

**Annex II to
Section 1.2 of the
Memorandum**

European

Maritime

Heritage



**Standard
upon
Safe Operation of Traditional Ships
in
European Waters
and Standards required for
Ship Safety Certification**

AVEC LE PATRONAGE DE L'AGENCE EUROPÉENNE POUR LA CULTURE (UNESCO)

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Maritime Heritage as a Safety and a Cultural Commitment

During the past few decades, an increasing public interest in keeping historically valuable ships alive has led to a range of activities in the field of maritime heritage aiming at their preservation in active use, usually for private, social, educational or cultural purposes but also as a commercial venture.

Maritime Heritage springs from many very different sources. This is evident from the variety of types of vessels developed under the several influences of geography, culture and economy. In Europe as a whole it is estimated that more than 5000 vessels of historic interest and regional character ply their home waters today. The majority of traditional ships are primarily sailing vessels. A considerable number, however, are power driven, many of them with steam propulsion. The original uses to which these preserved ships were put covers a wide range, whether engine powered or under sail. Quite a lot of former fishing boats and cargo carrying vessels exist as well as coastal passenger ships, tugs, ice breakers, light vessels, yachts, pleasure craft and others. A considerable number of them survived as a result of their use in public service. In their overwhelming majority these ships have proved to be safe and seaworthy when operated by experienced crews. They have, as a result, through the years survived until now. Old ships are things of grace and beauty and give a special atmosphere to the harbours they visit. Apart from their historical value they became the elements of the magnificent and colourful scenery characterising maritime events of today.

The European flag states of Traditional Ships flying their colours have only partly reacted to this appearance of a maritime heritage scene and this reaction is inadequate to the public impression produced. The official governmental and administrative reaction is currently restricted to some shipping administrations in north European countries, discussing or regulating the question of safety of persons on board these old ships. Very reluctantly and hesitantly some governments approach the cultural dimension of maritime heritage and the linked problems in the field of preservation such as reconstruction, maintenance, operation and last but not least financing. Outside the maritime museums, which generally do not have the financial resources to do the job as they would love to, and which in general cannot act as a ship operator, this is left to private initiative. Except for Denmark in all European countries the private initiative to preserve the maritime heritage suffers from a lack of official governmental assistance and from the absence of an administrative background which a framework in cultural politics would offer. A common basic understanding is to be developed:

1. Governments of seagoing nations have to acknowledge that sea- and freshwater patrimony is a vital part of history and presents an irreplaceable testimony upon their ethnical, commercial, technical or pleasure roots.
2. Ships, boats and other watercraft of historical interest are more than heralds of seawater and freshwater patrimony, they are the tools to transmit and teach to coming generations the skills which allowed for navigation expansion and water- connected commercial developments. These skills are the most human part of the water-borne patrimony, and as such are the most precious part.

3. In consequence governments have a duty to maintain the navigability of such ships, boats and other watercrafts of historical interest in a state as original as possible so that they might continue to transmit these skills.
4. Recognising the cultural dimension in the operation of Traditional Ships the flag states have to support and encourage the owners of watercraft of historical interest to develop their use under own responsibility without the danger of financial and fiscal disadvantages which might be induced by their restoration, maintenance and operation.

Parallel to progress in the field of safe operation of Traditional Ships European nations have to commit themselves to a common approach in preserving floating heritage and traditional seafaring.

Fields of Operation

To make the efforts of reconstruction and maintenance lasting, old ships must be preserved in operation and that means for most Traditional Ships they need a new purpose to find a contribution to the costs of preservation. Only a few of them have a purpose as a stationary museum ship, belong to a navy or to other public institutions and are preserved under public subsidising. Some may exist as houseboats, smaller ones will remain as a private yacht. These possibilities are not adequate to the great public interest in maritime heritage. They do not count for the broad and deep engagement of interested people in keeping the knowledge, craftsmanship and seamanship alive, which is connected to the reconstruction, maintenance and the operation of vessels with traditional propulsion systems. The manifold maritime events in Europe could not develop their character with only stationary, nonliving ships.

