

D. Draft
SF 4.900

SECTORAL SOCIAL DIALOGUE COMMITTEE

WEDNESDAY 13 JUNE 2012 – 11.00 H.

DRAFT SUMMARY RECORD

INTRODUCTION

The **Chairman** welcomed all participants attending the meeting. A list of participants is attached.

Mr. François Ziegler has replaced Mrs. Natasha Kokic as responsible for SSDC meetings.

Mrs. Christine Berg, Head of Unit in DG MOVE and responsible for Maritime Safety, introduced herself and advised that she is not only dealing with social affairs at DG MOVE but also with safety issues, which includes the follow-up to the Costa Concordia accident.

The **ETF** and **ECSA** welcomed Mrs. Berg and underlined the importance of the Sectoral Social Dialogue for maritime transport, which has resulted in two Social Partners' Agreements on working time and on the ILO MLC respectively, which both have been transposed into EU law via a Council Directive.

As regards the Costa Concordia accident, the **ETF** recognised that although the responsibilities of Captain Schettino could not be ruled out, the full facts surrounding the accident still need to be known. ETF also felt that Captain Schettino has been another example of the unfortunate criminalisation of seafarers.

ECSA congratulated DG MOVE with their approach to the Costa Concordia accident.

1. ADOPTION OF THE DRAFT AGENDA

The SSDC **approved** the agenda for the meeting of 13 June.

2. ADOPTION OF THE DRAFT SUMMARY RECORD OF THE MEETING OF 27.3.2012

ECSA suggested that the minutes of SSDC meetings would, as previously, be made again by the two Secretariats. ECSA volunteered to make the minutes of this meeting. ETF agreed to this proposal.

The SSDC **approved** the minutes of the SSDC Working Group meeting of 27.3.2012 and **agreed** that the minutes of future SSDC meetings would again be made by the two Secretariats alternatively.

3. MATTERS ARISING

a. Onboard organisation of work and onboard communication facilities – update on the follow up to the Joint Action Plan

The **Chairman** referred to the ECSA papers on onboard organisation of work and on onboard communication facilities and to the presentation of DG MOVE at the last SSDC meeting on Commission initiatives on reducing administrative burdens.

ECSA reminded that the Social Partners had prepared a Joint Action Plan identifying concrete administrative burdens and the competent Commission services to address these burdens and that DG MOVE had volunteered to assist the Social Partners in this matter. However, it seems that DG MOVE has so far not given any follow-up to the Social Partners' Joint Action Plan. ECSA, furthermore, informed that it will endeavour to come forward with a concrete proposal to reduce administrative burdens, as agreed at a recent meeting between the two secretariats and DG MOVE. This proposal would then be discussed with ETF and DG MOVE at the next SSDC meeting in December. ECSA again invited ETF to provide some clarifications on the comments/suggestions it had made to the two ECSA papers on onboard organisation of work and onboard communication facilities.

ETF promised to offer these clarifications soonest but advised that it had not yet done so since it had been waiting for input from the US. ETF also stressed that during the recent meeting between the two secretariats and DG MOVE, the latter had advised that many burdens for seafarers also come from requirements imposed by the shipping company itself. During this meeting, DG MOVE has also suggested making a study or issuing a questionnaire to identify the concrete administrative burdens for seafarers. However, ETF felt that many examples of administrative burdens had already been covered in the presentation of Captain Rorbeck at the SSDC Plenary meeting in November 2011. ETF suggested sending a copy of Captain Rorbeck's presentation to the e-MS Group on behalf of the social partners.

The SSDC **agreed** that the two Secretariats should continue to work closely on this matter and took note that ECSA will prepare a concrete proposal on reducing administrative burdens for seafarers, to be discussed at the SSDC Plenary meeting in December.

b. Update on career mapping study

The **Chairman** advised that ECSA had not submitted a project proposal for EU funding for an update of the career mapping study by the deadline of 17 April, which was due to the last minute decline of Mike Barnett. He invited ECSA to endeavour to meet the next deadline for submitting project proposals for EU funding, scheduled on 4 September.

ECSA advised that, as agreed at the last SSDC meeting, it had approached Mr. David Dearsley to carry out the career mapping update. Should Mr. Dearsley win the tender, he would certainly agree to do this work. Meanwhile, he has sent a project proposal as well as a budget estimate to the ECSA/ETF Secretariats and both look acceptable. Mr. Dearsley will be assisted in his work by Mr. Graveson from Nautilus UK. According to the EU rules, ECSA will publish on the ECSA website a tender inviting all interested parties, including Mr. Dearsley, to submit a formal project proposal to carry out the career mapping update. A selection of these project proposals will be carried out by the two secretariats.

