Maritime industry and seafarers: ratication by Member States of the 2006 Consolidated Maritime Labour Convention of the International Labour Organisation ILO, 23 February 2006

2006/0103(CNS) - 16/06/2006 - Legislative proposal

PURPOSE: the ratification, by the Member States, of the 2006 Consolidated Maritime Labour Convention of the International Labour Organisation (ILO).

PROPOSED ACT: Council Decision.

CONTENT: part of the ILO's core mandate includes the establishment of international labour standards for the maritime sector. With over 1.2 million seafarers employed in the maritime industry world-wide the ILO is well placed to develop and introduce global standards relating to the basic working conditions of seafarers. Since 2001 the ILO has been working towards the establishment of global standards in the maritime sector; efforts which have culminated in the adoption of the "Convention of the International Labour Organisation" in February 2006. The Convention establishes minimum international standards for the entire maritime sector that are simple, clear, coherent, acceptable and applicable. It introduces an outline for a maritime labour code. The over-arching objective of the 2006 Convention is to maintain a level playing field in the shipping industry by fostering and promoting decent living and working conditions for seafarers and fairer conditions for global competition.

The purpose of this proposed Council Decision is to ratify the Convention, by the Member States, in the interests of the Community. Ratification is being sought by the Community, as opposed to individually by the Member States, for a number of reasons:

Firstly, according to the AETR case law of the European Court of Justice on external competence, the Member States are no longer able to ratify, on their own initiative, the 2006 Convention given that its provisions on the co-ordination of the social security regimes affects the exercise of the Community's exclusive power and right to provide for social security.

Secondly, a number of provisions set out in the 2006 Convention impact upon related Community instruments, namely:

- Regulation 1408/71/EEC on a the application of social security system schemes to employed persons and their families moving with the Community;

- Regulation 883/2004/EC (replacing the above Regulation) and extending to third country nationals the same social security protection rights as those enjoyed by EU citizens when moving in the EU.

- Directive 1995/21/EC on port state control of shipping and its Annexes.

Thirdly, a substantial body of EU law is affected by the adoption of the 2006 Convention and relates, *inter alia*, to working conditions; equality and non discrimination; health protection; medical care; the

prevention of accidents; welfare; port state control; and enforcement of provisions related to the working hours of seafarers on board ships calling at Community ports

The 2006 Convention sets out maritime labour standards grouped together under five headings: the minimum conditions required to work on-board; employment conditions; accommodation and catering; social protection and welfare; and the application of and compliance with the provisions of the Convention. The text spells out the rights of seafarers regardless of the flag of the vessel on which they serve. Further, it sets up obligations incumbent on ship-owners, flag states, port states and labour supplying states. Strict enforcement conditions are foreseen based on a system of certification and periodic inspections.

It should be noted that the Community has negotiated a “savings clause” with the ILO. This clause, which now forms part of the Convention text, safeguards and ensures the precedence of EU law on the co-ordination of social security schemes in case the Convention leads to an outcome differing from EU rules. This is of particular relevance to rules governing responsibility for social security. The ILO text states that both the flag state and the state of residence should be responsible for social security, whilst EU legislation specifies that, as a rule, responsibility for social security, should be borne by the flag state only.

Upon ratification, the Member States will be sending a signal to the rest of the world that the Community attaches great importance to the 2006 Convention and to the working and living conditions of seafarers. The proposed Decision will enable the Member States to take, without further delay, the necessary steps for ratification thereof.