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Employment, Social Affairs and Equal Opportunities DG

Social Dialogue, Social Rights, Working Conditions, Adaptation to Change
Social Dialogue, Industrial Relations

Brussels, 17 January 2008

SECTORAL SOCIAL DIALOGUE COMMITTEE FOR MARITIME TRANSPORT
PLENARY MEETING

held on 11 December 2007 in Brussels

DRAFT MINUTES

Chairperson: Thomas Abrahamsson

Commission representatives: Philippe Burghelle-Vernet, Anne Devouche, Nicolas Brezewski, Haitze Siemers, Nathalie Hesketh, Patrick Norroy, Christina Vartsos-Tzannetakis, Ana Isabel Sánchez Ruiz, Dirk Hadrich.

Social partner participants: see attached list

1. Adoption of the agenda

The draft agenda was adopted without changes.

2. Minutes of the last plenary meeting on 28.4.06

The minutes of the last plenary meeting on 28.4.06 were adopted. ETF wanted to minute the changes brought to the report of the meeting held on 30.11.2005 had been taken into account.

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3. Social Partners' Agreement on ILO MLC 2006: the way forward

Thomas Abrahamsson introduced on the agreement of the sectoral social partners aiming to strengthen the international maritime labour standards of the ILO convention 2006.

DG TREN (Mr Burghelle-Vernet) expressed the satisfaction of the Commission with the conclusion of the social agreement on the maritime labour convention which will be also done by the Commissioners Spidla and Barrot themselves. The ILO, informed about the social agreement, is also pleased with this achievement.

Concerning the next stages, Mr Burghelle-Vernet indicated that the legal conformity of the social agreement is being checked and should be finished by end January. After this analysis it should be possible to celebrate the finalised agreement on the second anniversary of the ILO Maritime Labour convention in February 2008. On the basis of the finalised agreement a Council decision to integrate the agreement into EU legislation and another enforcement Directive would be under preparation during 2008.

ETF showed interest to see the implemented draft Directives as soon as they have been prepared.

Concerning the directive to be adopted on the basis of Article 139 ECT, the translation in 23 languages will take time and the publication in the OJ might not be feasible before end 2008. The entry into force would be at the same date as for the MLC.

As regards the enforcement directive, the subjects to be covered are substantial (port state control, flag state's responsibilities, labour supplying state's responsibilities).

The whole procedure time is difficult to measure but given the studies and consultations to perform before tabling a proposal for a directive, it should last at least 18 months.

The ratification processes will be regularly monitored.

ECSCA noticed that a drafting mistake was in the preamble and in the body of the agreement.

An amended version is to be sent by mail to ETF for approval.

ETF asked for information on the future developments on the enforcement directive and about the amendment of the working time directive and whether social partners will be consulted by the Commission in an advisory capacity.

DG TREN stated that the social partners would be kept updated on the state of play.

On the legislative technicalities, two options were raised to incorporate the social agreement into EU law: either a single implementing directive 139 ECT encompassing the repealing of the working time directive or 2 separate instruments, one amending the working time directive in order to bring it in line with MLC and the other establishing the new areas of the social agreement.

The Commission will reflect first and will come back with proposals.

4. 3rd Maritime Safety package, latest developments

DG TREN (M. Burghelle-Vernet) recalled the background of the third maritime package from the publication of the Erika package (7 proposals) in November 2005 onwards and gave explanations on the Council works held on 30.11.2007.

A specific reference was made to the proposal on liability of shipping companies integrating the Athens convention into Community law whose scope of application was reduced by the Council. The Council has excluded accidents in inland navigation and has watered down rules on domestic traffic.

The Athens convention only covers international journeys while Commission is in favour of covering also domestic traffic in its proposal. Given that the convention relates to the harmonisation of the compensation levels, the Commission considers the levels of compensation should be consistent with the conventions on the limitation of responsibilities.

Concerning the proposal on ships inspections and survey organisations, the Commission is quite satisfied with the result, especially on the fact that the Council has accepted the financial penalties, the principle of common classification bodies, and the delegation of competences to classification societies by the Member states and the recognition of certifications.

