



EUROPEAN COMMISSION

Employment, Social Affairs and Equal Opportunities DG

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

Brussels, 23 October 2006

SECTORAL SOCIAL DIALOGUE COMMITTEE FOR MARITIME TRANSPORT

WORKING GROUP MEETING

held on 28 September 2006 in Brussels

DRAFT MINUTES

Chairperson: Thomas Abrahamsson

Participants: see attached list

1. Adoption of agenda

ETF proposed that the issue of Seafarers ID in relation to the FAL Convention and visas be discussed under AOB.

The WG agreed.

2. Draft minutes of the last meeting (27/6)

The WG agreed the draft minutes as circulated which included proposed amendments from ETF.

3. Review of Commission responses to questions posed by ECSA and ETF, and the way forward

The Commission has adopted on 14 June 2006 the Communication COM(2006)287 with the intention to launch a first phase of consultation of the social partners with the purpose

to strengthen the maritime labour standards. The Commission intends to continue its efforts to support the ILO MLC 2006 by encouraging its ratification and by promoting its application at Community level. The possible options for implementation include, in particular, that of incorporating certain of the Convention's provisions in Community law.

The chairperson described two options for the future: either the Commission takes responsibility for producing a proposal for a directive via the normal co-decision procedure, or the social partners can negotiate an Agreement. In the latter case, the EP was out of the legislative process, and there were 9 months to reach the agreement. Should it be reached, the SP can request its implementation via a Directive under Art. 137; the Council has to accept or reject the Agreement as a whole. The key aim of the meeting was to establish the reaction of the SP to the questions posed on page 8 of the June Communication.

ETF thanked the Commission for the answers and background papers to assist in charting a way forward. To ensure that a SP agreement encouraged rather than discouraged MS ratification, the 9 month limit was important and the entry into force of the possible agreement should be conditional or suspended until MLC is ratified by the MS. Against that background, ETF believed that the SP should enter into negotiations to conclude a SP agreement within the 9 months limit, with a review on progress half way. ETF wished to see a real commitment from ECSA that they wished to do likewise.

In referring to questions posed on page 7 of the Communication, ETF favoured the inclusion in an agreement of areas of the MLC currently not covered at Community level, and of standards of MLC going beyond those of the European legislation currently in force. Making Part B mandatory was also supported. ETF also favoured a tripartite Community structure for the integration/improvement of the MLC standards.

ECSA thanked the Commission for the helpful answers and papers since the last meeting; the priority was not to lose momentum since adoption in February and to encourage ratification worldwide for a global industry; likewise, it was hoped that ratification by all MS should take place as soon as possible and in this regard the adoption of the proposed Council Decision was fully supported. It was stressed that the Geneva outcome was the result of a delicate balance at international level which should not be undermined by any initiatives in Europe; the goal was to achieve a global level playing field. Against this background and while noting the complexity of the issue, ECSA was willing to explore the possibility of having EU legislation transposing the MLC via a SP Agreement.

The Commission explained that the priority for the meeting was to provide answers to the questions in principle and to discuss the conditions or wishes from both sides for the future discussions. There would be the possibility that a SP Agreement could accelerate MS ratification, with EU enforcement being linked to prior ratification. If a SP agreement was not achieved, it would be up to the Commission to propose legislation under the co-decision procedure. In the latter case there would be risks for the integrity of the MLC.

ETF showed an interest to consider the issues of fundamental rights, especially wages and freedom of association/strikes during the negotiations. ETF would put forward questions to the Commission as to the interpretation and scope of Article 137 of the Treaty. ETF also wondered whether Article III of MLC could be part of a social partners

agreement and whether third country nationals could be covered by the social partners agreement.

ETF also referred to an alleged exclusion of Masters from the scope of the national legislation implementing Dir. 1999/63 (organisation of working time of seafarers) by one of the MS (without mentioning to which particular MS the comment referred).