ETF endorsed the idea to continue with Mr. Dearsley, assisted by Mr. Graveson, and felt that they would make a more concrete project than it would have been the case with Mr. Barnett.

ETF and ECSA reminded that the budget proposal from Mr. Barnett had been outrageous and that his project proposal contained elements that had not even been requested by the social partners. The new team would provide a right balance and meet the interests expressed by the social partners.

The SSDC **agreed** to move forward with Mr. Dearsley (if selected through the tender procedure), assisted by Mr. Graveson, and **agreed** that ECSA should continue to have the lead for this project.

c. Update on bullying & harassment guidelines

The **Chairman** advised that the ETF, which has the lead on this project, did not manage to submit a project proposal for EU funding by the deadline of 17 April, but it will do so by the deadline of 4 September.

The **ETF** explained that a project proposal had not yet been submitted because a number of issues are still outstanding, in particular the involvement and choice of a commercial partner, the distribution of the updated guidelines (through the use of modern technology) and the use of a 24/7 hotline providing assistance to seafarer victims of bullying and harassment, preferably in their national language. However, at this stage it is difficult to find the right provider that could offer such service.

The SSDC **took note** of these developments and the ongoing reflection in the ETF as to how to proceed with this project.

d. Piracy – update

The **Chairman** referred to a seminar organised by the Danish EU Presidency and DG MOVE on maritime piracy on 28-29 March and to a joint ECSA/ETF press release on maritime piracy issued after this seminar. He reiterated that this is an issue of great concern to both ETF and ECSA.

ECSA advised on the extension of the mandate of the EU NAVFOR/ATALANTA mission with another two years and from sea to onshore interventions. ECSA also advised on the adoption of a third Resolution by the European Parliament, which calls on Member States to continue to dedicate resources to the EU NAVFOR/ATALANTA mission. ECSA furthermore advised on the initiatives of the European External Action Service on capacity building in the Somali region. ECSA suggested endorsing – as social partners – the call for Member States to continue to dedicate resources to the EU NAVFOR/ATALANTA mission and expressing support for the European External Action Service initiatives on capacity building.

DG MOVE advised that the IMO Maritime Safety Committee had asked the International Organisation for Standardisation (ISO) to develop a standard for the accreditation and certification of private armed guards.

The **Chairman** advised that a naval officer took the floor in IMO underlining that the piracy problem cannot be solved at sea but acknowledging that in the short term naval protection at sea needs to be organised.

The **ETF** underlined and welcomed the good and close cooperation between social partners on piracy. The ETF also referred to recent political statements, e.g. from UK Prime Minister David Cameron, to ban ransom payments and, in doing so, targeting the business model of criminal activities hiding behind piracy.

The ETF expressed its strong opposition to a ban of ransom payments because of the very negative consequences this would have for seafarers in general and the current 178 hostages in particular. The ETF suggested issuing a joint ETF/ECSA statement towards the EU Institutions, expressing their strong opposition to proposals to ban ransom payments. In this respect, a paper recently made by NAUTILUS UK could serve as a basis for a joint social partners' statement.

ECSA also supported the ongoing cooperation between the social partners on piracy but felt that a new joint ECSA/ETF statement should also focus on money laundering and money flows as a complement to the denunciation of any attempt to impose a ban on ransom payments. In this respect the European Commission should provide guidance to social partners as to what EU initiative could be taken.

The SSDC **agreed** that the ETF should draft a joint ECSA/ETF statement for EU decision-makers, which gives a clear and strong message but in diplomatic terms. It was also agreed that the piracy issue would again be placed on the agenda of the next SSDC meeting.

e. Project Horizon

The **Chairman** advised that this issue had been put on the agenda at the request of the ETF.

The **ETF** advised that this project is significant and social partners should therefore reflect on an appropriate follow-up thereto. It should be avoided that this project would ultimately remain a pure academic exercise without any further action. The added value of this project is that it has developed a tool to monitor and forecast fatigue. Possibly, this tool could be made operational. The ETF regretted that the EU Commission had not accepted EU funding for the MARTHA project, i.e. a follow-up project to the Horizon project.

ECSA reported that Mr. Barnett had not yet made a presentation on the key findings of the Horizon Project to ECSA members and therefore suggested postponing the discussion on this project to the next meeting.

The **ETF** volunteered to identify concrete action points from the Horizon project for discussion at the next SSDC meeting in December. A copy of this paper will be sent to ECSA prior to the next SSDC meeting.

