

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending European Parliament and Council Directive 2008/106/EC on the minimum level of training of seafarers'

COM(2011) 555 final — 2011/0239 (COD)

(2012/C 43/16)

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On 30 September and 28 September 2011 respectively, the Council of the European Union and the European Parliament decided to consult the European Economic and Social Committee, under Articles 100(2) and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council amending European Parliament and Council Directive 2008/106/EC on the minimum level of training of seafarers

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The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 23 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December), the European Economic and Social Committee adopted the following opinion by 176 votes to 3 with 10 abstentions.

1. Conclusions and Recommendations

1.1 Upgraded maritime training is a key to attractiveness of maritime professions in the EU and a pathway to greater maritime safety and security. Maritime know-how has a strategic importance to retain the EU's leading maritime position worldwide.

1.2 The EESC supports the draft Directive aligning Directive 2008/106/EC on the minimum level of training of seafarers with the Manila amendments (2010) to the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW Convention) 1978.

1.3 It is vital for EU Member States to adopt the proposed Directive since by 2012 the training of seafarers will be subject to new rules with regard to skills, professional profile, safety and certification on a global basis as a result of the entry into force of the Manila Amendments to the STCW Convention.

1.4 The EESC does not agree with the proposed wording of Article 15(11) that 'Member States may authorise or register collective agreements permitting exceptions to the required hours of rest [of seafarers]'. The EU Directive should not deviate from the wording in existing international and EU legislation, namely, to ILO Convention 180, the ILO Maritime Labour Convention 2006 and Directive 1999/63/EC. The latter Directive concerning the organisation of working time of seafarers was concluded through long and difficult negotiations among social partners and the outcome of the social dialogue should be respected by the EU institutions.

1.5 The EESC proposes specifying the standardised format for the recording of hours of rest and hours of work in the proposed Directive. The standardised format could make reference to the IMO/ILO Guidelines for the development of tables of seafarers' shipboard working arrangements and formats of records of hours of work or hours of rest.

1.6 Whilst the STCW Convention will enter into force on 1 January 2012, the EESC notes that the proposed Directive will not enter into force until July 2012 due to preparatory legislative procedures in the EU Council and Parliament. The EESC draws attention to the fact that there will be problems with the port state control outside the EU regarding the new hours of work of seafarers and the EU seafarers will not have STCW 2010 certification at an early stage. There is a need for legal clarification.

1.7 Regarding the assessment of third countries for the purpose of recognising their training institutes and certificates, the EESC believes that the extension of the current three months to eighteen months is realistic to take into account the heavy workload for maritime countries and lack of resources in non maritime countries.

1.8 The EESC considers positive that EU Member States will be required to provide standardised information to the European Commission on seafarer certification for statistical analysis.

1.9 The EESC proposes to include in the proposed Directive the definition of electro-technical ratings according to the provisions of the STCW Convention.

1.10 The EESC urges the Commission and Member States to examine as a matter of urgency the anti-piracy training of seafarers in view of escalation of pirate attacks on a worldwide basis. Such training should be based on the UN Best Management Practices and the International Ship and Port Security Code (ISPS).

2. Introduction

2.1 The key to profitable shipping lies in the quality of training provided to seafarers. Even in times of world economic turmoil, maritime training should not be seen as a cost but as an investment. Maritime training is a pathway to greater maritime safety and security.

2.2 The Standards of Training Certification and Watch-keeping for Seafarers (STCW) Convention (1978) adopted by the International Maritime Organization (IMO) mainly concerns requirements for the training of officers. The STCW was amended originally in 1995 and in June 2010 by the Manila amendments.

2.3 In past opinions ⁽¹⁾, the EESC highlighted the importance of European maritime know-how, the compliance of EU Directives with the STCW Convention and the upgrading of maritime education as one of the main actions to attract youngsters to maritime careers (Conference on 'Enhancing the Attractiveness of Maritime Professions in the EU' organised by the EESC on 11 March 2010). It is vital for the EU to maintain its pool of 250 000 seafarers because if they are lost, the other more than two million people working in the EU maritime cluster could go too. Hence, an upgraded maritime training has a strategic importance to maintain the EU's leading maritime position worldwide.

