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DIRECTORATE-GENERAL FOR ENERGY AND TRANSPORT
DIRECTORATE B - Transport Logistics, TEN-T and Comodality
B.4 - Inland waterways, motorways of the sea & Marco Polo

JWG (09) 4
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JOINT WORKING GROUP

Proposal for a Chapter 19 "Historic vessels"

Communication of the European Maritime Heritage

Dear Mr. Scheele,

Following our letter to Mr. Vila de Benavent, dated 15 June 2006, we like to present you the EMH proposal for Chapter 19 of Directive 2006/87/EC, the chapter about historic vessels.

We are aware of the discussions in the JWG so far, but we are proud to present a proposal on behalf of the owners of historical vessels and we would be very grateful if we could explain and discuss this proposal with you or the JWG.

We are looking forward to your reaction.

With kind regards,

Hendrik Boland
Vice president EMH

Annexes: - EMH proposal 2006/87/EG Chapter 19
- Explanation per article
- Explanatory memorandum

EMH proposal 2006/87/EG Chapter 19

Definitions:

A) *Part I is to be modified as follows:*

a) *Article 1.01 Definitions are to be modified as follows:*

aa) *the full stop behind 105 is replaced by a semicolon*

bb) *the following numbers are additionally to be inserted:*

2 “historic vessel”: a vessel or a floating object or a floating establishment which gives evidence about a historical period or a historic event or a significant development and whose preservation or restoration is based on respect for original material or for authentic sources, or which is newly built based on respect for authentic sources and traditional craftsmanship.

106 “expert in historic vessels”: a person or commission which is expert on the basis of knowledge and experience in the field of historic vessels, their generally accepted rules of good shipbuilding technology and practice and regulations for their construction.

107 “historical point in time”: a point in time or a period within the lifespan of the vessel between laying its keel and its approval as historic vessel which is distinguished by a characteristic way of construction, installation and items of equipment and/or the characteristic use of the vessel.

b) *New Article 1.04a "Historic vessel" to be inserted:*

Article 1.04a

Historic vessel

1. The applicant chooses the historical point in time for the historic vessel.
2. The qualification of the vessel as historic vessel is part of the inspection in accordance with Chapter 2.
3. The additional indication historic vessel and the historical point in time shall be documented under point 52 of the Community certificate.

c) *Article 2.01 to be modified as follows:*

aa) *at the end of paragraph 2 the full stop is replaced after character c by a semicolon*

bb) *under d) is added:*

d) in case of an inspection of historic vessel an expert in historic vessel.

cc) *the next paragraph 5 is added:*

5. The appointment of the expert in historic vessels shall be made by the authorities in the State in which the body is set up, based on a proposal from an organisation or institution which is recognised on account of knowledge and experience in the field of the relevant historic vessel.

d) *Chapter 19 is to be added:*

Specific Requirements applicable to historic vessels

Article 19.01

General provisions

1. Unless not otherwise specified in this Chapter the construction, installation and items of equipment of historic vessels shall be in accordance with the provisions of the Chapters 3 to 18 and 20 to 23 of Part II.
2. If deviations according to Article 19.02 are allowed restrictions can be imposed in accordance with Article 19.04 paragraph 2, however taking into account the Recommendation No 1486 (2000) "Maritime and Fluvial Heritage" of the Parliamentary Assembly of the Council of Europe.
3. The list of allowed deviations according to Article 19.03 paragraph 1 character f, the documents according to Article 19.03 and the restrictions according to Article 19.04 shall be documented in the appendix Historic vessels of the Community certificate. Under number 52 of the Community certificate the following note must be made:

See appendix Historic vessels for the list of permitted deviations according to Article 19.04 paragraph 1 and for the restrictions according to Article 19.04 paragraph 2 ".

Article 19.02

Deviations of part II

1. Contrary to the provisions of the Chapters 3 to 18 and 20 to 23 of Part II historic vessel may be built, arranged and equipped according to good ship building techniques and practice belonging to the period between laying its keel up to the chosen historical point in time.
2. Additions and adaptations from the period after the historical point in time shall be in accordance with the provisions of the Chapters 3 to 18 and 20 to 23 of Part II, unless it can be shown in accordance with Article 2.19 of Part II that these additions or adaptations are equivalent in safety to the provisions above-mentioned.

Article 19.03

Documents

The following documents shall be submitted to the inspection body:

- a) A declaration that the historic vessel complies with the provisions of Article 19.02 paragraph 1 and complies with the definition of Article 1.01 paragraph 2;
- b) A declaration concerning the intended use of the historic vessel and a safety scheme based on the intended use with regard to load, sailing area, meteorological and/or nautical conditions, number of persons on board, duration and/or hours of sailing;
- c) A specification of the historical and the present situation of the construction, installation and items of equipment by means of descriptions, drawings, photographs and/or similar documentation of the vessel;
- d) A list of regulations or rules concerning the generally accepted rules of good shipbuilding technology and practice and regulations for the construction, valid at the historical point in time as far as these are required to justify the deviations from the requirements of Part II and as far as these can reasonably be retrieved;
- e) A list of the deviations from the provisions of the Chapters 3 to 18 and 20 to 23 of Part II on account of Article 19.02 paragraph 1.

