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Ghana MARPOL Fines

Since the beginning of 2020, there has been a marked increase in MARPOL fines levied against vessels calling in Ghana's ports (Takoradi and Tema), particularly with relation to the discharge of sewage.

Under MARPOL Annex IV, Regulation 11.1.2 (Chapter 5, Section 135 of Ghana's Marine Pollution Act), treated effluent must not "*produce visible floating solids or (does not) cause discolouration of the surrounding water*".

In the incidents witnessed this year, during port state controls the Ghana Maritime Authority's (GMA) surveyors made visual inspections of samples and levied fines in the amount of USD 36,000.00 on the grounds that the samples were not clear.

The GMA's surveyor presented each vessel with a document entitled "*GMA Marpo Violations, Notification of Detention of Vessel*" which detailed the grounds for the detention but also stated that "*to facilitate trade you may submit to the Authority's first-time offender program, in which case you will be subject to the conditions stipulated on the GMA form MP01...*"

Form MP01 is an undertaking to pay the fine as levied within two weeks of the date of issue, and to waive the right to go to court. We were given to understand that if this undertaking were signed, the vessels would be free to sail without hindrance.

If however, the vessels' masters refused to submit to the "first-time offender program" and sign the undertakings, the vessels would be detained in Ghana pending judgement in court.

As witnessed by the list of "*Approved Fines for Marine Pollution Violations*" cited below, the scope of the inspections carried out by GMA's surveyors is not limited to sewage disposal:

APPROVED FINES FOR MARINE POLLUTION VIOLATIONS

1. WASTE

a) Evidence of illegal dumping USD 36,000.00

2. OIL

a) If no oil record book	USD 7,200.00
b) Failure to record - Oil record book - per omission	USD 2,400.00
c) Discharge of oil/oily mixture	USD 60,000.00

3. SEWAGE

a) Illegal discharge	USD 36,000.00
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4. GARBAGE

a) No garbage record book	USD 6,000.00
b) Failure to record - per entry omitted	USD 2,400.00
c) No garbage management plan	USD 6,000.00
d) Evidence of illegal discharge of garbage	USD 24,000.00

5. TRANSFER OF OIL

a) Bunkering without permit from GMA	USD 60,000.00
b) Transfer of oil without notification (48 hours) in port	USD 14,400.00
c) Transfer of oil without notification (48 hours) outside port	USD 60,000.00

We understand the GMA has always refused to negotiate fine amounts or to accept any form of guarantee other than the MP01 undertaking, and have been advised that in the past, vessels have been detained for several years after failing to either sign an undertaking or pay MARPOL fines.

The GMA warns that the courts have the power to imprison the vessel's master and impose penalties far in excess of the original fines.

To summarise, once a MARPOL fine has been imposed in Ghana,

Either

The Vessel/Owners **agree** to sign Ghana Maritime Authority Form MP-01, thereby enabling the vessel to sail pending payment of the fine within two weeks.

or

The Vessel/Owners **refuse** to sign Form MP01 thereby indicating that they are ready to resolve the issue in Court. Going to Court implies the following:

- Strong possibility that vessel/owner will have to pay a very considerable penalty. For example, a fine of USD 36,000.00 could turn into a penalty of USD 120.000.00.
- The vessel will be detained until the Court case ends. This can take many years.
- The Master and Chief Engineer may well be put in prison for up to 5 years.
- Vessel/owners will pay court charges of the GMA as well as their lawyer's fees.

We would therefore recommend that vessels carry out a thorough check to ensure that are not in breach of Ghana's MARPOL requirements and that they treat GMA surveyors with all due deference and respect.

If technically possible, retaining effluent on board while the vessel is in Ghanaian waters might be considered.

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