

SECTORAL SOCIAL DIALOGUE COMMITTEE FOR MARITIME TRANSPORT

THURSDAY 30 OCTOBER – 11.00 H.

NOTES ON AGENDA

1. ADOPTION OF THE DRAFT AGENDA

ETF requested to discuss current developments on the Ebola disease under AOB.

The SSDC adopted the draft agenda of the meeting of 30.10.2014 as complemented and agreed to change the order of the agenda items to accommodate the meeting needs from the Commission representatives.

2. SUMMARY RECORD OF THE LAST MEETING

The SSDC adopted the draft minutes of the meeting of 28.3.2014.

The Chairman recalled that the SSDC meeting on 30 June had been entirely dedicated to the social exclusions' proposal from the European Commission and no formal report had been made from this meeting. The joint ECSA/ETF agreement on this legislative proposal is the reflection of the discussions at the SSDC meeting on 30 June and subsequently at the expert meeting in London on 11 September.

3. ADMINISTRATIVE BURDENS

The Chairman referred to the various initiatives from the social partners as regards reducing administrative burdens for seafarers over the past three years and wondered why DG MOVE had so far not yet made any formal response to the ECSA/ETF joint action plan and declaration, despite the many requests from the social partners.

DG MOVE (Jukka Savo) read out a statement welcoming the social partners' initiatives and explaining the various initiatives from the European Commission in the field of administrative burdens, with a particular attention to the implementation of Directive 2010/65 on reporting formalities. He underlined that the powers of the European Commission are limited by the EU Treaty and this explains why certain measures could not be proposed. However, he stressed that it is DG MOVE's intention to carry on with this matter, even after the implementation of Directive 2010/65 has been finalized. Finally, he explained that the absence of a DG MOVE response to the social partners' joint

action plan and declaration was due to a number of internal changes within DG MOVE recently.

ECSA and ETF welcomed the ongoing and future Commission initiatives and looked forward to DG MOVE's response to their joint action plan and declaration. ETF, however, regretted the lack of progress made so far on this very important matter for seafarers and enquired whether DG MOVE had still the intention to launch the e-MAR Forum, for which ETF had already identified two captains for participation in the meetings of the Forum.

Mr. Savo replied that the Commission's plan to launch an e-Maritime Forum to discuss administrative burdens in the context of the e-Maritime concept had been delayed but the necessary administrative work has now been finalized so that the launch of the Forum could be envisaged soon. However, there is not yet a concrete timetable since DG MOVE wants to await the outcome of the current discussions on the implementation of Directive 2010/65 first. Nevertheless, DG MOVE promised to keep the social partners informed about the ongoing work and its future plans and initiatives and counted on the social partners to assist the relevant Commission services with their practical and operational knowledge.

The SSDC took note of the ongoing work and future Commission's initiatives as regards reducing administrative burdens for shipping and seafarers and of the Commission's commitment to keep the social partners advised on the ongoing work and its future plans and initiatives. The SSDC reiterated its clear wish for a formal Commission response on the social partners' joint action plan and declaration.

4. MLC IMPLEMENTATION AND RECENT AMENDMENTS

MLC implementation

The Chairman recalled the previous discussions with DG MOVE on the different dates of entry into force of the ILO MLC, the related Directive and corresponding enforcement directives. He stressed that DG MOVE had so far not yet responded in writing to the social partners on this topic and had therefore not yet formally clarified the implications of this variety of entry dates. It was however stressed that no particular problems were reported in that regard.

The SSDC took note.

ILO MLC amendments

The Chairman referred to the discussions in the ILO earlier this year on proposed amendments to the ILO MLC with an aim at protecting abandoned

seafarers and at providing financial security for death or long-term disability of seafarers. He drew attention to the fact that, unless there is significant disagreement amongst Governments, the new amendments will enter into force in early 2017. He invited DG EMPL to explain the social partners how these amendments could be transposed into EU law.

DG EMPL (Ms Pichot) recalled that the recent ILO MLC amendments had been the subject of EU coordination and Member States had supported these amendments through Council decision 2014/346/EU of 26.5.2014.

As regards the transposition of these amendments into EU law, there are two different options: either the transposition is done by means of a social partners' agreement or it is done by means of a Commission legislative proposal. However, Mr. Pichot was not certain as to whether the first option would mean that the existing social partners' agreement, transposing the MLC, should be amended, or whether a brand new social partners' agreement should be negotiated. She suggested contacting the relevant people in DG MOVE (G. Crivellaro) and DG EMPL (G. Widera and St. Martinelli) to that end. Ms Pichot drew attention to the fact that adopting a social partners' agreement has become more difficult and burdensome than in the days of the social partners' agreement on the ILO MLC, inter alia, because the European Commission must now carry out an impact assessment of the social partners' agreement's benefits and costs. Finally, Ms Pichot pointed out the fact that should social partners decide to opt for a binding agreement, it may be advisable to start working on it without great delay as the procedure leading to its transposition into Community law may take time and would have to coincide with the entry into force of the revised Convention at international level.