An appropriate way to earn an income is to take persons on board. Traditional Ships shall not compete with passenger ships. But there are niches in which they may operate, as for instance

- carrying school classes in field training expeditions
- international sail training activities
- educational seafaring
- training on steam engines or other engines of historical value
- experience holidays with performance of traditional seamanship
- coastal sightseeing in connection with maritime events
- promotion of conferences or exhibitions including cultural events

In some niches the Traditional Ships proved to be very successful, that is

- training of young people in social competence
- rehabilitation of young persons in severe social difficulties
- promotion of sympathy among nations and improvement of international understanding

- acting as an ambassador for nations, regions and the maritime culture
- keeping the traditional seamanship in active seafaring alive.

Present Framework for the Operation in European-Countries

The operation of Traditional Ships increased strongly since the 70ies mostly in the northern and western countries of the EU, where private individuals and associations form the majority of the owners and operators, while in the southern/Mediterranean countries the maritime museums are the main drivers of the idea to keep historical ships in operation. With increasing per capita income and available individual free time in the southern regions of Europe, it can be predicted that these countries will experience similar developments in the future. Today the largest fleet of operating traditional ships is located in The Netherlands, followed by Denmark, Sweden, the U.K. and Germany.

Old ships must be preserved in operation to make the efforts of reconstruction and maintenance lasting. But ships of traditional construction and use may not be compared to modern cargo and passenger ships. Operating such vessels calls for safety requirements that take account of the special conditions of their use, as distinct from the regulations governing commercial operation.

Legally, the operation of traditional ships is regulated by the applicable ship safety rules. Since the vast majority of the operating Traditional Ships were taken for "non-SOLAS-vessels" by size, type and trade and the phenomenon had not been considered during the international treaties of the last decades (too local and too small number), Traditional Ships have for long time operated under yachting rules or with special exemptions from the merchant shipping regulations.

In the past two decades, with the increasing number of ships and participants, in The Netherlands, Germany, Denmark and Sweden the national governments have implemented (or are just in the process of implementing) special safety regulations for the operation of traditional ships. These regulations have been developed jointly with the owners representatives and experts and are considering the important fact, that the safety philosophy of the SOLAS-treaty calls for continuous application of the latest technologies and developments in shipbuilding which are in many cases not matching the requirements for the preservation of floating monuments. Consequently, the principle has been followed, that safety of operation must be the subject of a concept individually tailored to the respective Traditional Ships, based of a set of basic guidelines. These rules are now proven successfully in practice. This approach is in compliance with the latest ISM-Code / ISO 9000 philosophy.

National regimes for Traditional Ships generally restrict them to national waters. For international voyages some governments agreed to accept their neighbours national rules and papers. However, especially in the Mediterranean countries there is little knowledge about other than SOLAS-rules and frequently disputes occur during port state control actions. To call at ports of these countries a permission must be asked for. Long distance voyages of sail training ships are to be prepared under these conditions.

With the growing European integration accompanied by growing fleets of Traditional Ships the mutual acceptance of national safety rules for old ships between some European countries, thus opening these waters to old ships based on bilateral agreements, is not satisfactory any longer . The development calls for a mutual recognition of standards and a regime for common certification to be implemented by the European nations concerned in this field of shipping operation. A joint European view on the operation of Traditional Ships would be advantageous in many aspects. To find this common view and to improve the safe operation of Traditional Ships , a door between the governing cultural demands and the safety principles in international shipping is to be opened. The possible key can be found with a performance of equivalent safety in terms of construction, equipment and organisation.

International Standards to Improve Ship Safety

Traditional Ships represent the culture and the technical standard of their time. Preserving them and keeping them in operation is not practicable if all rules and standards of modern shipping are to be applied. From their original construction they incorporate a large variety of safety precautions as a direct result of their type, size and usage. Their present operation as Traditional Ships, however, involves a change of use which is not necessarily compatible with their built in safety characteristics.

