

Notification: "Situation with segregated ballast". Update 05.03.2018

At our request, Viktoria Kovalchuk, the lawyer of the Legal Force Law Offices has written a brief legal review concerning the situation with ecological inspections of the vessels. As it is seen from the information below, we regret to inform you that the officials of Ecological Inspection have again gained the authority to take samples of the segregated ballast and to make laboratory analysis:

Quote:

" Dear Sirs,

We refer to the matter of latest changes in Ukrainian legislation regarding rights and authorities of Ukrainian Ecological Inspection upon the control of the foreign vessels during their stay at Ukrainian ports.

1. In accordance with Ukrainian law in case existence of pollution State Port Administration should notify Ecological Authorities which from their side should arrange inspection of the vessel and calculation of caused by pollution damages. However, lately the State Port Administration of Ukrainian ports allows the officials of Ecological Inspection to fulfill the observation of the port water area near the vessels situated in port and does not prevent their movement on port territory.
2. In accordance with Ukrainian law in case the signs of pollution can be seen (membranes, particles, discoloration of water) the Ecological Inspection has a right to come onboard and to perform sampling and instrumental and laboratory measurements of the composition and properties of stationary sources of pollution of sewage, ballast, reverse, surface and marine waters.

In the view of the above, we draw your attention that current legislation returned a right of Ecological Inspection to take samples of isolated ballast also.

3. In case the Inspection is not allowed to come onboard and to take samples the Inspection usually after the loading operations are finished does not put a stamp of "radiological control" on the cargo documents keeping the vessel depended from their visit and speculating by the relevant their right. The actions of The Inspection can be appealed by it takes much time for relevant legal actions at court which leads to unreasonable delay in departure of the vessel.

4. After the inspection is arranged and the samples are taken the Ecological Inspection calculates the damages (if any) and provides the shipowner with the relevant statement of claim with the demand to pay the damages.

We draw your attention that current Ukrainian legislation does not have an approved Procedure and Order of calculation of damages caused by pollution from maritime vessels. The previous document was cancelled in 2017 and the new one has not been established yet. In the view of the above, the damages which are currently calculated by Inspection do not have legal ground and can be appealed during further court procedures.

Kind regards,

Viktoria Kovalchuk"

Unquote.

Best regards,
Igor Cherezov