The SSDC **agreed** to discuss this matter again at the next meeting in December on the basis of an ETF paper.

f. CSR and the concepts of fair trade/fair freight in shipping

Commission initiatives on CSR

The **Chairman** advised that Corporate Social Responsibility (CSR) had been on the agenda of the last two SSDC meetings and that DG EMPL had been invited to provide social partners with an update on Commission initiatives on CSR.

Mrs. Bird (DG EMPL) gave a comprehensive presentation on recent and forthcoming Commission initiatives on CSR. A copy of her presentation is **attached**.

Fair trade/fair freight

The **Chairman** advised on a recent initiative from NAUTILUS and SEKO entitled fair trade/fair freight.

The **ETF** advised that the fair trade/fair freight campaign aims at giving seafarers a fair deal in the supply chain in terms of better working and living conditions on board ships and shipowners that respect specific conditions a fair trade/fair freight badge. The initiative is inspired on fair trade products being bought by consumers. In Sweden, SEKO has supported the fair trade campaign following a survey amongst Swedish population, which indicated that people would buy fair trade products carried onboard ships that meet specific conditions even if this would result in a price increase. Against this background, ECSA was invited to reflect with ETF as to how the conditions for shipping could be improved and how shipping could become part of the fair trade/fair freight exercise. The ultimate goal for the ETF is to achieve a framework that is acceptable for both organisations and that would go beyond applicable minimum standards. Possibly, this exercise could be the subject of a separate meeting or workshop between ECSA and ETF.

ECSA stressed that this matter is complex and therefore needs to be dealt with carefully. Moreover, this initiative seems to mix political considerations with legal obligations since a number of the conditions put forward in this initiative are in fact already covered in international and European legislation. Furthermore, fair trade products in supermarkets target the end-consumer but shipping has shippers and/or freight forwarders as clients – and end-consumers – and they are all part of the overall supply chain. ECSA also felt that this initiative could not circumvent existing legislation or mechanisms (such as collective bargaining). Nevertheless, ECSA is prepared to have a discussion with the ETF, possibly also by organising a day of workshop on this matter, provided that the ETF give more details about the goals and content of this initiative.

The **ETF** welcomed ECSA's positive approach to continue a discussion on this initiative. ETF also replied that it supports the EU CSR initiative as a potential tool to go beyond minimum (legal) requirements laid down in international and/or European legislation and therefore to establish better conditions for EU seafarers without making them anticompetitive versus other seafarers. The ETF, furthermore, underlined that shipping should not be excluded from an EU CSR initiative as it has been the case with other Commission (legal) initiatives in the past. Fair trade includes an obligation for all interested parties in the transport chain to ensure that certain principles and conditions are met.

The **SSDC took note** of the European Commission's initiative and the fair freight campaign initiated by SEKO (an ETF member). It was agreed that the ETF should prepare a reflection paper concerning the definition of fair freight, including a roadmap of steps to undertake, which would serve as a basis for discussion at the next SSDC meeting in December.

4. REPORT ITEMS

a. MLC enforcement directives – state of play

Mrs. Berg (DG MOVE) advised on the Transport Council's adoption of a progress report on the Commission proposals to enforce the MLC provisions on port state and flag state obligations. She informed that good progress had been made on the proposal on port state obligations whilst questions/concerns had been raised as regards the proposal on flag state obligations. Discussions in the European Parliament have not yet started but the Committees competent to deal with these proposals have been appointed, notably the TRAN Committee

(with Rapporteur Brian Simpson) will have the lead on the Commission's MLC port state proposal and the EMPL Committee (Rapporteur Ms Pervenche Berès) will be in the lead on the Commission's MLC flag state proposal. Both Commission proposals are also being discussed in the European Economic and Social Committee and they will be on the agenda of the Cypriot EU Presidency as from 1 July. DG MOVE hopes that the European Parliament and the Council of Ministers will reach an agreement on both proposals soonest.

ECSA advised that Sweden has been the 28th state to ratify the ILO MLC and with two more ratifications in the pipeline, the convention is expected to enter into force soonest. In this light DG MOVE was asked to clarify when Council Directive 2009/13/EC of 16.2.2009 implementing the Social Partners' Agreement on the ILO MLC would enter into force in the EU.

DG MOVE clarified that Council Directive 2009/13/EC enters into force on the date of entry into force of the ILO MLC and Member States then have 12 months to comply with the provisions of this Directive. However, the entry into force of the ILO MLC will not have any impact on the discussions on the two Commission proposals to enforce the MLC provisions on flag state and port state obligations in EU law.