ECSA said that it could not accept issues being introduced in any SP agreement which went beyond the MLC and that if such controversial issues were brought into the debate a successful outcome was doubtful; clarification was sought from the Commission on the areas of the MLC on which it was legally possible to have an agreement and on the position vis a vis leave provisions of the WT Directive which were less generous than those in the MLC.

The Commission responded to the questions posed:

- SP were invited to submit written questions as soon as possible. The Commission would provide detailed answers.
- Sufficient resources generally would be devoted to assist the SP during the course of the negotiations.
- Art 137.5 of the Treaty says that the issues of right of association, strikes and pay were excluded from the scope of art. 137 and therefore also from the scope of any SP agreement that could be implemented through EU legislation. However, such matters could be part of a wider SP agreement if both sides wished.
- There would be no added value of a SP agreement on areas where there is equivalent EU legislation (e.g. provisions on organisation of working time of seafarers). There are also examples of SP agreements not endorsed by the Council (telework, stress).
- The Commission would prepare for the SP a detailed analysis of what elements of the MLC could and could not be part of a possible SP agreement that could be implemented through EU legislation.
- The Commission took note of the alleged incorrect implementation of Dir. 1999/63 (organisation of working time of seafarers) in relation to the masters by one of the MS..

ECSA reported that it would be formally replying to the questions posed in the Communication by the 30/9 deadline, the contents of which would i.a set out the conditions on which it was entering into the discussions. They included, no add-ons, the integrity of the MLC to remain intact as far as possible, the maintenance of the SP and MS roles vis a vis the ILO Tripartite machinery, there should be no delay in ratification by MS and there should be a demonstrated added value for EU legislation/SP Agreement. (annex 1: ECSA letter).

The Chairman noted that there was consensus that negotiations would be instigated over a 9 month period on the possibility of concluding a SP Agreement by the end of that period; the conditions/wishes of both sides would be addressed during those talks. The scope of the negotiations would be the first priority to be discussed in the negotiation meetings. A review of progress made would take place after 6 months.

A Draft joint ECSA/ETF press release reflecting the outcome was discussed and agreed (annex 2: press release). The group also agreed that at an appropriate time it could be helpful for SP to meet Member States to explain latest developments. The Commission

added that while the SP could not formally attend a Council meeting there were other possibilities that should be explored.

As proposed by the Chairman it was agreed that the 27 October meeting scheduled for a Plenary be changed to the first negotiation meeting and that the discussions continue at meetings to be held on 11th and 12th December. They would take place without translation in either the offices of ECSA or ETF. They further agreed that as the WG discussions/negotiations should be informal, involving all participants and without spokespersons for each side.

4. Any other business

Seafarers ID and the FAL Convention

ETF noted that while the FAL Convention included the principle that seafarers be allowed shore leave without a visa, representatives from DG JLS were taking a contrary view to the detriment of seafarers; this was against the background of Commission support for Convention 185.

ECSA shared ETF's concerns, noting the issue could have a negative impact on the recruitment of seafarers; any assistance from the Commission would be welcome.

The Commission shared the concerns expressed and proposed that a JLS representative be invited to attend a future WG meeting to discuss the issue. The group welcomed this proposal.

Discussions in Council on the Commission Proposal to Ratify the Convention

The Commission reported that first discussions between MS had taken place in early September. While all expressed their commitment to ratify the Convention, they were reluctant to agree to a fixed deadline for ratification. There could well be a clause requiring MS to report progress made and, if not, the Commission could in any event request MS to provide information. The Council intends to take stock of the ratification in June 2008.

“4th Erika Package”

The Commission reported that, contrary to reports in the press, there were no plans by the Commission to come forward with a 4th package devoted to the human element in the foreseeable future. The only human element initiative envisaged in the next year was the possibility of a SP Agreement being transposed via a directive into EU law.

5. Dates of next meetings

27 October (WG)

11-12 December (WG)