

5 February 2009

Our reference:

Case 200900775

File 30.80.21

Centre for Maritime

Regulation

/tol

German-Danish meeting in Copenhagen, 5th February 2009, on traditional ships – Draft minutes of meeting

1. Participants:

Germany: Bernd Törkel
Ulrike Schol, both Federal Ministry of Transport

Denmark: Andreas Nordseth
Christian Breinholt
Torsten Olsen, all Danish Maritime Authority

DANISH MARITIME AUTHORITY

Vermundsgade 38 C

DK-2100 Copenhagen Ø

Tel. +45 39 17 44 00

Fax +45 39 17 44 01

CVR-no. 29 83 16 10

EAN-nr. 5798000023000

dma@dma.dk

www.dma.dk

2. Purpose:

The purpose was to discuss issues concerning traditional ships, inter alia:

- a) Legal basis for traditional ships
- b) Draft agreement Flensburg Fjord
- c) German and Danish definitions of the term “Traditional ship”
- d) Differentiation between “passengers” and “crew”

MINISTRY OF ECONOMIC AND

BUSINESS AFFAIRS

3. Discussion:

3.1 Legal basis for traditional ships

Denmark considered the legal basis clear. The main elements were considered to be:

- Any ship with more than 12 passengers is a passenger ship.
- A passenger ship on an international voyage is a SOLAS ship
- A passenger ship in domestic trade is covered by national regulation implementing the EU-directive 98/18/EC on passenger ship in domestic service
- ”Historical passenger ships” from before 1965 are exempted from directive 98/18/EC
- This leaves space for national legislation for this group of ships
- Hence, member States may allow such traditional ships to carry more than 12 passengers even though not complying with SOLAS or directive 98/18/EC, but only on domestic voyages

Danish legislation for such ships is restrictive and does not in any case allow international voyages with more than 12 passengers. The ships may however participate in maritime events in other countries and may at such occasions carry out domestic daytrips from foreign ports with more than 12 passengers, provided the acceptance of the host State.

Similarly, Denmark may accept foreign traditional ships carrying out daytrips with more than 12 passengers in connection with maritime events in Denmark. At such occasions Denmark would reserve its right

- to inspect such ships
- to impose further restrictions on the number of passengers than imposed by the flag State
- to require additional safety precautions such as special SAR-arrangements for the daytrips concerned.

Germany noted the Danish views on the legal basis for traditional ships.

Germany

- aims at a solution which serves at the same time the interests of traditional ship operators and safety aspects;
- prefers in general case by case decisions based on the assessment of the competent ship safety authorities;
- in principle agrees with the Danish views except that it considers traditional ships to be covered by the exception clause of the Annex to the 1974 SOLAS Convention, Chapter I, Reg. 3 a (v) when engaged in international voyages;
- acknowledges that there is no internationally binding obligation for Denmark to accept German traditional ships on an international voyage with more than 12 passengers;
- does not tolerate traditional ships in domestic waters that primarily serve commercial purposes.

It was agreed that the two countries should consider common procedures for traditional ships operating between Germany and Denmark. Denmark underlines that an agreement should be limited to daytrips in connection with maritime events only.

Both countries agreed that the London MoU was not clear on the rights and obligations of traditional ships. Denmark deems a revision of the London MoU necessary. It was agreed that the common procedures, when settled, could form basis for a future German/Danish joint proposal on revision of the London MoU.

3.2 Draft agreement Flensburg Fjord

A Danish draft proposal for an agreement on German and Danish traditional ships that visit the neighbouring country apart from maritime events within the geographical area of Flensburg Fjord, was in principle supported by both countries. It was however agreed that experts from Germany and Denmark should resolve the details before final agreement could be made.

3.3 Definitions of the term “traditional ship”

National definitions of the term “traditional ship” were exchanged and discussed.

3.4 Differentiation between “passengers” and “crew”

Views on the differentiation between “crew” and “passenger” were discussed. When interpreting the definition in SOLAS, Denmark had the policy that already any payment for the trip would imply that the paying persons should be considered as passengers. Germany considers the making of any payment merely as an indication. The classification of a person should depend on the actual role and function taken on board.