The **ETF** wondered why Member States have 12 months to comply with the provisions of Council Directive 2009/13/EC whilst the understanding amongst social partners had been all the time that the Social Partners Agreement on the ILO MLC would enter into force on the same day as the entry into force of the ILO MLC. Furthermore the ETF deplored that the current proposal on flag state responsibility is quite short and formulated in a very general way. The ETF found that the proposal lacks in precision and does not mention quite numerous concrete measures expressly stated in the MLC. The proposal falls short in providing a level playing field.

Mrs Berg replied that it is a normal practice under EU law to provide Member States with at least 12 months to transpose a Directive into national law. She advised that some Member States have requested during discussions in Council on the two Commission MLC enforcement proposals to provide them with 18 months instead of 12. Furthermore, she explained that the Commission's Legal Service had remarked EU competence limits in some of the proposals that are made by the MLC, which is why the flag state responsibility proposal Directive is separate and kept in a general way.

The **ETF** criticised this position from Member States and reiterated that it had been agreed to have an entry into force of Council Directive 2009/13/EC simultaneously with the ILO MLC itself. In addition, ETF was highly critical of the demand by some Member States to be granted more flexibility (exemptions) for vessels of less than 200 gross registered tons when it comes to ensure fulfilment of the MLC requirements. ETF recalled that at the time the MLC was discussed in Geneva, this was a contentious issue for the USA, the Philippines and Canada but that was never an issue for EU Member States. Against this background, ETF recalled that when negotiating on the MLC, Social Partners agreed that no more flexibility could be introduced at EU level on the rationale that an EU Directive, by nature, was already providing some form of flexibility (as EU directives are binding as to the result to be achieved, but leave to the national authorities the choice of form and methods).

While stressing that the Commission has always been loyal to the ETF/ECSA Agreement, **Ms Berg** pointed out that the exemption issue could be seen in the light of the financial crisis which could have resulted in national administration being under pressure to reduce their staff.

Reacting on the need to prevent the introduction of additional flexibility for smaller vessels, the **Chair** suggested that a joint lobbying initiative be implemented towards the European

Parliament and invited the two Secretariats to come back with a proposal. He finally pointed out that should the Social Partners fail to agree on such a joint initiative, ETF will move forward on its own.

b. STCW revised directive – state of play

Mrs. Berg advised on a formal triologue meeting between the European Parliament and the Council of Ministers on the Commission's proposal to amend the STCW Directive to incorporate the Manila Amendments, scheduled on 19 June. If both institutions reach a compromise agreement on this Commission proposal, it can be adopted in September/October, following which the revised STCW Directive will enter into force.

The SSDC **took note**.

c. Schengen Visa – state of play

The **Chairman** advised that the ETF and a delegation of Russian seafarers had recently met with DG HOME to discuss problems with Schengen Visa encountered by Russian seafarers. During this meeting DG HOME was advised on a threat of retaliation measures by the Russian authorities if Schengen Visa problems would continue for Russian seafarers.

The **ETF** confirmed that the threat with retaliation measures was real and could have far reaching implications which may go beyond the shipping sector. ETF thus referred to the possibility that European airlines crew arriving at Russian airports might be prevented from leaving the airport area in case they would fail to show their visa to local authorities. At the meeting with DG HOME, the ETF presented a number of scenarios with Schengen Visa problems for seafarers and wondered whether there was a need to do more at this stage.

ECSA replied that a change of the Schengen Visa legislation should not be expected before 2014 and in the meantime providing DG HOME with scenarios of problems for seafarers, to be hopefully included in the Schengen Visa Handbook, is the only thing social partners can do at this moment.

The SSDC **took note**.

d. Workshop on training and maritime certificates of excellence

Mrs. Berg advised that DG MOVE will organise a workshop on training and maritime certificates of excellence on 27 June, as a kind of follow-up to the report from the Task Force on Maritime Employment and Competitiveness. This event should also allow DG MOVE to have an exchange of views with the Member States, which have not yet been given the opportunity to express their views on the Task Force report. She underlined that this event is the start of an exercise which may lead to the establishment of certificates of excellence.

ECSA underlined the interest of the social partners in this exercise and recalled that they had asked for a follow-up already a year ago. Unfortunately the workshop could not be organised after the summer break as had been requested at the last SSDC meeting. If this event would be followed by more initiatives and/or events, DG MOVE was asked to give social partners proper notice in the future.

The **ETF** shared the ECSA concerns that social partners should be given more time to look into this matter. The ETF welcomed the initiative from DG MOVE to look into maritime

certificates of excellence and reiterated that such initiative should result in measures that would go beyond STCW minimum requirements.

The SSDC **took note**.

5. A.O.B.

The **Chairman** advised that this was the last meeting of Mrs. Edith Midelfart, who will retire as from 1 July. He thanked her on behalf of the SSDC for her active contributions over the years and wished her all the best for the future.