOLAS requirements are based on actual operating conditions is valid, taking consideration of the following:
 - .1 Based on the vessel's lightest seagoing condition, the freeboard is 8.805 m - thus the climb from sea level to access point is <9 m;
 - .2 The vessel uses a pilot ladder only, which is permissible under SOLAS V/23 if the climb is under 9 m;
 - .3 The pilot ladder meets the list and reach requirements under SOLAS V/23.3.3.4 under normal operation and in accordance with stability approve minimal requirements; and
 - .4 The drawing of the pilot ladder clearly shows that, at the time of inspection, the vessel was below the minimum seaworthiness requirements, represented by the lightest seagoing condition defined in SOLAS Chapter III/ R3.13.
3. It is further noted that Light Condition and Docking Condition are excluded from the calculation of the Standard Loading Condition in the Stability and Loading Manual of the vessel for the interest of safety and maintaining reserve stability of the vessel;
4. Since the vessel in question will not need a combination arrangement for embarking and disembarking pilots under normal operational requirements, the accommodation

ladder, the key point of the detainable deficiency, was not in line with the intent or application of SOLAS/V/23 and should not have been raised or classified as detainable nor as a deficiency;

5. Since a ship would be required to have on board mandatory equipment to comply with convention and has the obligation to maintain this equipment safe and sound, but is not required to comply with non-applicable requirements, it would not be reasonable to detain nor raise a deficiency toward a piece of equipment that is not needed as per ship design and limitation of operation; and

6. Considering that, despite the deficiency being initially treated as detainable (Action Code 30), no corrective action was required prior to release, and the deficiency was downgraded to Action Code 99, with a deadline of the next renewal survey, which is in April 2026, the detention is inconsistent with IMO Resolution A.1185(33), Appendix 2, Paragraph 3.1.2, which requires reinspection and rectification prior to departure in the case of truly detainable deficiencies; the absence of such verification suggests the deficiency was not deemed sufficiently serious to justify detention; furthermore, the vessel's inspection history shows no deficiencies regarding the accommodation ladder used for pilot embarkation and disembarkation, making it reasonable to believe that the ship complies with mandatory requirement link with to pilot transfer arrangement.

Based on the above, the detention is unjustified and, therefore, the port State Authority needs to reconsider the detention and remove the deficiency.

III. Conclusion

The majority of the panel members (6 of 7, including the panel member who confirming the deficiency) 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.