At this stage, 8 texts, instead of 7, have been in preparation and 5 texts have been subject to political agreement: port state control, traffic monitoring, investigations on accidents, classification societies, Athens.

The examination of 2 other texts has started with the Portuguese presidency, the one on the flag state and the one on the civil responsibilities.

ETF expressed concern with the criminalisation of seafarers. ETF mentioned the work done by ILO/IMO expert working group on accident investigation for approving guidelines on the fair treatment of seafarers which aim at guaranteeing minimum rights for seafarers in the event of an accident, for instance, in the case a seafarer is involved in investigations, ensuring legal representation interpretation facilities.

ETF wishes the guidelines had been referred in the recitals and in the body of the text of the proposal on accident investigation as suggested by the European Parliament. The Council decided to have the reference in the recitals only. ETF asked ECSA whether they would agree to make a joint statement in this respect.

ECSA confirmed its support for the Guidelines but felt that it was preferable that they be in the recital rather than the text itself. DG TREN (M. Burghelle-Vernet) stated that there would be no legal problem and that the legislator could agree on deciding to apply the international guidelines to the Member states. He preferred insisting on the technical nature of the text rather than on the judicial aspects.

ETF still hoped that the issue would be reconsidered during the second reading.

5. Commission Consultation on “Reassessing the regulatory social framework for more and better seafaring jobs in the EU”: discussion on a possible ETF/ECSA joint response

Nicolas Brezewski explained the background of the Commission Communication "Reassessing the regulatory social framework for more and better seafaring jobs in the EU" (COM(2007)591). The consultation period of the social partners has been prolonged until 31 January 2008 and the social partners are invited to comment on the justification of the legal exclusions as stated in the document.

ECSA said that it was difficult to say if a common response was feasible, especially within the end January deadline, the analysis indicating that Member States had agreed to various approaches for derogation possibilities depending on the particular piece of legislation.

ETF asked the Commission what expectations they have from social partners as regards the level of details in responding to this first phase of consultation. ETF will certainly provide arguments for the elimination of exclusions of seafarers from the relevant social and labour directives.

The social partners agreed that the two secretariats should explore a possible joint view by end December 2007. The possibility of submission of individual responses was mentioned.

6. The Commission Blue Paper and the Action Plan on a Future Maritime Policy for the EU, discussion on issues of common interest

Haitze Siemers looked back at the very large and interesting consultation period concerning the future maritime policy. He expected very soon Council conclusions addressing the integrated nature of the policy and the need to bring forward employment, environmental and economic activities in the maritime area. The role of the stakeholders would be very important as well as local responsibilities and ownership. Ongoing work further develops some new ideas such as to increase mobility and to improve career prospects. Further stakeholder consultations were planned for the beginning of 2008 to look at all the new ideas and to see the real needs of other sectors.

Patrick Norroy explained the Commission ideas to expand the internal market to the maritime area with a legislative proposal by July 2008.

ECSA was pleased with the wide stakeholder consultation of the Commission and underlined the importance of European shipping in the world. It was noted that the main maritime employment was on land and that the industry needed people of the highest quality; an integrated career path approach had merit and the joint career mapping study could be built on. The concept of a certificate on maritime excellence was new and merited further study. ETF explained that their expectations on the Blue Book had been crushed because the ETF's contributions have been widely ignored in many points and the social pillar is too weak and lack of concrete proposals when it comes to improving the employment conditions of workers at sea. The initiative to delete the maritime exclusions is supported but other initiatives, such as the creation of a European Maritime Space without barriers lack of an assessment of the impact this measure will have on employment; ETF expressed concerned as well on the idea coming from the Commission

to design a certificate of maritime excellence based on a voluntary approach. Finally, ETF saw a need to address the problem of flags of convenience, to encourage the employment of EU seafarers and to develop more legislation for improved and higher security for seagoing jobs.

Both sides intended to continue contributing actively to the ongoing Commission consultations.