2.4 The dual purpose of the draft Directive amending Directive 2008/106/EC is: first, to streamline EU law with international rules by transposing the revised STCW Convention (1978) of IMO adopted at the Manila Conference (2010) and second, to establish requirements for the EU Member States to provide information concerning certificates and to extend the period for the recognition of educational systems of third countries. The new international standards will be applicable from

1 January 2012. The proposed implementation deadline at EU level is 31 December 2012. The final outcome will be to ensure uniform application of the updated STCW by the EU Member States and ensure that seafarers working on EU flagged ships and holding certificates issued by non EU countries are properly trained.

3. General comments

3.1 By 2012 the training of seafarers will be subject to new rules with regard to skills, professional profile, safety and certification. Training and certification are of paramount importance to maritime safety since accidents are more likely to happen in case of deficient training and lack of proper certification. The IMO STCW Convention is one of the four leading maritime Conventions on a worldwide basis. The other three are: the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Maritime Pollution (MARPOL) and the Maritime Labour Convention (MLC). Since EU Member States are also signatories to the Convention, it is important for international and European legislation to be in line with each other. These amendments lead to higher standards with regard to: medical fitness, fitness for duty and alcohol abuse, and to the introduction of new professional profiles such as 'able seafarers' and 'electro-technical officers', security-related training for all seafarers, simpler and clearer types of certificates. The draft Directive contains improvements regarding procedures (e.g. comitology and recognition of third state schools) and the requirement that Member States should provide statistics concerning seafarer training.

3.2 The EESC supports the proposal that aims at aligning Directive 2008/106/EC on the minimum level of training of seafarers with the Manila amendments to the STCW Convention. It proposes that the European Commission should properly ensure the enforcement of the STCW Directive by the Member States and insists on respect of the STCW Convention when assessing third countries for the purpose of recognising their training institutes and certificates. Although to a large extent, the proposal is word-for-word transposition of the Manila Amendments into EU law, it also suggests moderate changes to existing European provisions concerning the recognition of seafarers' certificates.

3.3 The EESC notes that the Task Force on Maritime Employment and Competitiveness of the European Commission (DG MOVE) (July 2011) recommended proposals to enforce the Manila Agreement to the STCW Convention into EU law. The standardisation of training at global level allows European ships to have well trained seafarers regardless of where the crew receives training. As Transport Commissioner Kallas stated 'since maritime transport is a global industry it is vital to also set minimum standards for training on an international scale'.

⁽¹⁾ OJ C 168, 20.7.2007, pp. 50-56
OJ C 211, 19.8.2008, pp. 31-36
OJ C 255, 22.9.2010, pp. 103-109
OJ C 248, 25.8.2011, pp. 22-30
OJ C 14, 16.1.2001, p. 41
OJ C 80, 3.4.2002, pp. 9-14
OJ C 133, 6.6.2003, pp. 23-25
OJ C 157, 28.6.2005, pp. 42-47
OJ C 157, 28.6.2005, pp. 53-55
OJ C 97, 28.4.2007, pp. 33-34
OJ C 151, 17.6.2008, p. 35.

3.4 In its recent opinion on the Transport White Paper (opinion on a *White Paper towards a Single European Transport Area* – CESE 1607/2011 of 26 October 2011 – Rapporteur: Mr Coulon, co-rapporteur: Mr Back), the EESC reiterated that ‘the EU legislation should be completely in line with international legislation particularly the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) of the International Maritime Organization (IMO)’.

3.5 Recent research provides evidence that there is a worrying problem of fraudulent certification, in particular among ratings, in the international labour market casting doubt over the validity of their certification. Moreover, many ratings from non EU countries are unavailable to offset any shortage of EU ratings from the labour markets because of cultural differences, language problems and employment restrictions ⁽²⁾.

4. Specific comments

4.1 Article 15(9) (*Standardised format for records of daily hours of rest*)

4.1.1 Article 15(9) does not specify a standardised format for the recording of hours of rest and hours of work, which the administrations are required to maintain. Section A-VIII/1, paragraph 7, of the STCW Convention, as amended by the Manila Agreements refers to the IMO/ILO Guidelines for the development of tables of seafarers’ shipboard working arrangements and formats of records of seafarers’ hours of work or hours of rest. Moreover, a reference to a standardised format with regard to hours of work and hours of rest is also included in Regulation 2.3 – Standard A2.3 paragraph 10 and 11, of the 2006 ILO Maritime Labour Convention.

4.1.2 The EESC proposes specifying the standardised format for the recording of hours of rest and hours of work in the draft Directive. The standardised format should make reference to the IMO/ILO Guidelines for the development of tables of seafarers’ shipboard working arrangements and formats of records of seafarers’ hours of work or hours of rest.

