

SECTORAL SOCIAL DIALOGUE COMMITTEE FOR MARITIME TRANSPORT

MEETING ON FRIDAY 28 MARCH 2014 – 11.00 H.

DRAFT SUMMARY RECORD

1. ADOPTION OF THE DRAFT AGENDA

The SSDC **approved** the agenda of the meeting.

2. ADOPTION OF THE DRAFT SUMMARY RECORD OF THE SSDC MEETING OF 27.9.2013

The SSDC **approved** the summary record of the SSDC meeting of 27.9.2013.

3. MATTERS ARISING

a. Reducing administrative burdens for seafarers

The Chairman referred to the Social Partners' Joint Action Plan and Joint Declaration on this topic and invited the European Commission to report on their follow-up to both initiatives.

The **European Commission** confirmed the good reception of both documents and apologised for not yet having responded thereto but promised that a formal response – as asked for by the Social Partners – would follow soonest.

The **ETF** voiced its frustration about the absence of a formal response so far and underlined the importance of this matter, both for seafarers and shipowners, from a technical as well as social perspective. The ETF also asked the EC officers to clarify when the e-MAR Forum would finally be established.

ECSA underlined the need for assistance from the European Commission on this technical and complex matter.

The SSDC reiterated the need for a formal response from the European Commission to the Social Partners' Joint Action Plan and Joint Declaration.

b. ECSA/ETF joint projects – Latest developments and possible follow-up

- Bullying and Harassment

On the invitation of the Chairman, **the ETF** advised on the successful final conference and on the B&H video and the publication of the B&H material, which have been well-received by the relevant parties. The main challenge now is to ensure a widespread dissemination of the available material, at national, EU and international level. The ETF suggested maintaining this issue on the SSDC agenda to keep track of local initiatives and to monitor B&H cases. The ETF also informed about the willingness of the ILO to display the relevant B&H material in the margins of the MLC Special Tripartite Committee meeting to be held in April.

ECSA reported that the B&H video and relevant material had been disseminated through the ECSA website as well as the websites of ECSA's National Associations. In this respect, it was noted that one of the biggest member-companies of the Danish Shipowners' Association had decided to make use of the B&H material in the context of its onboard compliant procedures.

The SSDC took note.

- Career mapping 2

On the invitation of the Chairman, **ECSA** informed on the successful final conference, drew particular attention to the report that was published in the context of this project and invited the two Secretariats to identify possible areas of common ground to give a proper follow-up to the findings and conclusions of this report.

The ETF, whilst recognising that the report contained interesting elements as food for thought, drew attention to the fact that there has not always been a universal appreciation for the project amongst ETF members. That is why more time would be needed to discuss and analyse the report internally in order to identify possible common ground for a proper follow-up to the report's findings and recommendations. Furthermore, the ETF assured ECSA that it would give more feedback at the beginning of June, once the ETF Maritime Transport Section would have taken a final stance on the project outcomes.

The SSDC took note.

c. Piracy – Latest developments

The Chairman referred to the numerous joint initiatives of the Social Partners' on this topic and drew attention to a recent ECSA press release advocating the need for additional measures, in particular in the region of West Africa.

ECSA highlighted its growing concerns regarding the increase of incidents in West Africa, hence the reason why it had called for the need for additional measures in its recent press release. ECSA also drew attention to the EU-Africa Summit on 2-3 April and felt that this would be a good opportunity to reiterate the Social Partners' concerns with piracy in Africa.

The ETF enquired whether the past joint ECSA-ETF position papers had been made available at the occasion of the ECSA-DSA piracy photography exhibition in the European Parliament in March.

ECSA assured the ETF that all relevant documentation had been made available for visitors but regretted the absence of any ETF representatives. Furthermore, ECSA suggested the possibility of future joint initiatives in view of the newly elected European Parliament and the forthcoming EP hearing of the new Commissioners (in the form of a joint question, for instance).

The SSDC agreed to issue a new joint position paper on piracy, ahead of the EU-Africa summit, and agreed to identify possible future joint initiatives as suggested by ECSA.

d. Fair transport in shipping – Latest developments

ECSA expressed its appreciation for the positive outcomes of the Copenhagen meeting which gave the Social Partners the possibility to explore opportunities for co-operation in this field.

