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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, 28 September 2006

SECTORAL SOCIAL DIALOGUE COMMITTEE FOR MARITIME TRANSPORT

WORKING GROUP MEETING

held on 27 June 2006 in Brussels

MINUTES

Chairperson: Philippe Burghelle-Vernet (DG TREN)

Participants: see attached list

1. Adoption of the Agenda

The Agenda was adopted.

2. Report by DG TREN on latest Commission / Council initiatives

The chairperson explained the background of the Commission Proposal COM (2006)288 for a Council Decision on authorising Member States to ratify the 2006 Consolidated Maritime Labour Convention and of the Commission Communication COM 2006 (287) on the strengthening of maritime labour standards. The chairperson noted that it would finally be up to the Member States to ratify and that the Commission could not oblige them to do so. The Council will take stock of the ratification situation in June 2008. There were three pillars to the process, namely ratification, implementation through EU legislation via a social agreement where added value (Art. 138.2) and enforcement via port state control. The rationale for the approach is managing globalisation and guaranteeing fairer conditions of competition while seeking for decent working conditions for seafarers, views already expressed by the European Council in June 2005,

with specific questions posed. It is not easy to identify the topics on which to base an agreement but there is some scope under Art.138.

The paper posed 5 only general questions, the first is for the Commission while questions 2-5 being for SP to consider. In certain areas (e.g. leave for young persons) more substantive rules than those set out could be envisaged; not all of the MLC should be in an SP agreement as it was already covered by EU legislation; another layer of legislation was not advisable. It would be helpful if the SP could identify topics for discussion, not already covered by EU legislation, with a view to a possible agreement. The requested response by end September could indicate the areas on which there was willingness to discuss, rather than on the content as such.

3. Initial Discussion on the Terms of Reference / Identification of issues to be addressed by the WG

ETF welcomed the Communication which came fast and the willingness to look at some social issues, namely the status of seafarers, social dumping, etc. The short deadline could be met only if we limit the exercise to the identification of those points on which we could build on an agreement. Further advice from the Commission on what parts could not be included in any SP agreement would be helpful.

ECSA stressed its commitment to global standards and the need for the MLC to be ratified and applied as soon as possible; it would be counterproductive for the global standards to be renegotiated in Europe. While the best means of applying it in Europe were currently unclear and needed further discussion, ECSA was adamant that additional elements should not be added in the EU context and that the Convention should remain intact, fragmentation to be avoided.

The Commission said that it was not the intention to modify the MLC and there had to be added value for EU initiatives. Enforcement via PSC enabled infringement proceedings and ultimately ECJ involvement. SP were free to decide the elements to include in any agreement, although they should concentrate on areas where there was no EU legislation and/or where there could be EU added value. A table on applicable EU legislation had been produced. In recent years, the issue of globalisation had been reflected in MS adopting ILO core labour standards. The example of SOLAS Convention, some parts of which have been enshrined in EC law, was given to underline the EU added value.

ECSA drew attention to the problems of disassembling the MLC and the advantages of keeping the MLC intact in the EU context, with the exception of Title 5. Having two legal sources was not necessarily a problem. If all MS ratified, the issue of added value at EU level needed to be considered; the discussions were aimed at seeing whether a SP agreement was the best way forward.

ETF noted that some of the MLC provisions are actually exceeding the existing EU legislation and that the issue was considerably more complex than the situation created by the ILO Convention n°180 on working time, the issues of whether both sides wished to pursue a SP agreement and what areas were already covered by EU legislation being matters to consider. Whether there could be a condition in a SP agreement to the effect that it would not enter into force until the MLC did so (in order to prevent National

administrations from doing nothing before the signature of any sectoral agreement) , and whether it was ECSA/ETF or Commission or governments that would be involved in the Tripartite process were further future issues to resolve.

ILO stressed that the unanimous vote had sent a clear message and felt that the EU MS could be the driver for implementation. Moreover, EU MS are free to have higher standards than the minimum provisions set up by the MLC. It would be important that MS would not wait for EU legislation before ratifying.

ETF felt that some MS would ratify and others not, it being important that any SP agreement should not cause a delay in the ratification process. While Titles 1-4 were the core, some of Title 5 could be relevant to an agreement; there were advantages (e.g. the definition of seafarer, having part B of the Convention **binding**, homogeneous application of the MLC across EU, etc.) and disadvantages of going down the SP agreement route. ETF wished to explore the possibility of such an agreement and if it was not possible, they would fully support the Commission in taking other initiatives on ratification and implementation of MLC. It would be helpful for a one-off Tripartite meeting of MS/ECSA/ETF to take place and also use the annual meeting between ILO and EC to discuss the way forward to the ratification in particular.

ECSA considered that such a meeting could be helpful and confirmed that ECSA was also constructively looking at the possibility of a SP agreement in parallel to implementation at EU level. Advice from the Commission on whether such an agreement could comprise the MLC as a whole, without additional elements, would assist ECSA's decision making process.

The Commission undertook revert with detailed information on the elements of the Convention already covered by EU legislation and on ECSA's and ETF's questions. The Council could agree on issues currently outside EU competence if covered by Art. 138. The Commission would also look at the respective roles of MS and social partners in relation to changes of the MLC should there be EU legislation via a SP agreement, and revert with information. The Commission also reported that an impact study by independent consultants would be undertaken and SP may be approached to complete a questionnaire.

4. Dates of next meetings

28 September (WG) 10h00

11 December (WG)

5. Any other business

DG TREN reported that in the context of the modification of the STCW, to be discussed in IMO in January, input from the SP at the next SD meeting would be welcomed.