Article 19.04

Procedure

1. The inspection body decides on the qualification according to Article 19.02 paragraph 1 and Article 1.01 paragraph 2 on the basis of the documents mentioned in Article 19.03 and establishes the list of allowed deviations from the provisions of the Chapters 3 to 18 and 20 to 23 of Part II on account of Article 19.02 paragraph 1. The opinion of the expert in historic vessels is decisive regarding these decisions.
2. With regard to the intended use and the safety scheme as well as the construction, installation and items of equipment of the historic vessel and in consideration of Article 19.01 paragraph 2, the inspection body may set restrictions on:
 - a) the permitted load;
 - b) the permitted sailing area;
 - c) meteorological circumstances;
 - d) nautical circumstances;
 - e) the maximum number of persons on board;
 - f) the duration of sailing or the hours of sailing.

B) Appendix V is to be modified as follows:

*Article 1: Appendix "**Historic vessel**" must be added at the end of appendix V; Commentary*

Explanation per article

Art 1.01

Under number 2 the definition of the “historic vessel” should be inserted. To insert this definition under number 2 is set up in using the generic term “vessel” which includes some of the following subordinated terms.

The definition requires a historic vessel to be of historic significance in the sense of giving evidence about a historical period or a historic event. This claim could be already satisfied, for example with a part of the equipment or the material of construction of the vessel and does not necessarily aim at a completely restored vessel. Nevertheless the preservation or restoring of the vessel should follow established rules for conservation and restoration of traditional ships in operation.

For replicas of historic vessels it should be necessary to obey both the authentic sources and a reconstruction following traditional craftsmanship.

Authentic sources are for example sketches, plans or technical drawings as well as analyses of archaeological findings, descriptions, photos or other documents which could be evaluated historically. A reconstruction following these principles does not imply the inevitable use of original material but a reasonable explanation when it is not used, by all means there will be the demand for using adequate technologies.

Under number 106 a definition of the “historic vessel expert” should be inserted. This expert should be responsible for all the historical issues. The appointment of this expert will be according to a new article 2.01.

Under number 107 a definition of the “historical point of time” should be inserted.

The “historical point in time” defines the historical state of the vessel. The properties of the construction state are “parental properties” and hereditary to the next historical state of the historical point in time as far as they are following the construction rules of the particular historical period. The historical point in time includes all the properties from the historical state of construction up to the chosen historical point in time.

Art 1.04a

The owner of the vessel is responsible for choosing the historical point in time. In the course of the inspection procedure the historic vessel expert should judge the validity of the chosen historical point of time regarding the characteristic construction manner, installation and items of equipment and/or the characteristic use of the vessel as well as the intended use.

With the inspection the historical point in time would become a constituent attribute of the historic vessel and should be documented in the Community certificate.

Art. 2.01

The appointment of the historic vessel expert is subject to the responsibility of the administration of the flag state as well as the appointment of the other experts. There should be a close cooperation between the authorities and the institutions or organisations running traditional vessels to guarantee competence regarding traditional vessels in operation. Regarding the wide variety of historical vessel in some countries it could be necessary to have different experts for different types of vessel, if one expert cannot cover the entire scope. The proposal tries to take this into account.

Art 19.01 part 1

Historic vessels take part in traffic of the inland navigation of today. Consequently these historic vessels should be in line as far as possible with the quoted chapters of Annex II.

Art 19.01 part 2

Respecting the preservation order as the constitutive idea of the Chapter 19, deviations to the quoted Chapters of Annex II for historic vessels must be allowed. Deviations to the quoted Chapters of Annex II could be compensated to achieve an equivalent safety with the sanctions listed in Article 19.04 without using the procedure of Article 19 (2) of the Directive.

All restrictions should be applied with care regarding the desirable use of the vessel following the Recommendation no. 1486 (2000) of the Council of Europe and should neither change the appearance nor the technical function of the vessel.

Art 19.01 part 3

No comment

Art 19.02 part 1

In article 19.01 it is stated that in principle historic vessels should comply with modern regulations. This article broadens the regulations to allow deviations to the quoted chapters of Annex II to keep up features of the historic vessel according to their historical state which is defined by the historical point in time.

Art 19.02 (2)

Contrary to part 1 this article deals with the additions and alterations of the historic vessel which are not according to the historical state as defined by the historical point in time. Such parts of the ship have to comply with the provisions of the specified chapters at Article. 19.01 (1) or in reference to Article 2.19 equivalent safety must be shown.

Art 19.03

The responsibility of the ship owner is to apply for the status as a historic vessel, to choose the historical point in time, to make a declaration about the intended use, and to propose a safety scheme regarding the intended use and to provide a documentation of the vessel as well as the historical regulations required.

Art 19.04 part 1

No comment

Art 19.04 part 2

This article presents a catalogue of possible measures to achieve equivalent safety, changing neither the appearance nor the technical function of the historic vessel and without referring to the procedure of Article 19 (2) of the Directive.