Differences from the safety standards of today do not imply less safety for the persons on board, if safety concepts entirely appropriate to these ships are applied. Modern technical systems and devices which conflict with the historic character of a ship can in most cases be effectively replaced by an intensive safety organisation on board such vessels. This is particularly true when the crews of Traditional Ships are considerably larger than in today's merchant ships, which will be found in almost every case. Under these operational aspects persons on board Traditional Ships must generally not be considered as passengers. With extensive instructions and safety drills under tight control they are integrated into the ship organisation, take part in the manoeuvring of the vessel and can even help in case of emergency.

This is evident from the development and introduction of tailored safety concepts for traditional ships in several European countries. Apart from technical requirements safety systems and ship operation are outlined after the seasons, the time and the radius of operation and allow for differences in weather conditions to be observed. Under the aspect of equivalent safety operational measures to compensate for technical shortcomings are to be considered under a comparison of safety elements i.e. in

- Construction
- Buoyancy
- Stability
- Propulsion
- Fire Safety
- Life saving appliances

- Safety of navigation
- Communication

Examples for a compensation of technical deficits by equipment, organisation of ship handling and by increased manpower are:

- Prohibition of smoking below decks and restriction of smoking on deck to certain areas instead of a requirement for non-combustible furniture.
- Fire fighting equipment and training of crews compensating for wooden construction below decks.
- Watchkeeping with sufficient personnel on deck, below deck and in engine rooms with non-automated machinery, including fire patrols as necessary.

In consequence the requirements for an operation in international waters must be adequate.

What Traditional Ships lack in modern technology, must be compensated for by operational measures that ensure their safe operation without destroying their historical character.

This compensation must amount to a level of safety performed within a safety system which is equivalent to the safety system in modern shipping.

The national safety regulations provide technical rules to perform an equivalent level of safety in terms of construction, equipment and organisation. Their aim is still to offer Traditional Ships the possibility to earn an income and thus avoid risks from deficits in ship safety.

The safety system in modern shipping is comprised within SOLAS and ISM rules. The first question to be answered is, to what extent the SOLAS regulations on construction and equipment are applicable for Traditional Ships. The second question will be, how the principles of safe operation can be adopted.

In general all ships are subject of SOLAS-rules. The exact range of application of SOLAS is determined within each chapter. After certain exemptions SOLAS is not applicable for cargo ships of less than 500 gross tonnage, ships not propelled by mechanical means, wooden ships of simple construction and pleasure yachts not operating in commercial trades. To what extent Traditional Ships can be comprised within these clauses is a question to be answered with respect to regional or national structure of fleets or at least in every single case. For sure a great number of Traditional Ships have been small cargo vessel, most of them cargo vessels under sails, the sailing ships will be equipped with an auxiliary engine now but their main propulsion remain the sails and a great number of simply constructed wooden Traditional Ships do exist. Many Traditional Ships were originally been built as yachts, and the cultivation of maritime tradition should encompass the understanding of pleasure because it is so different from commercial trade.

Apart from such exemptions Traditional Ships are subject of SOLAS if they are considered as passenger vessels taking more than 12 passengers.

After rule 2.e the term "passenger" refers to every persons other than

"(i). the master, the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship."

In Traditional Ships operating internationally the persons on board will generally be covered by this definition. They are integrated into the ship operation and that means, they are engaged on the business of that ship without being employed. Under this supposition they are not to be considered as passengers and that means such Traditional Ships are no passenger ships, even if more than 12 persons are on board.

Apart from these requirements the application of SOLAS differs within the chapters. In some cases the application depends on the tonnage, chapter V is anyhow compulsory for all ships. In case a chapter of SOLAS is applicable to a certain Traditional Ship member states may allow different equipment, material, devices or instruments to be used, installed or taken on board provided that they are at least as efficient as those prescribed and their equivalence is confirmed under test or by other methods.

This interpretation of the SOLAS treaty allows the introduction of respective national regulations and agreements on specific international standards for Traditional Ships based on the principle of equivalent compensation.

To enhance safety on board Traditional Ships the question of safe operation has to be answered: Safe ship operation is described by the

International Management Code for the Safe Operation of Ships and for Pollution Prevention,
the
ISM Code

as well as the

Standards of Training, Certification and Watchkeeping, the STCW Convention.