On the invitation of the Chairman, **the ETF** reported that a joint ECSA/ETF letter had been sent to the Fairtrade Foundation at the end of 2013 and, following that, the ETF Secretariat has been in touch with the Foundation's secretariat to arrange a follow-up meeting, which is likely to take place in Bonn soonest. A report on the outcome of this meeting will be made at the next SSDC meeting.

The SSDC took note.

e. Exclusions of seafarers from EU social Directives

The Chairman advised that the report from Rapporteur Ronzulli on the Commission proposal on this matter had been rejected by the EP EMPL Committee.

The European Commission advised that, following this rejection, a decision has to be made on the way forward but the Commission has not yet taken a decision. However, it is very likely that it will maintain its proposal so that the next EP will have it back on its agenda. The European Commission also pointed out that the Committee of the Regions as well as the European Economic and Social Committee had already adopted an opinion on the Commission proposal. So far, the Council, however, has not yet looked at the Commission proposal.

The ETF welcomed the rejection of the Ronzulli report and supported a reintroduction of the Commission proposal for discussion and vote in the next EP. The ETF remained of the view that there are no justifications for maintaining a status quo and drew attention to the fact that a number of EU Member States have already applied the five directives without the exclusions for seafarers and no negative impact to the shipping industry has been noted. The ETF, furthermore, expressed its disappointment that although this important matter had been addressed in the SSDC, it has proved impossible to arrive at common standpoints given that social partners held totally diverging views on the issue at stake. The ETF further stressed that the Committee should also be a forum to discuss controversial issues amongst social partners. In this respect, the ETF suggested that the social partners should have more meetings in between SSDC meetings to discuss all relevant matters, including contentious matters, with an aim at exploring the possibilities for a social partners' or common agreement in the SSDC. Maritime piracy, administrative burdens for seafarers and the ILO MLC were referred to as best practice examples of social partners' joint efforts.

ECSA shared the view that the Commission proposal should have required a more in-depth discussion at the SSDC but reminded that the European Commission needed some 8 years to develop a proposal, which was then presented in haste at the end of 2013, with no opportunity for the social partners to discuss it. ECSA also reminded that during these 8 years the European Commission had consulted ECSA and ETF only in writing. On the content of the Commission proposal, ECSA reiterated that this is a very complex legal matter with different implementations in different Member States, sometimes for different sectors, and each individual Directive should be considered in its own context. Nevertheless, ECSA shared the ETF's view that the rejection

of the Ronzulli report offers the Social Partners was a good opportunity to sit together and identify whether there is room for common ground.

The European Commission replied that, following the adoption of its proposal, there is no longer any room for the Social Partners to reach a social partners' agreement on this matter. However, the latter can still reach a common position and use this as a basis to influence the discussion and vote in the EP and the decision of the Council of Ministers. The Commission, however, refrained from responding to questions regarding practicalities and timing of the decision-making process but stated that the newly elected EP will first have to appoint a new Rapporteur, which should not be expected before the summer break. Hence, there is still some room for the Social Partners to discuss a possible common position.

The SSDC agreed that the ECSA and ETF Secretariats together with the spokespersons should investigate the possibility of a common position on this matter, which could then be presented at the next SSDC meeting.

ECSA reminded the European Commission that it had still not received any response to the legal questions it had raised as regards the original Commission proposal.

The European Commission assured ECSA that the response to ECSA's legal questions for clarifications would be sent to the Social Partners around the Easter period.

f. Implementation of MLC

The Chairman reminded that the Social Partners had requested a formal letter from the European Commission clarifying the legal implications of the different dates of entry into force of the ILO MLC, the social partners' agreement and the recently adopted MLC enforcement directives.

The European Commission replied that it had circulated a table overview with the different dates of entry into force. **ECSA and the ETF** sought additional clarifications from the European Commission and the ETF also reiterated its frustration about the different dates of entry into force, whilst the Social Partners had agreed with a simultaneous entry into force of the ILO MLC and the Social Partners' Agreement (to avoid the type of problems that they had faced with the Working Time Directive at the time). The fact that the MLC enforcement directives contain even a later date of entry into force makes things even worse from a legal perspective.

In response, **the European Commission** clarified that when the Port State Control Directive enters into force, it will be checked against the ILO MLC and not against the Social Partners' agreement. Moreover, the European Commission stated that Member States that have ratified the ILO MLC are bound by it since 20 August 2013. The MLC will need one year to be transposed into EU law and therefore, from 20/08/2013 to 20/08/2014 only Member States that have ratified the MLC are bound by it. As of 20/08/2014, when the Social Partners' agreement enters into force, all Member States (even those that did not ratify the MLC) will have to abide by it, as EU law applies to all Member States and has precedence over international law. This is an important point since Member States cannot be legally obliged but only encouraged to ratify the ILO MLC.