4.2 Article 15(11) (*hours of rest*)

4.2.1 The revised wording of Article 15(11) states that ‘Member States may authorise or register collective agreements permitting exceptions to the required hours of rest’. It represents an important narrowing from the wording laid down in existing international and European legislation, notably, the revised STCW Convention and ILO Convention no 180 (and thus the ILO Maritime Labour Convention).

4.2.2 The wording in Article 15(11) is different from that in Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners’ Associations (ECSA) and the European Transport Workers’ Federation (ETF). Such agreements are the result of long and difficult negotiations amongst social partners and the ultimate outcome of such negotiations represents a delicate balance. Any amendment or modification to the wording of a social partners’ Agreement should take place through discussions and negotiations amongst social partners. The new – narrow – wording in Article 15(11) is not the reflection of a discussion or negotiation amongst social partners. It has been introduced by the European Commission without any consultation of the social partners beforehand. The EESC urges the Commission to respect the wording laid down in Directive 1999/63/EC concerning the social partners’ Agreement on the organisation of working time of seafarers.

4.3 Entry into force of the new Directive

4.3.1 The Manila amendments to the STCW Convention will enter into force on 1 January 2012. However, bearing in mind the ordinary legislative procedure in the Council of Ministers and the European Parliament, the European Commission has anticipated that ‘since at that point in time (i.e. 1 January 2012) the present proposal will not have been adopted yet, it has been foreseen that the proposed Directive should enter into force as soon as it is published in the Official Journal’.

4.3.2 Due to the delay in adopting the Directive there will be a legal paradox, i.e., a conflict between the STCW Manila Agreement and the revised STCW Directive, particularly with regard to the date of the entry into force. Either the Member States will not comply with their international obligations on 1 January 2012 or if they ratify the Convention they will not comply with the existing STCW Directive. Member States are likely to await the final outcome of the Directive before ratifying the Manila Agreement. In the meantime, EU flag ships will continue to trade to/from third countries which may have ratified the Manila Agreement already. This would create a serious problem for EU flag ships since the EU flag states would not yet be following the rules of the Manila Agreement.

4.3.3 The EESC draws attention to the fact that there will be problems with Port State Control outside of the EU, particularly on the new hours of rest provisions. This concern relates to application of the new rest hour requirements. It should be recognised that some EU flagged ships may have problems with port state control in non EU ports. There is a possibility that EU seafarers might become uncompetitive as they will not have STCW 2010 certification at an early stage. Furthermore, there will be problems with the validity of certification and the effect on the lengths of validity of endorsements issued to EU seafarers by non EU countries. In the light of the above, there is a need for legal clarification.

⁽²⁾ OJ C 80, 3.4.2002, pp. 9-14.

4.4 Recognition of Third Countries Educational/Certification Systems

4.4.1 Regarding the assessment of third countries for the purpose of recognising their training institutes and certificates the proposal extends the current three months deadline to eighteen months. Some Member States want a longer deadline due to the heavy workload it implies for maritime nations (e.g. Malta) or due to the lack of resources in non maritime countries. The EESC notes that the extension is realistic in order to take into account the heavy workload for maritime nations.

4.5 STCW – IS

4.5.1 The Commission laments the existence of inaccurate data about certificates. It proposes the collation in a harmonised and consistent way of information existing in national registries. The EESC considers positive that EU Member States will be required to provide standardised information to the European Commission on seafarer certification for statistical analysis. Using the EMSA ‘STCW Information System’ as a platform for collecting the required information would help the industry to calculate current and estimate future supply and demand of seafarers.

4.6 Electro-Technical rating

4.6.1 Whilst the draft Directive refers to Regulation III/7, the definition of electro-technical rating, as laid down in Regulation I/1 (36) has not been added to the new proposal for a Directive.

4.6.2 The EESC proposes that the draft Directive should include the definition of electro-technical rating from Regulation I/1 (36) of the STCW Convention, reading as follows: ‘Electro-technical rating means a rating qualified in accordance with the provisions of Regulation III/7 of the Convention’.

4.7 Anti-Piracy Training

4.7.1 The EESC anticipates that anti-piracy training of seafarers will be required as a matter of urgency in view of escalation of the piracy phenomenon and its repercussions on seafarers. It, therefore, urges the Commission to examine this issue with the Member States taking into account relevant provisions of the UN Best Management Practices (for Piracy) and the International Ship and Port Facility Security Code (ISPS) Code.

Brussels, 7 December 2011.

The President
of the European Economic and Social Committee
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