



JOINT WORKING GROUP

Proposal for Chapter 19 'Traditional Vessels'

EMH's comments on the proposals for Chapter 19

Communication from the EU-COMMISSION

As a basis for this document, the last version of the JWG document (= JWG (11) 40 rev. 2 corr. 1) was used. Comments and proposals are based upon the EMH philosophy.

The remarks in the text blocks refer to passages marked in yellow or green.

Amendment of and supplement to Directive 2006/87/EG

A) *Annex II shall be amended as follows:*

a) *Article 1.01 Definitions shall be amended as follows:*

Point 25a and 25b are inserted after point 25:

“25a. ‘Traditional vessel’: a craft which, based on its age, its technical nature or construction, its rarity, its meaning for the preservation of traditional principles of seamanship or techniques of inland navigation or its significance for a period from a historic viewpoint, **is worthy of being preserved**, and **is operated for demonstration purposes in particular**, or a replica thereof ;

Definition 25 a.: the essence of the definition is best captured by the words „...*is worthy to be preserved*, ...“. Suggestion is to put more emphasis on this in the definition.

„[...]...*is operated for demonstration purposes in particular*, ...[.]“. Suggestion to remove this passage. They are confusing and may be interpreted as „non commercially operated“, or something similar.

No income no upkeep. Without the possibility to generate income (or obtain subsidies) no private owner or museum will keep a ship in operation and in compliance with the directive (apart from chapter 21).

Rather follow the philosophy of DR 2009/45/ec (now under revision).

25b. ‘Replica of a traditional vessel’: a craft which was largely built from original materials, using an appropriate construction method according to plans or templates as a traditional craft, **and which is in conformity with this construction method at the time of inspection;**”

Definition 25 b: „[...]...*in conformity with construction method at the time of inspection*...[.]“ Suggestion to remove this passage since it may well be impossible to use the exact same construction method. The focus of the definition is too much on construction and material and ignores other important aspects of the definition of historic ships.

b) *Article 2.01 (2) shall be amended as follows:*

aa) *the full stop after letter c shall be replaced by a semicolon.*

bb) *the following letter d) shall be newly inserted:*

“d) in the case of inspection of traditional vessels, a traditional vessels expert.”

c) Chapter 19 shall be newly inserted:

“CHAPTER 19

Special provisions for traditional vessels

Article 19.01

Application of Part II

1. Traditional vessels shall be built according to good shipbuilding practice in compliance with the technical conditions of the chosen historical period.
The construction, installation and equipment standards of the traditional vessel shall be at least in accordance with the national regulations of the Member State in which the traditional vessel was originally operated at the historical date chosen.
2. All components, installations and equipment not included in the construction, installation and equipment standards of the chosen time period shall be pursuant to any and all applicable conditions of this Annex's Part II.
3. In the event of deviations from the currently applicable requirements of Annex II, the inspection body shall establish, as a balancing compensation, an equivalent level of safety in consideration of the traditional vessel's technical functioning and also its visual impression. These deviations are only permissible where they are necessary due to the need to preserve the craft's historic character.

Article 19.01 1-3: article 3 makes art. 1 (in part) and 2 superfluous.

Suggestion:

1. Traditional vessels shall be built according to good shipbuilding practice in compliance with the technical conditions of the chosen historical period.
2. In the event of deviations from the currently applicable requirements of Annex II, the inspection body shall establish, as a balancing compensation, an equivalent level of safety in consideration of the traditional vessel's technical functioning and also its visual impression. These deviations are only permissible where they are necessary due to the need to preserve the craft's historic character.

