

Sally ‘waves Paula across’ and ducks even though Paula did not ask for help – The help was not solicited, and so there is no breach of RRS 41.

Paula asks, “Tack or Cross?” and Sally hails starboard and holds her course – Calling, “Starboard” is not ‘giving help’ since it does not provide Paula with any new information or ease any burden on Paula. In fact, calling starboard is in-keeping with acting to ‘avoid contact’.

Paula asks, “Tack or Cross?”, and Sally waves Paula through. However, Paula believes there may have been a misunderstanding, so begins to tack to keep clear, but at the same time Sally bears away to duck, resulting in a collision and significant damage – If boats reached *Point X*, Paula broke RRS10. However, if not, then Sally’s change of course was subject to RRS16.1. Sally may have compelled Paula to fail to keep clear. In which case, Sally broke RRS16.1, and Paula is exonerated under RRS43.1(a) for failing to keep clear.

Summary

The analysis above hopefully resolves the debate of the ‘Tack or Cross’ scenario.

Seemingly, most views on this topic draw upon elements found in this analysis, and therefore most appear to have some merit. However, those views normally focus on RRS10 and RRS2 rather than RRS41, and miss the crux of it, which is recognising the importance of identifying the moment when RRS10 is broken first.

The key points of the ‘Tack or Cross’ scenario are:

1. Asking ‘Tack or Cross’ when on a collision course and getting a favourable response to cross is most likely a breach of RRS41.
2. Prior to the point at which the keep clear boat is no longer keeping clear, the other boat may choose any strategy and sail any course (provided she complies with RRS16.1). She is not required to force the other to keep clear and does not break any principal of sportsmanship by choosing not to. Also, not being forced to act to keep clear because of the actions of the right-of-way boat does not

mean a keep clear boat has failed to keep clear.

3. When boats reach the critical point where the keep clear boat fails to do so (per the definition of keep clear), RRS10 has been broken. The keep clear boat is at risk of a protest against her, and if she knows she broke RRS10 she should take a penalty.
4. Whether a boat failed to keep clear is not based on any agreement, relief of burden, acceptance of responsibility, or planned route to the finish, etc... ‘Keeping Clear’ is defined by the physical and geometric relationship of the two boats.
5. In fleet racing a 3rd party is entitled to protest boats for an incident she saw but was not involved in. To be successful in a hearing, she would have to satisfy the jury that either:
 - a. the boats had reached that critical point where the Keep Clear boat was no longer keeping clear (RRS10), or;
 - b. that any ‘help’ (no matter how insignificant to the race) had been solicited and received (RRS41), or;
 - c. that there was a clear breach of sportsmanship.
6. A boat may not be relieved of her obligation to keep clear, even if by mutual agreement with the other boat. The corollary is that a boat may not waive her rights.

A 3rd party protestor will have a tough job claiming a boat failed to ‘keep clear’. However, an allegation of ‘outside help’ should have some merit if it was solicited. Proving a clear breach of sportsmanship is unlikely. Anyone challenging this practice will meet strong emotional resistance from all sides, hence why this practice is rarely tested in real situations.

I hope that this document will help sailors understand the key factors and risks involved with ‘Tack or Cross?’ / Wave Through’ tactics on the water and off the water may prompt better discussion or provide guidance for people in the internet chats, hearings and rulemaking meetings.

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