Summary of the Detention Case 42-01-2023

I. General

Ground for detention

The ship was detained due to the following detainable deficiencies:

03108 Ventilators, air pipes, casings - A flange was fitted below the air pipe head of No.4 BWT(P), and the subjected flange has been opened for sewage transferring since 19 Feb 2023 (before alongside the port);
14499 Other (MARPOL Annex IV) - The treated sewage was delivered into the No.4 BWT(P) from the shore connection via a temporary piping system, which was not approved by either the flag state or the RO.

Dispute

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

Detainable deficiency for Load Line Convention
1. The temporary arrangement for the deviation of the treated water into No. 4 Ballast Water Tank on Port Side (No. 4 BWT (P)), via a flexible hose, was in breach of Load Line regulations but it was not a detainable deficiency, taking into account the following:

- The deficiency in question was solely a consequence of the temporary arrangement that had to be made to transfer the treated water in the No. 4 BWT (P) to meet local regulations that prevent discharging treated water in port and in rivers; and
- That:
  - A Risk Analysis was duly performed prior to start working on the temporary arrangement;
  - The temporary arrangement was made under the Master's supervision only a few hours before arrival at anchorage;
  - During all that time the flange was opened, the weather conditions were favourable and not a risk contributing factor to the vessel's stability;
  - The freeboard at midship was over seven (7) metres and therefore not a risk contributing factor to the vessel's integrity;
  - The temporary arrangement was continuously under the bridge's monitoring;
  - All the crewmembers were duly informed of that temporary arrangement and, in case of problem, the opened air vent flange (about 6' diameter) could be closed instantly, with cover, bolts, and gaskets available next to the air vent.

Detainable deficiency for MARPOL Annex IV
2. Under MARPOL, Annex IV, each vessel must be equipped with either a sewage treatment plant or a holding tank. As the vessel is equipped with a RO-approved sewage treatment plant, as indicated in the Sewage Pollution Prevention Certificate, the vessel is not equipped with a holding tank. Consequently, the sewage treatment plant is designed to discharge sewage treated water directly overboard.

3. Before arrival at the port, the local agent informed the Master that, as per local regulations of the port State, it is prohibited to discharge treated water in ports and rivers and, therefore, the Master took the decision to transfer the treated water in the No. 4 BWT (P) through the main deck manifold pipe via a flexible hose to the No. 4 BWT (P) vent pipe. The temporary arrangement was not communicated to the Flag State nor the Classification Society, since the Master was under the impression that Class approval

was not needed for this temporary arrangement as there was no structural or piping alteration and that treated sewage water is not covered under MARPOL, Annex IV. In an e-mail received from RO, it is indeed indicated that treated sewage is not covered by MARPOL. But there may be discharge restrictions imposed locally, in which case the RO may provide temporary statement if required by local port authorities as was for this case.

4. Since the deficiency of temporary arrangement was duly rectified before departure and approved both by the Class Society and the Flag State and the rectification was only procedural, without any repair. Therefore, the temporary arrangement was neither presenting any danger to the vessel or persons on board, nor any unreasonable threat of harm to the marine environment.

Based on the above, it is requested to downgrade the action code for the two deficiencies from 30 into 17.

The port State Authority is of the opinion that:

Detainable deficiency for Load Line Convention

1. The opened flange on the vent pipe of the No. 4 BWT (P) indicated that the subject ship was in breach of Regulation 20 of the Load Line Convention during the voyage from the anchorage to the terminal, as stated in the appeal letter. The distance covered was approximately 72 NM, which took about a full day of maneuvering under sailing conditions. During the inspection, the Master was unable to provide a dispensation or any document issued by the flag state or the RO on behalf of the flag state to demonstrate approval of the arrangement identified by the PSCOs during the inspection;

2. The flange fitted on the vent pipe of the ballast water tank is intended to ensure compliance with the D-1 standard of BWM requirements. It should not be opened unless necessary for ballast water overflow. Fortunately, the weather conditions were not rough; however, exposing an open flange on the ballast water tank vent pipe during sailing conditions goes against the principles of "safe operation" and is unacceptable in such a high-density and narrow water area;

Detainable deficiency for MARPOL Annex IV

3. The PSCOs found that the bolts connecting the flange of the flexible pipework to the sewage discharge to the shoreline showed signs of rusting. This rusting was consistent with the bolts being in place and exposed to the elements for a significant period. The PSCOs traced the flexible hose and discovered that it led to an open flange of the ballast water tank vent pipe. Upon observing the rusted flange bolts and weathered rope used to secure the flexible pipe, the PSCOs formed the opinion that the flexible pipe arrangement had been connected in this manner for an extended period;

