

D. 3872/11
SF 4.900

SOCIAL SECTORAL DIALOGUE COMMITTEE
FRIDAY 23.9.2011 – WORKING GROUP MEETING
MINUTES

INTRODUCTION

The **Chair** opened the meeting by welcoming all participants. He welcomed in particular Mr. François Ziegler, responsible for SSDCs in DG EMPL and his colleague Mrs. Natasa Kokic, who replaces Mr. Dirk Hadrich for the SSDC on maritime transport. With reference to the agenda, he proposed to switch items 2a and 2b to allow Mr. Christian Dupont to attend another meeting.

The SSDC approved the agenda and agreed to switch items 2 a and 2 b.

1. APPROVAL OF SSDC MINUTES OF 8.7.2011 MEETING

The SSDC approved the minutes of the last meeting.

2. DISCUSSION ITEMS

a. Piracy

On the invitation of the Chair, **Mr. Christian Dupont** (DG MOVE) explained that the Commission was considering this issue of piracy from a short, medium and long term (development aid) point of view. He described the problems of Somalia (e.g. poor living conditions and a stateless structure), recalled the high number of hostages and advised on measures being adopted or considered by DG MOVE to tackle piracy off the Somali coast. Measures include protection of ships navigating in the Somali region by EU NAVFOR/ATALANTA, enhancement of States bordering Somalia in their efforts to tackle piracy, and improvement of the conditions in Somalia and the Somali region in the long term. Mr. Dupont, furthermore, drew attention to the worsening situation in the Gulf of Guinea, where the number of armed attacks, particularly in the territorial waters of States bordering the Gulf of Guinea, are increasing. He also advised that piracy attacks are still taking place in the region of Malaysia and Singapore, although the situation has improved in recent years partly thanks to the action of the international community. Finally, he informed that DG MOVE is also looking into measures being taken or considered at international level, such as IMO.

The **Social Partners** thanked Mr. Dupont for his comprehensive briefing and asked him whether the European Commission has a position on the use of private armed guard onboard ships, and the problems it may pose to naval/public forces. The ETF spokesperson also raised the question of the Flag State responsibilities and the way some of them deal with issues like insurance and liability of seafarers in case of a ship being attacked.

Mr. Dupont referred to a number of initiatives in IMO on the use of private armed guards (i.e. circulars, recommendations, questionnaires, etc) and drew attention to the fact that the number of private armed guards is still growing, to reach a point where there are almost as much private armed guards as pirates. This situation poses a serious problem to naval/public

forces and could be potentially risky for crew members, particularly if public/naval forces have not been informed on the presence of private armed guards onboard ships sailing in the Somali region. He stressed that it is for naval/public forces not always clear whether the people onboard a ship are pirates or private armed guards and hence there is a need to better spread and implement the Best Management Practices (4th version), which includes, *inter alia*, a requirement to advise public authorities on the presence of private armed guards onboard ships. With regard to the position of the European Commission on this matter, Mr. Dupont concluded that the European Commission does not have any formal position since the use of private armed guards is considered to be an issue for Member States. However, the European Commission is worried about the increasing use of private armed guards and the legal and practical difficulties such use implies, and therefore acknowledges the need for clarity.

The SSDC took note.

EP Hearing on 12.10.2011

On the invitation of the Chair, **ECSA** advised that the programme of the EP Hearing on Piracy is now finalised. The hearing, which is in fact more a meeting of two hours, is organised by Dutch MEP Peter Van Dalen and Greek MEP Georgios Koumoutsakos. ECSA has been invited to speak and will be represented by its former President Marnix Van Overklift. Whilst Mr. Van Overklift will only have about 10 minutes to present the ECSA views, he will nevertheless offer the ETF a slot to present their views. As agreed at the last meeting, ECSA has also prepared a joint ECSA/ETF press release to be issued after this hearing.

The **ETF** regretted that they had not been invited directly as a speaker by the two organisers of the EP Hearing and thanked ECSA for their efforts to allow the ETF to present their views during Mr. Van Overklift's slot. Mr. Dickinson will be the ETF speaker. He stressed that he would take all his time to make the seafarers' views known on such crucial topic. Finally, he recalled the recently adopted ITF motion where reference was made to the possibility to boycott the areas at risk, an idea which was not supported by ECSA.

ECSA felt that the Social Partners should continue to work on concrete actions, such as a joint press release to be issued after the EP Hearing on Piracy. ECSA also advised that the Brussels' office of the Danish Shipowners' Association has organised a working lunch on piracy, which will be held on the same day as the EP Hearing on Piracy; notably immediately thereafter. The ETF was invited to attend this working lunch and it will receive an official invitation from the ECSA Secretariat.

