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## REPORT

on the proposal for a Council decision on authorising Member States to ratify, in the interests of the European Community, the 2006 Consolidated Maritime Labour Convention of the International Labour Organisation (COM(2006)0288 – C6-0241/2006 – 2006/0103(CNS))

Committee on Employment and Social Affairs

Rapporteur: Mary Lou McDonald

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	7
OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM.....	12
PROCEDURE .....	17



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision on authorising Member States to ratify, in the interests of the European Community, the 2006 Consolidated Maritime Labour Convention of the International Labour Organisation (COM(2006)0288 – C6-0241/2006 – 2006/0103(CNS))

(Consultation procedure)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2006)0288)<sup>1</sup>,
  - having regard to Article 42 in conjunction with the first sentence of the first subparagraph of Article 300(2) of the EC Treaty,
  - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0241/2006),
  - having regard to Rules 51 and 83(7) of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Transport and Tourism (A6-0019/2007),
1. Approves the proposal for a Council decision as amended;
  2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States.

Text proposed by the Commission

Amendments by Parliament

### Amendment 1 Title

Proposal for a COUNCIL DECISION on authorising Member States to ratify, in the interests of the European Community, the 2006 *Consolidated Maritime Labour Convention* of the International Labour Organisation

Proposal for a COUNCIL DECISION on authorising Member States to ratify, in the interests of the European Community, the *Maritime Labour Convention*, 2006 of the International Labour Organisation

### *Justification*

*New wording agreed with the Council.*

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<sup>1</sup> Not yet published in OJ.

Amendment 2

Recital 1

The **2006 consolidated** Convention of the International Labour Organisation (hereinafter referred to as the ILO) on maritime labour was adopted on 23 February 2006 by the maritime session of the International Labour Conference of the ILO convened in Geneva.

The **Maritime Labour** Convention, **2006** of the International Labour Organisation (hereinafter referred to as the ILO) on maritime labour was adopted on 23 February 2006 by the maritime session of the International Labour Conference of the ILO convened in Geneva.

*Justification*

*New wording agreed with the Council.*

Amendment 3

Article 1

The Member States are hereby authorised to ratify the **2006 ILO consolidated** Maritime Labour Convention, adopted on 23 February 2006.

The Member States are hereby authorised to ratify the Maritime Labour Convention, **2006 of the ILO**, adopted on 23 February 2006.

*Justification*

*New wording agreed with the Council.*

## **EXPLANATORY STATEMENT**

### **on the proposal for a COUNCIL DECISION on authorising Member States to ratify, in the interests of the European Community, the 2006 Consolidated Maritime Labour Convention of the International Labour Organisation**

#### **Introduction**

The International Labour Organisation (ILO) 2006 Convention on Maritime Labour Standards (hereinafter called the 2006 Convention) was adopted almost unanimously in Geneva in February 2006. The Convention incorporates all existing conventions and recommendations on maritime labour adopted by the ILO since 1919 into a single text to serve as a basis for the first universal Maritime Labour Code.

Now that the Convention has been adopted it is important to proceed with its speedy ratification and implementation.

It is also important to consider the Community legislative framework regarding the social standards applicable to seafarers in order to make the profession more attractive and, in the long term, to preserve European expertise in this area.

In June 2006 the Commission issued a communication on minimum maritime labour standards which considers legislative measures aimed at strengthening the application of international labour standards for seafarers in the European Union. In preparing a report on the 2006 Convention, it seems opportune to give a view on issues raised in the Commission Communication.

#### **I. BENEFITS OF THE CONVENTION**

##### **1. Promoting a universal Maritime Labour Code and innovative methods**

The consolidation of existing ILO recommendations into this single text, as well as making it more effective and transparent, should help to increase the rate of ratification by ILO Member States. The speedy ratification of the 2006 Convention by EU Member States will bring it very close to the 30 countries and 33% of tonnage required for it to enter into force.

The 2006 Convention lays down the labour standards applicable to the crews of vessels with a gross tonnage of 500 tonnes or more engaged in international voyages or sailing between foreign ports.

The Convention groups a number of provisions by themes under five different titles and aims to guarantee decent living and working conditions on board vessels. Title 1 defines the minimum conditions required for maritime labour, covering health, training, minimum age and recruitment. The employment conditions set out in Title 2 fix the content of the employment contract, working hours, wage protection, the rights to leave and repatriation and compensation in the event of the loss of the vessel. Accommodation on board is covered in Title 3 and social protection in Title 4. Title 5 of the Convention also defines the

responsibilities regarding application of the Convention, i.e., requiring Flag States to put in place effective arrangements for applying the Convention based on a system of certification, with Port States and States providing labour to ensure compliance by means of appropriate inspections.