ECSA and ETF thanked the European Commission for these explanations but nevertheless insisted on receiving a formal written reply soonest.

g. Schengen Visa Code

On the invitation of the Chairman, **ECSA** informed that the Commission proposal to amend parts of the Schengen Visa Code is expected to be issued on 1 April 2014.

The SSDC took note and agreed that ECSA and the ETF should analyse the Commission proposal together and consider the advisability of issuing a joint Declaration.

h. Criminalisation of seafarers – Prestige case

The Chairman recalled that the master of the vessel “Prestige” had been condemned by the Spanish Court.

ECSA suggested issuing a joint statement on the Prestige case but also investigating whether the Social Partners could organise a joint event and/or draft joint recommendations on this topic, which could be used versus EU and international policy-makers.

The ETF welcomed ECSA’s suggestion and agreed on the need to draw attention to the unacceptable trend of criminalising seafarers. In the case of Captain Mangouras, for instance, there had been no consideration as to whether national authorities had acted adequately. The ETF reminded that the IMO had adopted a set of Guidelines on this matter but wondered whether these Guidelines have been really effective so far.

The SSDC agreed that ECSA and the ETF should produce a joint statement on the Mangouras case and meet to investigate possible joint initiatives and/or events on criminalisation of seafarers in general.

i. Health and Safety issues – Discussion of the ETF proposal

The Chairman recalled the decision of the last SSDC meeting, notably that the ETF should prepare a paper with suggestions on health and safety issues for possible future consideration in the SSDC (according to the SSDC’s work programme).

The ETF apologised for the late circulation of its paper but reiterated the need to start looking at health and safety issues as well, particularly now that the two joint projects (bullying and harassment and career mapping) have been finalised. Hence, the ETF encouraged ECSA to look into the ETF paper and to provide feedback by the next SSDC meeting latest.

ECSA assured the ETF that it is prepared to cooperate on this matter, provided that the scope of this exercise is realistic. ECSA felt that the scope, as presented in the ETF paper, was too broad at present and also covered a number of technical matters that do not fall within the remit of the SSDC. ECSA suggested establishing a dedicated working group, consisting of 2 or 3 members per association, to develop this matter further. The terms of reference for this WG could be agreed via correspondence.

The SSDC agreed to establish a dedicated WG to develop terms of reference for this matter, as a basis for future discussions amongst the social partners.

j. Vasco da Gama project – CPRM

The CPRM gave a brief presentation of the Vasco da Gama project, its objectives and timeframe and advised the SSDC on the involvement of ECSA and the ETF in the activities of this project.

The SSDC took note.

4. STATUS OF THE SOCIAL DIALOGUE

- Initiative from the Hairdressers' industry

The Chairman referred to a model letter originating from the hairdressers' industry, seeking support from other social partners on the future of the sectoral social dialogue.

The European Commission informed that it had not taken any decision vis-à-vis the Council as yet but acknowledged that there is a need for an impact assessment, which in this particular case is a challenging exercise as the hairdressing sector is one made up of microbusinesses. The European Commission added that, whereas social partners' agreements are enshrined in the EU Treaties, there is now an obstacle to their direct transposition into EU law, namely the need to conduct an impact assessment of such agreements first. The European Commission clarified that it has no objections to the content of the hairdressers' agreement and assured that the reason for delaying the process vis-à-vis the Council is purely the need to finalise an impact assessment first.

The ETF stressed that the provision of Art. 155 of the Treaty whereby Social Partners Agreements (SPAs) are made legally binding by the EU should be properly complied with. The ETF further insisted that it was the responsibility of the Commission to forward the SPAs to the Council once concluded, and that no new administrative obstacle imposed by the Commission should be used to delay or even oppose the process leading to the transposition into EU law.

The SSDC took note of this information / clarification and agreed that the two secretariats should prepare a joint letter based on the model letter provided by the social partners in the hairdressing sector highlighting the importance for social partners to continue to reach social partners' agreements.

5. A.O.B.

No other issues were raised.

6. DATE OF THE NEXT MEETING

The Chairman advised that the date for the SSDC meeting in October creates a problem for the ETF and suggested the two secretariats finding another suitable date.