The SSDC agreed to issue a joint ECSA/ETF press release after the EP Hearing on Piracy.

b. Criminalisation of seafarers

Joint ECSA/ETF reply to Fotis Karamitsos' letter

The **Chair** recalled the background of Mr. Karamitsos' letter and advised that, as agreed at the last meeting, the two Secretariats had prepared a draft reply to this letter for consideration at this meeting.

The **Social Partners** advised that they could approve the draft letter from the two Secretariats and agreed to send it to Mr. Karamitsos soonest. In addition, the **ETF** asked for a joint meeting with Mr. Karamitsos, as a follow-up to the various letters, to discuss

criminalisation and fair treatment of seafarers. In this respect, the ETF also referred to the recommendations from the Task Force on Maritime Employment and Competitiveness and wondered whether ECSA would be prepared to develop concrete actions with the ETF on these recommendations.

ECSA agreed with the proposal for a joint meeting with Mr. Karamitsos but felt that the recommendations from the Task Force need to be further looked at before possible joint actions could be considered.

The SSDC approved the letter to Mr. Karamitsos and agreed to organise a joint meeting of the Social Partners with Mr. Karamitsos to discuss criminalisation of seafarers.

ETF proposal on criminalisation of seafarers

On the invitation of the Chair, the **ETF** gave an update on their proposal on possible EU measures on criminalisation of seafarers. The ETF advised that a new organisation has been created recently, named "*Seafarers' Rights International*" (SRI) and headed by Mrs. Deirdre Fitzpatrick (a Solicitor who joined the ITF in 1994 to head up its legal services department). This organisation is an independent centre dedicated to advancing seafarers' interests through research, education and training in the law concerning seafarers. Criminalisation of seafarers will be a key issue on the SRI's agenda. ETF referred to the project submitted to the European Commission on European Seafarers and Criminalisation ("ESAC") to be carried out in cooperation with the SRI. This project will deal with the legal situation of fair treatment of European seafarers facing criminal charges in EU Member States, and will be directed to European seafarers and their trade union representatives.. It was proposed to await the results of SRI's analysis on criminalisation and fair treatment of seafarers before the ETF would pursue with their paper.

The SSDC took note.

c. Career mapping update

The **Chair** recalled the SSDC's decision to update the 2004/2005 career mapping study – with ECSA taking the lead – and to postpone an application for EU funding for such update to March 2012. To that end, the Social Partners have established a small steering group to discuss the terms of reference, which met for the first time on 22/09/2011. The members of the Steering Group are Allan Graveson (Nautilus UK – UK), Karl-Heinz Biesold (Verdi – Germany), Vladimir Svalina (Croatian Seafarers' Trade Union) and Henrik Berlau (3F – Denmark) – for the ETF – and Tjitso Westra (Dutch Shipowners' Association), Georges Koltsidopoulos (Union of Greek Shipowners) Matthieu Laurent (Armateurs de France) and Simon Bergulf (Danish Shipowners Association) – for ECSA. The Chair reported that the Steering Group had discussed draft terms of reference for the career mapping update, which had been prepared by two consultants, and underlined that if the Social Partners would not be able to approve terms of reference, there would not be a career mapping update at all.

The **ETF** advised that the first meeting of the Steering Group had been open and frank and it was felt that there was a need for further clarification, particularly definitions – how do we define an EU seafarer? – and methodology. This clarification is needed to assist the Steering Group in its future discussions. The ETF also stressed the need to tackle the deficiencies of the first study and insisted on addressing ratings in the update. Furthermore, it was reported that the Steering Group had agreed to look at best practices. It was hoped that the update would also be more pragmatic than the previous study and would result in concrete actions. He also recalled the ETF Project on Training and Recruitment, which could be a positive contribution to this study. Finally, it was felt that, with the assistance of the two Secretariats,

the terms of reference of the career mapping update could be finalised by and approved at the next SSDC meeting on the 29th of November.

ECSA confirmed the open and frank nature of the first steering group meeting and acknowledged that a number of clarifications were needed before continuing the update discussion. ECSA, furthermore, reminded the objective of the career mapping study, i.e. analysing and mapping career opportunities of EU seafarers in the maritime cluster. It was recalled that the update should also include information on new Member States, in particular Belgium, France and Romania. With regard to ratings, ECSA confirmed that it had approved the ETF suggestion to include ratings as well. With regard to some definitions, ECSA advised that for the purpose of this study “EU seafarers” would mean “EU/EEA nationals” and “seafarers” would include both officers and ratings. Finally, it was felt that the conclusions of the career mapping update need to be awaited before any decisions on possible follow-up actions could be taken.