ETF felt that there was merit in identifying whether there would be common ground amongst the social partners to move ahead with a social partners' agreement and acknowledged the need to look at all relevant EU legislation in this respect. ETF also stressed the need to call on Member States to endorse the above-mentioned amendments.

ECSA felt that the two organisations should first carry out an internal impact assessment to identify the merits and (legal) difficulties connected with a transposition of the recent ILO amendments by means of a social partners' agreement.

The Chairman suggested that each association would carry out some homework and invited the two secretariats to cooperate on this matter and to liaise with the relevant Commission services with an aim at taking a decision at the next SSDC Plenary meeting in December. He also invited DG EMPL to inform the social partners on the timetable for this exercise.

The SSDC supported the suggestion from the Chairman.

5. SCHENGEN VISA CODE

The Chairman advised that this had been a longstanding issue on the SSDC agenda and drew attention to the publication of a Commission legislative proposal modifying the Schengen Visa Code in May this year. He also enquired about the latest developments as regards the ratification of ILO Convention 185.

DG EMPL (Ms Pichot) recalled that the European Commission and Member States had welcomed the adoption of ILO Convention 185 and the European Commission had issued a draft Council decision authorizing Member States to ratify this convention soonest. She then gave a very comprehensive overview of the current status of ILO Convention 185 with a particular attention to the technical issues that hamper its swift ratification. It was thereby noted that a technical working group will be established within the ILO to discuss the various technical issues related to ILO Convention 185. The European Commission and interested Member States will participate in this working group, which will start its activities as of February 2015. Finally, attention was drawn to another difficulty with ILO Convention 185, notably that the Seafarers' ID, which is provided for in this Convention, does not have the status of a passport, a travel document or a visa under EU law.

ETF expressed its disappointment with the fact that the European Commission did not encourage Member States to ratify ILO Convention 185 soonest and denounced the lack of will from the Member States, who are hiding behind the failure of the USA to ratify and creating new technical excuses such as interoperability linked to this convention to avoid ratification. ETF also wondered why ICAO technical requirements should be the standard outside the airline industry and wondered how these could apply in ports and particularly in smaller ports where access to such technology might be a challenge. Finally, ETF wondered whether there would be a role for the social partners ECSA and ETF to participate in the ILO technical working group meeting in February.

ECSA supported a swift ratification of ILO Convention 185 by all port states and the establishment of a technical working group in ILO in February.

As regards the Commission's legislative proposal modifying the Schengen Visa Code, Ms Pichot was not in a position to provide an insight on the latest developments due to the fact that she was not in charge of this file within the European Commission.

ETF referred to the definition of seafarers used in the Commission's legislative proposal modifying the Schengen Visa Code and also the visa fee issue. ETF underlined the need for consistency with the ILO MLC on these matters.

The Chairman suggested the two secretariats identifying the possibility of making a joint submission on the Commission's legislative proposal.

The SSDC took note of the latest developments as regards the Commission's legislative proposal to modify the Schengen Visa Code and of the technical difficulties in ratifying ILO Convention 185, for which a technical working group meeting will be established in ILO in February 2015. The SSDC agreed with the suggestion of the Chairman to explore the possibility of making a joint ECSA/ETF submission on the Commission's legislative proposal.

Furthermore, with reference to the inability of the Commission's representative to respond to questions on Schengen Visa, the SSDC underlined the need for the European Commission to send the appropriate people to the SSDC meetings in order to provide the social partners with relevant information and to allow them to have a proper discussion. It was stressed that the European Commission services had received the dates of SSDC meetings a year ago and had received all relevant documents prior to the meeting in order to enable them to be prepared for that meeting.

6. EXCLUSIONS OF SEAFARERS – STATE OF PLAY

The Chairman recalled the background of this matter and advised that following the dedicated SSDC meeting of 30/6, a group of ECSA and ETF experts had met in London on 11 September to discuss the basic principles and details of a possible joint agreement on the Commission's legislative proposal. Following intensive discussions, a joint agreement had eventually been reached and was endorsed by both sides at the end of September. He reiterated that since the Commission had already issued a legislative proposal, the ECSA/ETF joint agreement would not have the formal status of a social partners' agreement but was meant to amend/modify the Commission's original proposal.