Appendix V

No comment

Explanatory memorandum

EMH (European Maritime Heritage) is very pleased that the principle of traditional ships in operation is acknowledged in Chapter 19 of Directive 2006/87/EC. EMH has attended the discussion in the JWG with interest and now likes to contribute to this discussion with a proposal for Chapter 19 of the Directive 2006/87/EC on behalf of the organizations of owners of historical ships.

It is the fundamental interest of EMH to keep traditional ships in operation. Operating a vessel is the best way to preserve the knowledge and skills of the people and to maintain the functional capability of the vessels and their equipment. The consolidation of these both aspects is accepted as an essential principle regarding the preservation of maritime heritage. Without operating the vessel will not get the best possible maintenance, without vessels the special skills will disappear.

The philosophy to keep traditional ships in operation is supported by the Council of Europe and recorded in:

Recommendation No.1486 (2000) „Maritime and Fluvial Heritage” of the Parliamentary Assembly of the Council of Europe.

National governments should:

- xv. support and encourage public and private bodies and voluntary associations which preserve historic vessels, or life size or large scale replicas, in working order;*
- xvi. encourage the display and use of these vessels for the education and enjoyment of the general public*
- xvii. encourage further development of a system of mutual acceptability by the maritime authorities of nation states of standards for the safe operation of traditional vessels in European waters*

In preparing this EMH proposal we have read the current JWG proposal from Germany, Poland and the Netherlands and the comments from Austria, Belgium and France. Especially the structure of the proposal is taken over gratefully.

Within this discussion we feel that there are some general accepted common premises:

- There are vessels which could be considered as historic vessels.
- These vessels are part of the cultural heritage and worthy of preservation.
- As a part of the cultural heritage these vessels should have the opportunity to be presented to the public.
- Historic vessels should have the opportunity to be preserved in operation

Taking into account these premises we consider the objective of Chapter 19 shall be to enable preservation of the vessels with respect to their original material, their characteristic construction manner, their installation and items of equipment and/or characteristic use.

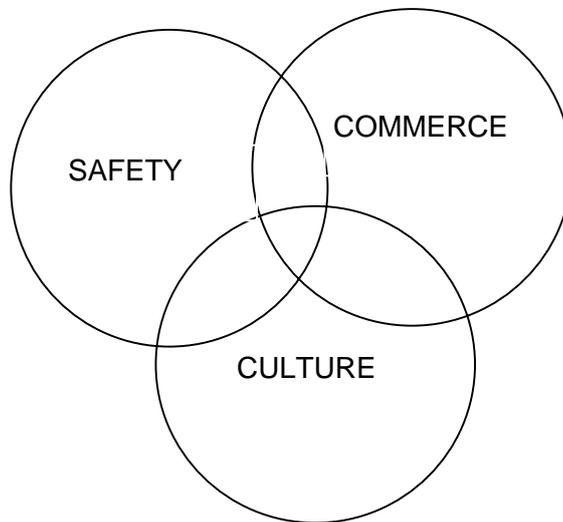
At the same time we have to ensure the operation and participation of these vessels in the public inland waterway traffic of today

Traditional ships have in general a fine safety record and there is no reason at all to consider them as substandard ships.

But they need the acknowledgement that parts of cultural value can be in contradiction with modern safety regulations.

It is uncertain to how many ships Chapter 19 will apply. There are in Europe nowadays roughly two to three thousand traditional ships, but they will comply with the current regulations according Article 8 of the Directive. Historic ships which have to comply with the Directive after 30 December 2008 are for example wrecks that will be rescued from scrapping, houseboats that will be restored for operation, replicas or vessels which like to change their function. The number is difficult to estimate, but could be twenty to fifty per year. The variety will be immense, both from regional and functional differences.

Within the EMH proposal in principle all traditional ships should comply with modern regulations like all other ships in inland navigation whether they are cargo vessels, passenger vessels or recreational vessels. For many regulations this does not have to be a major problem, but in some cases the cultural/ historical features would have to be changed irreversibly. Chapter 19 must permit the operator to propose how to retain historic features and at the same time meet an equal safety level in the sense of the regulations. And it must enable the administration to grant an exemption. If the cultural values of such a ship would be destroyed to comply with the regulations the administration should accept alternatives or deviations mainly based on old regulations or seamanship.



This idea is here shown graphically. Every ship has to comply with the appropriate safety regulations. And every ship owner has commercial demands (even a yachtsman wants to cut his costs as much as possible). There are only minor differences in the small overlapping areas. The ship owner has to work out a compromise with the shipping authorities for these minor differences only. For traditional ships a third circle of demands is involved. Depending from which historical values the owner likes to preserve there will be more or less overlap and discussion.

The way to act in practice to qualify for Chapter 19 is as follows: The ship owner declares that his ship is a historic vessel and that he intends to participate in inland navigation traffic being a historic cargo ship, a historic passenger ship or a historic recreational vessel. He presents documentation with the culture historical importance of his ship and especially the features he does not want to change including the equivalent arrangement he proposes to fulfil the regulations. It is not necessary to have the ship restored to a monumental status, but the deviations may enable any future restoration.