The Chair concluded this topic by underlining the need for practical outcomes out of this update, stating that the Social Partners should give very clear instruction to the consultants who will carry out the work. **The SSDC agreed that the Steering Group should aim at finalising the terms of reference for a career mapping update by the next SSDC meeting in November 2011.**

d. Task Force

Task Force and its follow-up

On the invitation of the Chair, **Mr. Giovanni Mendola** (DG MOVE) advised on the European Commission’s follow-up to the Final Report of the Task Force on Maritime Employment and Competitiveness. Follow-up initiatives will include legislative proposals (e.g. on STCW, MLC Enforcement), Commission submissions to IMO (e.g. on fair treatment of seafarers), and initiatives for consideration by the Social Partners (e.g. certificates of excellence, Marinet)

Legal initiatives

The European Commission has adopted recently a proposal for a Directive revising the STCW Directive, *inter alia*, to incorporate the STCW Manila Agreements. This proposal will be examined in Council and the European Parliament and it is hoped that it will be formally adopted and enter into force by mid-2012.

A Commission proposal on enforcing the MLC into EU law is expected end 2011/beginning 2012. Contrary to DG MOVE’s initial intention, this proposal will no longer cover labour supplying state responsibility because it has proved to be controversial and it has also raised a number of legal difficulties which need to be clarified first. However, a reference to labour supplying state responsibility is likely to be reflected in the European Commission’s Work Programme for 2012.

DG EMPL is still assessing the exclusions of seafarers from a number of EU social Directives and a legislative initiative is likely to be taken soon. The recommendations from the Task Force on this point have been sent to DG EMPL as it is the competent DG for this matter. If DG EMPL would issue a legislative proposal, DG MOVE will of course be involved in the further process. This was confirmed by DG EMPL (Mrs. Kotic).

Finally, DG COMP is still assessing the effects of the 2004 State Aid Guidelines to maritime transport and is expected to take an initiative soon.

A Follow-up Communication

Mr. Mendola advised that DG MOVE will also issue a Communication as a follow-up to the Task Force's recommendations, likely end 2011/beginning 2012. The Communication will not include any specific legislative proposals but it will take stock of and assess the feasibility of some recommendations. The Social Partners will be consulted beginning of 2012.

In reply to Mr. Mendola's overview, **ECSA** welcomed the fact that a number of recommendations from the Task Force have already been covered in the Social Partners' Work Programme for 2011.

The **ETF** felt that the Social Partners could also look into other recommendations, in addition to those already covered in the Social Partners' Work Programme for 2011, such as working and living conditions, piracy, or onboard communication. ETF spokesperson also raised the issue of the content of the future social package taking on board the TFMEC recommendations. He welcomed the work of the SSDC regarding the issue of living and working conditions but explained that more actions were needed from public authorities. He also pointed out the probability to see a future Offshore sector Manning Directive proposal tabled by the Task Force, and invited ECSA to discuss this issue.

ECSA pointed out that working conditions onboard as well as onboard communication facilities are already covered in the ECSA draft notes on these topics. The same is valid for piracy. Rather than commencing any new initiative/action, ECSA was of the view that the Social Partners should better finalise the actions already started first.

The **Chair** concluded that new actions could be looked at in the context of the Social Partners' Work Programme for 2012.

The SSDC took note.

Manila Agreement/ revised STCW Directive

In reply to a question from the Social Partners, **Mr. Mendola** acknowledged that there will be, for some time, a conflict between the STCW Manila Agreement and the revised STCW Directive incorporating the STCW Manila Agreement, particularly with regard to the date of entry into force. However, he felt that Member States that would have ratified the STCW Manila Agreement could apply this convention, even if it would result in a conflict with the existing STCW Directive but he assured that the European Commission would not take any legal action against these Member States.

ECSA replied that the point was not whether the European Commission would take legal action against Member States or not. The issue at stake is that Member States are likely to await the final outcome of the revised STCW Directive before ratifying the STCW Manila Agreement. In the meantime, EU flagged ships will continue to trade to/from third countries which may have ratified the STCW Manila Agreement already. This would create a serious problem for EU flagged ships as the EU flag State would not yet be following the rules laid down in the STCW Manila Agreement.

The **ETF**, supporting ECSA, acknowledged the need for legal clarifications between the STCW Manila Agreement and the revised STCW Directive and the compromise on fitness for duty.

The issue was further discussed during the lunch break and it was decided that ECSA should send an email to DG MOVE – with a copy to the ETF – pointing out the legal difficulties.