ECSA supported the joint agreement and felt that it was a balanced text, which took into account the interests and concerns from both sides. ECSA hoped that this joint text would now be endorsed by the relevant EU decision-makers and become the new EU legislation for the maritime industry.

ETF agreed with the view that the joint agreement reflected a fair balance between both sides and thanked ECSA for its willingness to make a compromise agreement on a complex issue, for which the Italian EU Presidency had set a very tight timetable. ETF also welcomed the fact that the Italian EU Presidency had taken into account the joint ECSA/ETF agreement when drafting the presidency text. ETF felt that the adoption of a joint agreement on such complex and sensitive matter reflected very well on social

dialogue in the maritime sector and showed its added value and wondered whether there would be common ground to discuss also other sensitive matters in the future.

DG EMPL (Ms Pichot) advised that the European Commission had welcomed the adoption of a joint ECSA/ETF agreement and noted that the text would provide helpful input for the discussions in the Council and the European Parliament, which will both ultimately decide on a final text.

The Chairman commended both sides for reaching a joint agreement and noted that both associations continue to stand behind their joint agreement when meeting the relevant EU decision-makers.

The SSDC took note.

7. NEW EUROPEAN COMMISSION: RELEVANCE FOR THE SSDC

On the invitation of the Chairman, the European Commission advised that Jean-Claude Juncker had been appointed as President of the European Commission, and that similarly all Vice Presidents and Commissioners had been endorsed by the Council and the European Parliament. Consequently, the new European Commission could start its activities as of 1.11.2014, for a period of 5 years.

Special attention was drawn to the fact that this Commission will also have Vice Presidents, some of which will not have a directorate general under their responsibility. It remains to be seen how this new structure will work in practice. For social affairs and the social dialogue, the competent Commissioner is Marianne Thyssen (Belgium) and the competent Vice Presidents are Jyrki Katainen (Finland) and Valdis Dombrovskis (Latvia). The former is in charge of jobs, whilst the latter is in charge of social dialogue. Commissioner Thyssen will be responsible for Directorate General Employment, Social Affairs and Inclusion (DG EMPL). She will cooperate on these matters with the two afore-mentioned Vice Presidents.

Both Commission President Juncker and Employment Commissioner Thyssen have expressed a clear interest and support for the social dialogue in the EU. Mr. Juncker has a personal interest in this matter, whilst Mrs. Thyssen plans to re-activate the social dialogue in the EU. Also Vice President Dombrovskis has expressed its full support for the social dialogue in the EU.

ECSA welcomed the new Commission's support for the social dialogue but underlined that the SSDC for maritime transport has always been very active and productive. Taking into account the plan of Commissioner Thyssen to re-activate the social dialogue in the EU, ECSA wondered whether the

Commissioner had the intention to meet with or consult the social partners in maritime transport.

ETF welcomed the new Commission's support for the social dialogue but underlined that also Transport Commissioner Bulc had expressed great support for the social dialogue in the EU. In addition, during her hearing in the European Parliament, she had underlined the need for improving social conditions, for increasing the attractiveness of the maritime sector, for promoting training, skills and careers, and for opposing social dumping, etc.

The SSDC took note, welcomed the new Commission's support for the social dialogue and social affairs and pledged to make sure that these declarations would be translated into actions.

8. CRIMINALISATION OF SEAFARERS

ETF advised that this matter had been on the agenda for some time now and it has also been an important item within ETF and ITF. Regrettably, the trend to criminalize seafarers is still there and in this respect reference was made to some recent cases including the Sewol. ETF wondered whether there would be a window of opportunity for the social partners to adopt a social partners' agreement which would incorporate the ILO Guidelines on Fair Treatment of Seafarers into EU law, hence making them legally binding in the EU.

ECSA reiterated its preference for an international solution for this global phenomenon, through IMO, but agreed to explore the opportunity for the social partners for a joint action on this topic, with or without ICS and ITF. Possibly a joint ECSA/ETF event could be explored as well.

The SSDC took note.

9. ECSA/ETF PROJECTS BULLYING & HARASSMENT AND CAREER MAPPING UPDATE

As regards bullying & harassment, ETF welcomed the wide dissemination of the B&H material and video at national level but regretted that in some Member States, shipping companies seemed to be unaware of the project and its output. Overall, many shipping companies have been very supportive of the results of this project and/or were impressed by the final product. However, to secure future attention, there is an ongoing need for dissemination.

ECSA enquired which Member States/shipping companies had been referred to as being unaware of the project and reminded that not all National Associations play an active role in, or are member of ECSA. This may explain

the lack of knowledge in some Member States or from some shipping companies.

