Basic information

2006/0103(CNS) CNS - Consultation procedure Decision	Procedure completed
Maritime industry and seafarers: ratication by Member States of the 2006 Consolidated Maritime Labour Convention of the International Labour Organisation ILO, 23 February 2006 **Subject** 3.15.08 Fishing enterprises, fishermen, working conditions on board 4.10.10 Social protection, social security	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
EMPL Employment and Social Affairs	MCDONALD Mary Lou (GUE/NGL)	10/07/2006

Committee for opinion	Rapporteur for opinion	Appointed
TRAN Transport and Tourism	KRATSA-TSAGAROPOULOU Rodi (PPE-DE)	05/09/2006

Council of the European Union

Council configuration	Meetings	Date
Transport, Telecommunications and Energy	2772	2006-12-11
Transport, Telecommunications and Energy	2805	2007-06-06

European Commission

Commission DG	Commissioner
Employment, Social Affairs and Inclusion	ŠPIDLA Vladimír

Key events

Date	Event	Reference	Summary
16/06/2006	Legislative proposal published	COM(2006)0288	Summary
05/09/2006	Committee referral announced in Parliament		
11/12/2006	Debate in Council		Summary
24/01/2007	Vote in committee		Summary

05/02/2007	Committee report tabled for plenary, 1st reading/single reading	A6-0019/2007	
13/03/2007	Debate in Parliament		
14/03/2007	Decision by Parliament	T6-0069/2007	Summary
14/03/2007	Results of vote in Parliament		
06/06/2007	Act adopted by Council after consultation of Parliament		
06/06/2007	End of procedure in Parliament		
22/06/2007	Final act published in Official Journal		

Technical information

Procedure reference	2006/0103(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 300-p2/3-a1 EC Treaty (after Amsterdam) EC 042
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/6/38135

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE378.766	30/10/2006	
Amendments tabled in committee		PE378.767	18/12/2006	
Committee opinion	TRAN	PE378.900	19/12/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0019/2007	05/02/2007	
Text adopted by Parliament, 1st reading/single reading		T6-0069/2007	14/03/2007	Summary

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2006)0287	16/06/2006	Summary
Legislative proposal	COM(2006)0288	16/06/2006	Summary
Follow-up document	COM(2008)0422	02/07/2008	Summary

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Decision 2007/0431 OJ L 161 22.06.2007, p. 0063	Summary

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.

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.

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) - 02/07/2008 - Follow-up document

The Commission presents a proposal for a Council Directive. The purpose of which is to implement the Agreement on Maritime Labour Convention, 2006, concluded on 19 May 2008, between the organisations representing management and labour in the maritime transport sector (European Community Shipowners' Associations (ECSA) and European Transport Workers' Federation (ETF).

The International Labour Organisation adopted on 23 February 2006 the Maritime Labour Convention, 2006, aiming to create a single, coherent instrument embodying all up-to-date standards applying to international maritime labour. Hence, this 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 actively participated in works on the Maritime Labour Convention from the outset. The Council adopted a Decision on 7 July 2007 authorising Member States to ratify the ILO Maritime Labour Convention, 2006 in the interests of the European Community, preferably before 31 December 2010.

In matters of social policy, the Treaty confers a unique and key role upon the social partners at Community level. Article 138 provides that any initiative in this area must be subject to prior consultation of the social partners on the possible direction of the action and, subsequently, the content of the envisaged proposal. In this context, the Commission consulted management and labour on the advisability of developing the existing Community acquis by adapting, consolidating or complementing it in the light of the Maritime Labour Convention, 2006.

The social partners decided to engage in negotiations in the light of Article 139(1) of the Treaty and, on 19 May 2008 (in connection with the first European Maritime Day) they signed a joint agreement concerning the Maritime Labour Convention, 2006.

The social partners requested the Commission to propose a Council Directive giving effect to their agreement and its Annex A under EU law, in accordance with Article 139 of the Treaty. The present proposal responds to this request.

The Commission considers that if the provisions of the Maritime Labour Convention, 2006 are incorporated into Community law, they will enhance the attractiveness of work in the maritime sector for European seafarers, thus helping to create more and better jobs and, a more even playing field globally in the interest of all parties involved.

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) - 07/06/2007 - Final act

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

LEGISLATIVE ACT: Council Decision 2007/431/EC.

CONTENT: The Council adopted a Decision authorising Member States to ratify, in the interest of the European Community, the 2006 Maritime Labour Convention of the International Labour Organisation (ILO).

The 2006 Maritime Labour Convention was adopted in February 2006 by the maritime session of the International Labour Conference. The Convention will bring a major input at international level in the shipping sector by promoting decent living and working conditions for seafarers and fairer competition conditions for operators and ship owners.

Member States are invited to ratify the Convention before 31 December 2010.

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) - 11/12/2006

Pending the adoption of the European Parliament's opinion, the Council reached agreement on a general approach on a proposal for a decision authorising Member States to ratify, in the interest of the European Community, the Maritime Labour Convention, 2006 of the International Labour Organisation (ILO).

The draft decision is aimed at authorising Member States to ratify the Maritime Labour Convention, since some of the issues covered by it fall within the competence of the European Community and others under the competence of the Member States and the European Community as such is not a party to ILO or to the above Convention. In addition, the draft decision lays down the end of 2010 as a possible deadline for ratification by the Member States.

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) - 14/03/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Mary Lou **McDONALD** (GUE/NGL, IE) approving the proposed decision. Following agreement with the Council, Parliament changed the reference to the Convention from "2006 Consolidated Maritime Labour Convention of the International Labour Organisation", as originally proposed, to "Maritime Labour Convention, 2006 of the International Labour Organisation".