7. EU Presidency proposal to the IMO on the compatibility between the FAL Convention and EC law: joint ETF / ECSA position

The chairman referred to initiatives of the Portuguese Presidency and to a joint letter of the social partners expressing concerns about the Council discussions for the preparation of a coordinated notification to IMO of differences between the FAL convention and EU law (Schengen acquis), as far as FAL provisions on the exemption of visa for shore leave for seafarers (standard 3.45) and on stowaways (standards 4.9.2, 4.9.3 and 4.10.1) were concerned.

Ana Isabel Sánchez Ruiz (DG JLS) informed that the relevant Council working group had decided lately not to include any reference to the FAL Convention provisions on stowaways in the draft coordinated notification to IMO.

With regard to standard 3.45, she reported that it had been agreed to make a reference in the draft coordinated notification to the partial incompatibility between Standard 3.45 and Regulation 539/2001 listing the third countries whose nationals must be in possession of visas when crossing external borders and those whose nationals are exempt from that requirement, clarifying nevertheless for each individual Member State whether it exempts from the visa requirement seafarers going ashore, as permitted by the Regulation itself. She informed that, according to the information communicated to the Commission by Member States, all Member States except for Sweden and Germany exempt seafarers from the visa obligation with regard to shore leave.

She made it clear that in any case the coordinated notification of differences to IMO would not entail any modification of existing practices and formalities, but would aim at ensuring transparency, vis-à-vis the other IMO partners and the industry, with regard to such practices and formalities resulting from the implementation of the Community acquis.

Summarising, the chairman concluded that the social partners' fears could be set aside for the time being because the notification would not involve any changes of the situation.

8. Revision of the STCW Convention

As regards the EU submission to the IMO (for STW 39) and in particular Chapter VIII of the STCW Convention on working time, ECSA asked if the proposals entail parallel provisions to the ILO ones or substantial amendments. In this regard, DG TREN (Ms Vartsos-Tzannetakis) explained that the proposed amendments do not amend the relevant ILO provisions, stipulated in Convention 180, and that to the contrary the rationale was to align fully STCW with the ILO pertinent provisions, as was requested by the IMO

MSC Committee. Ms Vartsos Tzannetakis explained also that numerous Member States were reluctant to accept an explicit reference to provisions allowing for exceptions to working time limits via collective bargaining agreements. In order to reach a compromise, it was therefore decided to maintain in the submission the overall reference to ILO C180 in the Annex, as well as all the pertinent provisions of C 180 in Code part A, with the exception of the ones referring to collective agreements.

In this respect, ECSA expressed its reservation on the implications of the submission by MS and the Commission, considering that it undermined the role of the SP, and there were doubts whether the level of flexibility was the same in practice.

Both ECSA and ETF feared that the replacing of the 70 hours rest period for watch keepers by a 77 hours rest period, together with the deletion of collective bargaining provisions would reduce the necessary flexibility as regards exceptions to the limits of hours of work/rest. The same problem would arise concerning medical certificates where social partners' agreements should keep their relevance.

In replying to these comments, Ms Vartsos Tzannetakis indicated that the underlying reference to ILO Convention C 180 in the Annex to the Convention implies that all the provisions of this Convention continue to be mandatory in the framework the STCW Convention, including the ones allowing for exceptions to the limits of hours of work/rest.

The social partners insisted on the application of their Agreements and requested a written confirmation from the Commission, by end January 2008, as regards the implication of the amendments concerning the applicability of the provisions allowing flexibility concerning the limits of hours of work/rest.

9. 2008 SDC work programme

The work programme of the Sectoral Social Dialogue Committee "Maritime Transport" for the period of 2008 was adopted without changes.

The secretariats were asked to identify priorities among the 12 items of the work programme.

10. Election of Chair and Vice Chair

Thomas Abrahamsson was re-elected as chair of the Sectoral Social Dialogue Committee "Maritime Transport" for the next two years. Guy Sulpice was elected as vice chair.

11. Any other business

Next meetings:

28 April 2008 (WG) with interpretation *or* 23.4.08 without interpretation (*tbc*)

4 July 2008 (WG)

26 September 2008 (WG)

10 December 2008 (PL)