The SSDC agreed to keep B&H on the agenda of future meetings and keep pressure on relevant stakeholders to ensure the widest possible dissemination.

10. EUROPEAN SHIPPING WEEK

The Chairman drew attention to an ECSA initiative for a European Shipping Week in the period of 2 till 6 March 2015 and advised that ECSA had approached ETF to identify the possibility of a joint event during that week.

ETF welcomed the initiative but needed more details from ECSA before it could make a final decision as to whether a joint event would be feasible or not. At the same time, ETF felt that ECSA's invitation had come rather late in the process.

ECSA stressed that the organization of the European Shipping Week is unfinished business with many details that still need to be decided upon. Hence, there is still sufficient time and room for ETF to consider the opportunity of a joint event and to indicate possible agenda items for that event. To facilitate things, ECSA suggested that the two secretariats would meet as soon as possible to identify these agenda items.

ETF thanked ECSA for these clarifications but underlined that, contrary to ECSA's initial thoughts, the joint event should not only address the easy issues on which both associations agree (such as piracy, criminalization or administrative burden) but it should also tackle the more difficult ones, such as EU jobs for EU seafarers, training, skills, etc.

The SSDC agreed that the two secretariats should meet soonest to discuss the possibility of a joint event during the European Shipping Week and to identify possible agenda items, for discussion and possible approval at the SSDC Plenary meeting in December.

11. PIRACY

The Chairman gave an update on recent developments as regards East-Africa (e.g. the decision to extend the EU NAVFOR ATALANTA mandate), West-Africa (e.g. the adoption of an EU strategy for the Gulf of Guinea) and the publication of the EEAS/EC joint Communication on elements for an EU maritime security strategy (which recognises piracy as one of the main maritime threats).

ETF enquired about the role of the Contact Group of Somalia, and in particular the nature of the so-called *Piracy Survivor Family fund* set up in this

framework, querying whether this scheme might be overlapping with already existing arrangements provided by the MPHRP. ETF also advised that piracy attacks had re-appeared in Asian waters as well, and wondered what else the social partners could do at this stage in terms of joint action.

ECSA underlined the need to ensure that EU decision-makers remain focused on the problematic nature of piracy for shipping and seafarers, to avoid that they would withdraw resources where they are needed. Possibly, piracy could be an agenda item for the European Shipping Week (see item 10 above) to ensure ongoing attention. In response to the ETF comment on the *Piracy Survivor Family fund*, ECSA (S. Bergulf) pledged to investigate this matter and come back with information.

The SSDC took note.

12. A.O.B.

Ebola

Whilst acknowledging the need to avoid any hysteria, ETF stressed that attention should be paid to the consequences of the Ebola disease in general and for seafarers in particular. ETF felt that all necessary initiatives should be taken to limit the adverse consequences of this disease and referred in this respect to the promulgation of relevant advice to shipping companies and seafarers and/or to the need to adopt relevant measures to handle the disease. ETF also felt that Member States should support the work that is being carried out in West-Africa to cure and/or combat the disease but acknowledged that also long-term measures will be needed to handle it. Finally, ETF suggested addressing this problem at all relevant levels and fora.

ECSA agreed on the importance to tackle this disease properly, whilst underlining the need to avoid any hysteria. ECSA recalled that Ebola is not a new disease. Nevertheless, ECSA acknowledged that precautionary measures are needed and drew attention to a number of recent initiatives at national and/or company level, such as the creation of dedicated working groups of shipowners and trade unions to share information and to exchange of views on best practices, medical assistance, or the use of specific equipment for ships trading to/from the West-African countries to tackle infected crew onboard.

The SSDC took note of the suggestions made and initiatives being taken and agreed that the social partners should write a letter to underline the need for taking the appropriate (precautionary) measures to tackle the Ebola disease. Relevant material for such letter can be found on members' websites.

13. DATE OF THE NEXT SSDC MEETING

The Chairman recalled that the next SSDC meeting is a Plenary meeting and is scheduled on Thursday 18 December 2014. At this meeting, the social partners should also decide on a new bi-annual work program and they should (re-) elect a Chairman and Vice Chairman. The Chairman also insisted upon the European Commission to provide the social partners with the dates of SSDC meetings in 2015 soonest.

ECSA advised that tentative dates had been submitted some months ago and regretted that the European Commission had failed so far to inform the social partners on the exact dates. Meanwhile, it is likely that some of these tentative dates may no longer be suitable.

The SSDC agreed on the need to receive the SSDC dates for 2015 soonest. The Commission promised to send them within the next two weeks (before 15.11.2014)