Article 19.02

Recognition and entry in the Community Certificate

1. The recognition of a craft as a traditional vessel requires an inspection pursuant to Article 8 or 15 of the Directive in relation to Article 10 and Chapter 2.
2. The following documents shall be submitted to the competent authority with the application for inspection in addition to the documents required pursuant to Article 2.02(1):
 - a) the report by an expert of a heritage conservation foundation with corresponding expertise in the field, or by a traditional vessel expert, issued in response to an inspection, which has been carried out not more than three months before the time of the application, certifying that the demands of Article 19.01 (1) are met and that suitability for a use pursuant to Article 1.01 (25a) is assumed and the vessel is correspondingly worthy of being preserved;
 - b) the operations concept ;
 - c) a safety concept based on the operations concept pursuant to (b);
 - d) the traditional vessel's documentation, consisting of the following parts:
 - aa) details of the state of construction, installations and equipment of the vessel presented for inspection, by means of relevant descriptions, drawings, photographs and other documentation;
 - bb) list of the rules applicable at the chosen historical date and copies thereof as far as these are necessary for justification of deviations from the requirements of this Annex's Part II;
 - cc) proof that the state of construction, installations and equipment is appropriate to operate the craft as a traditional vessel;
 - dd) drawings, plans, calculations and evidence pursuant to this Directive. These have to comply with the state applicable of the vessel at the time of the submission of the application;
 - ee) list of deviations in the state of construction pursuant to the details in (aa) from the requirements of this Directive applicable at the time of the submission of the application;
 - ff) data on the traditional vessel's crew at the chosen historic time period.
3. The applicant applies for the historical date for the traditional vessel; this date must not be chosen before the date when the craft was first put into service. In the case of a replica of a traditional vessel, the historical date can be seen from the expert opinion in accordance with (2)(a).
4. On the basis of the above documentation and the inspection in accordance with (1), the inspection body shall determine suitability in accordance with Article 1.01 (25a) and Article 19.01 and recognition shall be noted by the entry of 'traditional vessel' in the Community Certificate under item 2. The establishment of suitability may not take place against the judgement of the traditional vessels expert and against the expert's report pursuant to (2)(a).
5. In addition to the entry 'traditional vessel', the 'Traditional Vessel' Annex shall be issued pursuant to the model of Annex V, Part IV and the following reference shall be made under item 52 in the Community Certificate:
'See Traditional Vessel Annex'.
6. The Community Certificate, as well as the Traditional Vessel Annex, may only be issued based on a recommendation of the Committee pursuant to the procedure referred to in Article 19(2) of the Directive, based on the conditions of Article 2.19, provided that

- a) in the documentation pursuant to (2)(d)(ee), or in the case of an inspection pursuant to (1), deviations from the requirements of the Directive current at the time of the application are detected, and
- b) the operations concept shows, pursuant to (2)(b),
 - aa) that persons other than the crew or persons who are on official business on board shall remain on the vessel while under way, or
 - bb) that machines or mechanically-driven equipment on board shall be operating in the presence of and be easily accessible to persons other than the crew or persons who are on official business on board.

19.02 6 : In our opinion it must be left to the flag state to issue the historic vessel annex. The procedure of art 2.19 is lengthy and bureaucratic. It will be seen as an obstacle for investments if the Committee's judgements have to be taken into account for every change made.

If a recommendation of the Committee is not required under the condition pursuant to letter b), the following must be noted on the Community Certificate under item 52:
"Persons other than the crew or persons who are on official business on board may only stay on board when the vessel is securely moored and freely-accessible machines and mechanically-driven equipment are not in operation".

In the above passage (marked yellow) it is not clear what is meant by this and we suggest removing it entirely. Whether a ship is moored or navigating should not make any difference.

Article 19.03

Other provisions and requirements

1. The inspection body shall determine, in accordance with the operations and safety concept pursuant to Article 19.02 (2) (b and c) as well as according to the state of construction, installations and equipment of the traditional vessel:
 - a) the minimum manning level and the crew's qualifications;
 - b) the permissible number of persons which may be reduced to the minimum manning level;
 - c) restrictive conditions for the stay of persons other than crew members on board;
 - d) the permissible load which may be reduced to 'zero';
 - e) the permissible area of operation;
 - f) the meteorological restrictions;
 - g) the nautical restrictions;
 - h) further restrictive conditions.

2. In the case of periodic inspections pursuant to Article 2.09, the inspection body may modify the conditions in accordance with (1) and Article 19.01 (3) on the basis of the further development of the technical regulations of this Directive. These modifications are to be noted in the 'Traditional Vessel' Annex to the Community Certificate.

d) In Annex II Administrative Instruction No. 26 is inserted after the definition of the expert a new definition as follows:

“Traditional vessel expert

A person appointed by the competent authorities or by an authorised institution of a Member State, who possesses special knowledge in the field of traditional vessels due to his or her training and experience in the subject, **and who is fully acquainted with the relevant technical requirements and rules, also from the time period of the traditional vessel.”**

19.03 d: “[..]...*and who is fully acquainted with the relevant technical requirements and rules, also from the time period of the traditional vessel.*[..]” Suggestion to remove these words. Not only because it will be almost impossible to find somebody to combine the two fields of expertise. The expert should judge whether the ships are worthy to be preserved and nothing else.