The SSDC took note.

3. REPORT ITEMS

a. Bullying and Harassment – State of Play

The **Chair** recalled the SSDC decision to update the Guidelines on Bullying and Harassment, with the ETF taking the lead on this project.

The **ETF** advised that it had not yet started the work since priority had been given to the career mapping update. The deadline to submit the proposal will be in March 2012. However, the ETF will draft terms of reference soonest so that a steering group of ETF and ECSA representatives can be established to discuss this update and to agree on the final terms of reference, preferably by the SSDC meeting in November. He recalled that the main purpose of this update will be to disseminate more effectively the existing guidelines agreed by ETF/ECSA. Moreover, it was suggested appointing an external expert to assist the steering group members in their work. ETF insisted on the need to have an expert who has an experience/a background of harassment and bullying in other sectors to bring valuable experience to the maritime industry (experience in military forces for example).

ECSA replied that it will appoint its representatives for the steering group once it has received draft terms of reference from the ETF. The appointment of an external expert, as suggested by the ETF, could be looked at and the ETF/ECSA Secretariats could in due course suggest possible names in this respect.

The **Chair** concluded that the Social Partners would endeavour to reach an agreement on the terms of reference for an update of the Guidelines on Bullying and Harassment by the SSDC meeting in November, and appoint members for the steering group.

b. Structural/Social Funds – Follow-up

The **Chair** recalled that this issue had been on the agenda of the two previous SSDC meetings and advised that the ECSA/ETF Secretariats had further discussed this issue informally.

ECSA confirmed that there had been an informal discussion on a possible way forward between the two Secretariats. At this occasion, the idea for identifying a test case (e.g. Poland) had been looked at but it was felt that more time would be needed to further develop a test case. ETF insisted on the need to select a country where there is a significant room for improvement in the use of structural funds. ETF also pointed out the importance of getting in touch with national administration to obtain the basic information on how the funds are used and how the operational programs are prepared.

Mrs. Kokic (DG EMPL) offered further assistance in this matter.

c. Onboard organisation of work and onboard communication facilities – State of play

The **Chair** advised that the ECSA Secretariat had prepared two draft papers on this matter and welcomed Mr. Patrick Norroy, who is in charge of administrative simplifications in DG MOVE.

Mr. Norroy recalled the initiatives taken by the European Commission as regards simplification of administrative burdens, notably a Communication on the European Maritime Transport Space without barriers, a revised Directive on reporting formalities for ships arriving at/departing from EU ports, E-Maritime, and the Blue Belt Pilot Project.

ECSA advised that Captain Rorbeck had been found prepared to give a presentation at the SSDC meeting in November on administrative burdens from a captain's perspective. ECSA also recalled the background of the two draft papers and stressed that they should provide input for the European Commission in the context of their initiatives on administrative simplifications and E-Maritime. ECSA invited the ETF to comment on both drafts.

The **ETF** informed that both drafts were considered as a good basis for further discussion with ECSA but sought assurance that the paper on onboard organisation of work would not be used as a means/excuse to discuss lower working and living conditions for EU seafarers. ETF also explained that this issue had to be discussed internally before being taken up by the SSDC. .

ECSA replied that the papers were a follow-up to previous SSDC initiatives but did not aim at addressing manning conditions neither at discussing lower working/living standards for EU seafarers. ECSA advised that, following internal discussions, further modifications had been suggested to both papers and a revised version of the two drafts will be sent to the ETF Secretariat soonest allowing the ETF to comment.

d. Schengen Visa for seafarers

On the invitation of the Chair, **ECSA** advised that DG HOME, instead of organising an industry-led workshop, had suggested the creation of a subgroup within the remit of the Schengen Visa Committee to address Schengen Visa for seafarers. The proposal for such subgroup will be discussed at the next meeting of the Schengen Visa Committee, scheduled on 7/10/2011. If the proposal would be accepted, the industry will be invited to present its case. Possibly a representative of the subgroup could be invited at a next SSDC meeting.

The **ETF** felt that the problems with Schengen Visa is another example of (administrative) burdens for seafarers, which – in the ETF's view – could be solved if Member States would ratify ILO Convention nr. 185.

e. Future Commission (legislative) initiatives

See agenda items above.

4. A.O.B.

No other issues were raised. With regard to meeting dates for 2012, ECSA called upon DG EMPL to make sure that SSDC meetings would not be held on Mondays or Fridays.

5. DATE OF THE NEXT MEETING – TUESDAY 29.11.2011

The next SSDC meeting, which is a Plenary session, will be held on Tuesday 29.11.2011.