4. The PSCOs were also aware that this arrangement could also affect sewage pollution prevention. The flexible hose can be easily used as a magic piping system for discharging treated sewage overboard simply by removing the free end from the ballast tank vent pipe and redirecting it overboard. Overboard discharge of treated sewage in this manner is prohibited by local regulation, thus the PSCO asked the crew to provide evidence from either the flag State administration or RO that the arrangement, as found during the inspection, has been approved but no such approval was able to be produced at the time of inspection;

5. In the professional opinion of the PSCOs, the rusted condition of these bolts demonstrates that they had not been put in place recently as it was said in the Navigation Log Book. This led the PSCOs to suspect the magic piping for discharging sewage prohibited by the local regulation;

6. Although the company/flag State indicated that a Risk Analysis was duly performed before starting work on the mentioned temporary arrangement, it was not presented to the PSCO at the time of inspection and there was no evidence indicating the crew had identified that the vessel would not be compliant with the certification issued to it by putting the flexible pipe arrangement in place nor had the Master taken any action to seek approval from the flag State for doing so. Moreover, the relevant record in the ballast water record book was unable to be presented to the PSCO as well. The Chief engineer was not aware that the vessel was in breach of the company's SMS documentation which requires for isolation of this tank from the ballast system; and

7. In conclusion, the opened ballast tank vent pipework as made by the vessel was in the breach of Regulation 20 of the Load Line Convention, the local pollution prevention regulation and the company's SMS (which requires for isolation of this tank from the ballast system).

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

II. Opinions of the panel

The panel members reviewed the relevant information and materials received. As the result of evaluation, panel members reached common opinions on the detainable deficiency for Load Line Convention but showed certain differences about detainable deficiency for MARPOL Annex IV. Opinions by the panel members are as follows:

Detainable deficiency for Load Line Convention

1. The open flange on the vent pipe of the No. 4 BWT (P) pointed out by the PSCOs was at the height less than 760 mm (30 inches) on the freeboard deck and kept under that condition throughout the voyage between the anchorage and the berth about 72 NM, which is in violation of Regulation 20 of Load Line Convention;

2. Should the ship intend to make the temporary arrangement for storing treated sewage water, such arrangement should be approved by the flag State or the RO on behalf of the flag State; however, the ship was unable to produce the permission by the flag State/RO, this is not in compliance with Article 15 (Maintenance of Conditions after Survey) of Load Line Convention;

3. In accordance with the Guidelines for the detention of ships contained in the IMO Procedures for PSC (Res.A.1155(32)), "Absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight/weathertight doors" would be a detainable deficiency; since the temporary arrangement made by the ship was without a closing device, which presented a hazard to the ship and the crew onboard in the event of a grounding or collision, and the ship was unable to maintain watertight integrity as required; and

4. Based on the above, this detainable deficiency is considered appropriate and justified.

Detainable deficiency for MARPOL Annex IV

5. One panel member is of the opinion that it could be marginally acceptable to record the deficiency as detainable, taking into account the following:

- The Standard Discharge Connection and the flexible discharge pipeline was found not connecting to reception facilities but to the No.4 BWT(P), it was deviated from the conditions as stated in the ISPP Certificate;

- There was also no evidence that Master had approached a local agent to arrange for the sewage to be discharged to the reception facilities during the port stay of around 4 days;

- The ship failed to obtaining permission/approval from the flag State or the RO for the temporary transfer/discharge arrangement; and

- The No.4 WBT(P) found not isolated physically from the ballast system, which may contaminate other ballast tanks and affect the operation of the ballast water management system, and such arrangement was not complying with the company's SMS documentation which requires for isolation of this tank from the ballast system.

6. The other two panel members expressed views that:

- There is no clear regulation in MARPOL Annex IV for prohibition of piping treated sewage from the discharge outlet of the Sewage Treatment Plant (STP) to another space onboard, or indeed overboard;

- There was no objective evidence that the sewage was untreated, or that the operation of the sewage treatment plant was not to the manufacturer's instructions, and thus the effluent did not meet the requirements of the sewage treatment plant performance standard;

- The suspicion of discharge of treated sewage appeared to be a breach of local regulations only, which needs to be recorded/addressed separately but not within the scope of the PSC under MARPOL and the Tokyo MOU since PSC under the Tokyo MOU should be based on the relevant instruments listed in the Memorandum.

III. Conclusion

The panel members are of the unanimous opinion that the detention, as a whole, was justified. However, the port State Authority would be requested to reconsider the detainable deficiency for MARPOL Annex IV as appropriate and inform the Secretariat of its position regarding the recommendation made by the majority opinion of the review panel within 30 days.