Adequate international minimum standards are developed by the Common European Maritime Heritage Congress by modifying the existing standards and making them applicable for Traditional Ships without leaving the system and without reduction in level.

Mutual acceptance of national regulations on construction and equipment correlated to international standards on a safety management system as well as to requirements for the competence of crews will be a base to introduce European Ship Safety Certification of Traditional Ships if established by a common understanding.

Governments opting for a common understanding on mutual recognition of safety certificates for Traditional Ships could in common accept the standards specifically elaborated for Traditional Ships by the CEMHC Safety Council as in the same way efficient as those prescribed by SOLAS, the ISM and the STCW code. Certification based on such a recognition could also be

accepted as exceptional SOLAS certification if SOLAS applies. In case of such exceptional SOLAS certification notification to IMO is compulsory. The process of notification could lead to an international acceptance and acknowledgement of these standards.

European Traditional Ship Safety Certification Regime

The appropriate international system to approve safe ship management as the base for an "European Traditional Ship Safety Certification Regime" is the ISM Code, the appropriate system to approve the competence of crews is the STCW 95 convention. Under the guidance of equivalency a ship safety certification for Traditional Ships can be established from two elements:

1. An international standard on the competence of crews in Traditional Ships developed in conjunction with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and according to the STCW (95) code, counting for the operational conditions in Traditional Ships with simple and conventional equipment but demanding a special competence in ship handling (Annex 1).
2. An international Safety Management System for Traditional Ships based on the ISM Code including a sample Safety Management Manual to give evidence of the responsibilities and procedures for safe operation in the individual ship and by the owner confirmed by a document of compliance (Annex 2).

An additional common standard leading to a common certification would meet the routine of port state controls and would enable authorities to control these standards, eliminating problems which may accompany a call at foreign ports. Common certification must follow a homogeneous safety system and must conform with a safety system introduced into international shipping. In so far the Safety Management System for Traditional Ships and the international standard of competence of crews will be an umbrella to national safety regulations and enhance safety for those ships operating in European waters.

Certification and control of these standards should be performed under a common

Memorandum of Understanding
on the Mutual Recognition of Certificates on the Safe Operation of
Traditional Ships in European waters.

Sources and contributions

The draft proposals in the annexes were elaborated by numerous delegates, nominated by the members of European Maritime Heritage to represent the EMH Safety Council, including private cooperation with members of the

Nautical Institute UK
World Maritime University Malmö Sweden
Sjöfartsverket Sweden
Kalmar Maritime Academy Sweden
Nautical College Enkhuizen The Netherlands
Ministry of Transport Germany
Ship Preservation Trust Denmark

The proposals are based on or referring to different international and European documents:

The IMO STCW 95 Convention and Code and the ISM Code.

Approved ISM Manuals from Denmark, Sweden and the Netherlands.

Maritime and Coast Guard Agency – UK: The ISM Code - “Draft Instructions for the guidance of Surveyors”.

Warsash Maritime Centre UK – Commercial Yachtmaster Certificate of Competency - Course Program.

Kalmar Maritime Academy Sweden – Deck Officer Training Course.

Proposed regulations for competency and experience of engineers on ships with piston steam engine propulsion - Sweden.

Yacht Skipper Certificate Ordinance Germany and connected Guidelines for Competency and Experience of Masters and Engineers in Traditional Ships (under the supervision of German Sailing Association and Common Historic Ships Commission appointed by the Ministry of Transport).

Nautical College Enkhuizen The Netherlands – Competency of Mates and Masters in Traditional Sailing vessels – Course program and certificates approved by the Shipping Administration (Scheepvaartinspectie).

and

National Safety Regulations for Traditional ships such as

- Register Holland – The Netherlands
- The Safety of Sail Training ships – A Code of Practice and Stability Information Booklet - The Department of Transport – Marine Directorate – United Kingdom
- Guidelines to Safety of Traditional Ships based on § 6 Ship safety Ordinance, Germany
- The Technical Regulation NR. 12 (December 15th 1995) for ships worth of preservation, Denmark
- United States Sailing School and Passenger Vessel Regulations - US Coast Guard.