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 - Document attached to the procedure

This Communication comes in the wake of the International Labour Organisation (ILO) 2006 Convention on maritime labour standards which were adopted almost unanimously in Geneva on 23 February 2006. That Convention incorporates the conventions and recommendations on maritime labour adopted by the ILO since 1919 into a single consolidated text to serve as a basis for the first universal Maritime Labour Code.

The Commission has actively supported the work of preparing this instrument from the outset. Moreover, it obtained negotiating directives by Council decision of 21 April 2005 to act alongside Member States to safeguard the Community acquis during ILO negotiations.

Now that the Convention has been adopted, the Commission considers it essential to mobilise sufficient means to implement it at both Community and national level.

In the Commission’s view, it is vital to consider the Community legislative framework regarding the social standards applicable to seafarers in order to increase the competitiveness of the maritime sector, make the profession more attractive and, in the long term, preserve European expertise in this area. Moreover, it announced in its 2006 work programme a communication on minimum maritime labour standards which will consider whether to propose legislative measures aimed at strengthening the application of international labour standards for seafarers in the European Union, possibly by means of an agreement between the social partners.

Underlining the importance of 2006 consolidated Convention, this Communication seeks to launch the first official phase of consulting the social partners under the procedure provided for in Article 138(2) of the Treaty establishing the European Community on the question of whether the relevant provisions of that Convention should be incorporated into Community law. The Commission will subsequently consult the social partners, where appropriate, on the content of any proposal put forward under Article 138(3) of the EC Treaty.

The main questions submitted to the social partners are as follows:

1. **adapt Community acquis**: this step will probably be essential to update the texts directly affected by the provisions of the 2006 consolidated Convention (e.g.: Directives 1995/21and 1999/95).
2. **adopt additional texts**: the question is whether legislation should be adopted on those areas governed by the Convention but not covered, or only partly covered, at Community level (e.g.: regulation of recruitment agencies, requirement that an employee possess a signed contract of employment).
3. **go beyond the provisions of the Convention**: the 2006 consolidated Convention only lays down minimum standards and there is nothing to exclude action at Community level to strengthen, complement or extend these standards by means of additional rules not laid down by the ILO.

Other questions should also be tackled such as:

4. **make Part B of the Convention binding**: following on from point 3, there is the legitimate question of whether there should be a harmonised and legally binding interpretation at Community level to guarantee more uniform application of the Convention and reduce the risks of differences between possible interpretations in the Union.
5. **reflect the tripartite structure**: at institutional level, consideration must be given to the consequences of setting up the monitoring commission provided for by the Convention (Article XIII). Given the existence of this new body and its role, should there also be a specific structure, subordinate to that of the ILO Convention, to reflect the tripartite nature at Community level in the framework of the integration of the Convention standards?

This consultation forms part of the procedure provided for in Article 138 of the Treaty. Before presenting proposals on social policy, the Commission consults the social partners on the possible direction of Community action. The social partners may, on this occasion, decide to initiate negotiations with a view to signing an agreement and request the Commission to propose a Council decision to implement it. Otherwise, the Commission, where appropriate, continues its work on the proposal in question.

The reference to an agreement between the social partners in the Commission work programme for 2006 relates to the precedent set by the inclusion of the provisions of ILO Convention 180 on working time through the adoption of the two Directives. Two directives were necessary given that an agreement of social partners could only be implemented by Council decision for matters defined by Articles 137 and 139 of the Treaty.

The social partners are, of course, free to determine the content of their negotiations and of any autonomous agreement but implementation by Council decision must take account of the conditions laid down by Article 139.

This communication constitutes the first phase of consultation provided for in Article 138(2) of the Treaty. The social partners are therefore requested to give their response to the following two questions:

- Is it necessary or advisable to develop the existing Community acquis by adapting, consolidating or complementing it in accordance with the guidelines set out in part II of this Communication or any other arrangements?

- Could the social partners consider entering into negotiations with a view to reaching an agreement to be implemented by means of Council decision, in accordance with Article 139 of the Treaty?

Where appropriate, the social partners will be consulted as part of a second phase on the content of any proposal considered by the European Commission.