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TONNAGE MEASUREMENT OF OPEN-TOP CONTAINERSHIPS

Tonnage measurement of open-top containerships

Submitted by the United States

SUMMARY

Executive summary: This document comments on the proposal of document MSC 78/24/5 to change the calculation instrument of the ITC 69 for open-top containerships, and to review the measurement treatment of other types of vessels with large quantities of deck cargo

Action to be taken: Paragraph 7

Related documents: ITC 69, TM.5/Circ.4, TM.5/Circ.5, SLF 46/15/1, SLF 46/15/2 and MSC 78/24/5

Background

1 Under the International Convention on Tonnage Measurement of Ships, 1969 (ITC 69), gross tonnage is a function of the total volume of all enclosed spaces. Through various IMO interpretations, including TM.5/Circ.5, uncovered spaces with high sides have generally been considered to be enclosed spaces, and therefore included in the gross tonnage. Open-top containerships have more freeboard and higher coamings than conventional containerships. Accordingly, under the TM.5/Circ.5 interpretations, open-top containerships have higher gross tonnages than comparable Twenty-foot Equivalent Unit (TEU) capacity containerships of conventional design. In 1993, the Maritime Safety Committee approved TM.5/Circ.4, which provided for calculating a "reduced gross tonnage" parameter for open-top containerships, to be used for the sole purpose of applying tonnage-based fees. The formula adjusts the ITC 69 gross tonnage downward for vessels that are under 30,000 gross tonnage, by an amount derived from empirical data relating volumes and tonnages of containerships of both types. In accordance with TM.5/Circ.4, the calculated reduced gross tonnage appears in a remark on the reverse side of the ITC 69 Certificate, and does not affect the ITC 69 gross tonnage appearing on the face of the ITC 69 Certificate.

2 In documents SLF 46/15/1 and MSC 78/24/5, Germany alleges that a flag Administration issued tonnage certificates without following "the prescribed procedure" for entering tonnages on the face of the ITC 69 Certificate. In document SLF 46/15/2, the Netherlands makes a similar allegation, referring to an "adjusted approach" to tonnage measurement for open-top containerships. In their respective papers, both Germany and the Netherlands cite economic disadvantages as the reason behind this alleged action on the part of the flag Administration. This presumably encourages the viability of such designs by reducing costs to owners through lower fees that are applied using the ITC 69 tonnages. In document MSC 78/24/5, Germany expressed the expectation that the flag Administration involved would notify IMO of this decision, presumably under the novel craft provisions of regulation 1(3) of the ITC 69.

Proposal by Germany

3 In documents SLF 46/15/1 and MSC 78/24/5, Germany supports the need for amending the calculation instrument of the ITC 69 to better address open-top containerships, and at the same time, address other vessel types with large quantities of deck cargo. Specifically, Germany proposes to amend existing interpretations "to include the practice adopted by some Administration unilaterally", which is presumably to put the reduced gross tonnage or a similar adjusted gross tonnage on the face of ITC 69 Certificate in place of the ITC 69 gross tonnage. Germany also offers a revised reduced gross tonnage formula that better reflects the gross tonnage differences between the two containership types, including vessels that are over 30,000 gross tonnage. As the United States understands, Germany proposes to amend the formulation in TM.5/Circ.4 in the context of an interpretation or as an alternative to establish the revised reduced gross tonnage formulation in a more binding IMO instrument.

United States comments

4 The United States supports the need to review treatment of uncovered spaces on vessels like open-top containerships where coamings and other structures offer protection to deck cargo, and to develop interpretations that can be consistently applied to all vessel types. The United States notes disparate treatment of high-sided spaces under TM.5/Circ.5, where the spaces inside coamings around the dock wells of dock ships are omitted from gross tonnage, whereas similar spaces on open-top containerships are included in gross tonnage. The United States believes that this disparate treatment needs to be addressed as part of the review. The United States considers that this review should also include evaluating whether the reduced gross tonnage formula in TM.5/Circ.4 should be revised along the lines proposed by Germany.

5 The United States strongly opposes the use of any "adjusted approach" similar to reduced gross tonnage for determining the ITC 69 gross tonnage of an open-top containership. There is no provision in the ITC 69 to adjust the gross tonnages for an entire class of vessels based on empirical data showing tonnage differences between two different vessel configurations, and the United States would oppose any effort to amend the ITC 69 along these lines. Unlike reduced gross tonnage, which is restricted to fee assessment, the ITC 69 gross tonnage is the primary size parameter used to regulate vessels under a wide array of domestic and international requirements that relate to safety, security, and environmental protection (including SOLAS, STCW, and MARPOL). Therefore, it is vitally important that ITC 69 gross tonnage serves as an accurate reflection of a vessel's overall size, which is immune from manipulation for economic or other reasons. Although reasonable arguments can be made as to the extent to which an uncovered space on any given vessel should be included in the gross tonnage, the ITC 69 requires (and should require) that such a determination be made for each vessel based on its specific characteristics and the legal definitions found within the ITC 69, and not on other factors, such as

what other vessels may look like and/or adverse economic impacts that may be incurred. Interpreting or amending the ITC 69 in a contrary manner would constitute a radical step in the direction of permanently undermining the integrity of the gross tonnage parameter as an accurate reflection of a vessel's size.

6 The United States considers that the listing of the reduced gross tonnage on the front of the ITC 69 Certificate, or a similar adjustment to the ITC 69 gross tonnage, would constitute a violation of the calculation method authorized by the ITC 69. Specifically, the United States considers that the novel craft provisions of regulation 1(3) of the ITC 69 do not provide sufficient authority to manipulate the gross tonnage of a vessel based on economic considerations, which is the case with the reduced gross tonnage formula. If it is confirmed that such an approach was used, the United States will vigorously oppose the acceptance of the tonnage assignments for the affected vessels, on the basis they do not meet the minimum requirements provided for in the ITC 69.

Action requested of the Sub-Committee

7 The Sub-Committee is invited to note the above comments and take action as appropriate.