Each title contains regulations in two sets of hierarchical standards, Code A corresponding to a binding part and Code B a non-binding part, containing provisions aimed at helping with the interpretation of the binding rules.

The importance of the Convention also lies in the innovative mechanisms that it uses to ensure that the instrument is fully effective. It introduces the maritime labour certificate and maritime labour declaration which, unless there is proof to the contrary, attest to conformity with the rules of the Convention. Thus, a certificate will be issued by a State to vessels flying its flag after verification that the on-board working conditions conform to national laws and the regulations arising from the Convention. A declaration will be attached to the certificate outlining the national legislation applicable in a predetermined list of areas covered by the Convention. Under these conditions, the system of certifications guaranteeing conformity with the Convention can be checked by the Port State which will be able to inspect vessels (and detain them if necessary) not only for safety or environmental shortcomings but also for reasons linked to employment conditions.

In order not to penalise those States which have ratified the Convention compared with those that have not, the clause precluding more favourable treatment will ensure that vessels flying the flag of a State which has not ratified the Convention do not receive more favourable treatment than those flying the flag of a State that has. This clause should prevent unfair competition and encourage practically all States to ratify the Convention.

Moreover, the Convention creates an *ad hoc* structure, the Special Tripartite Commission, made up of representatives appointed by the governments of each ratifying State and representatives of ship-owners and seafarers. The Tripartite Commission can adapt the text in the light of the application of its provisions.

## **2. Guaranteeing employment and social standards**

The 2006 Convention complements the three basic Maritime Conventions adopted under the aegis of the International Maritime Organisation, the SOLAS Convention (safety of life at sea), the MARPOL Convention (prevention of pollution of marine environment) and the STCW Convention on the qualifications of seafarers. It constitutes the fourth pillar of international regulation of the maritime sector.

The 2006 Convention should help to stabilise the maritime transport sector and reduce the double gap between, firstly, European and third country operators and, secondly, between the different flags which favours *de facto* those maritime nations and operators with the least stringent social legislation. There is constant pressure from the threat of relocation of recruitment of seafarers to the detriment of European jobs, including in intra-Community transport. It must be acknowledged that the financial stakes are high, given the vast economic and legal differences affecting labour costs, including wages and social charges, in global maritime transport.

Moreover, it is important to normalise the status of seafarer in order to limit the negative effects of globalisation, namely social dumping which penalises seafarers and ship-owners complying with the rules in force, and to define decent working conditions. Ratification and entry into force of the Convention would represent an important contribution of the EU to the promotion of decent labour standards worldwide.

### **3. Improving maritime safety and the attractiveness of the profession**

The European Commission has pointed out in its communication of 6 April 2001 that 80% of maritime accidents were linked to human error. Faced with the many causes of accidents it is essential to have minimum global social standards in a coherent framework which has hitherto been lacking. A positive effect on maritime safety will become apparent once the Convention has entered into force.

A BIMCO<sup>1</sup> survey shows that there is a shortage of 17,000 Community seafarers in EU 25. This calls for appropriate responses from public authorities and operators in this strategic sector which carries 90% of world trade and 40% of intra-Community trade.

It is essential to make the maritime profession, including activities linked to Port State control, more attractive to counter this downward trend which is harmful in the long term for the maritime sector as a whole,.

To achieve this, it is necessary to combat unfair practices on board ships and establish decent working and living conditions for seafarers, whatever the flag of the vessel and the nationality of the crew. To this extent, the Convention can help to bring about more homogeneous employment conditions for the benefit of seafarers.

Efforts have been made regarding qualifications through the recognition of training and the incorporation of the STCW Convention into Community law. The profession of seafarer must be promoted by recognising high-quality training and making occupations more attractive through decent working and living conditions.

## **II. LEGAL ISSUES**

In the negotiations, the Commission ensured that the Convention and Community law were compatible in order to avoid any obstacle to ratification, particularly as regards social security. A safeguard clause was adopted in order to maintain the Community system for coordinating social security schemes.

### **III. Improving Community standards**

The ratification of the 2006 Convention should not pose any problems as all EU Member States, as well as the social partners, voted in favour of the Convention in Geneva in February 2006.

However, there are a number of issues which remain to be addressed in relation to the 2006

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<sup>1</sup> BIMCO is the worlds largest shipping association, representing around 60% of the international dry cargo and tanker fleet.

Convention and measures which the EU can put into place concerning maritime labour standards. The draftsperson has the following views in relation to the Commission Communication:

1. It will be necessary to adapt the Community Acquis in order to update the texts directly affected by the provisions of the 2006 Convention (e.g.: Directives 1995/21<sup>1</sup> and 1999/95<sup>2</sup>).
2. 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. The 2006 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. The EU should look for ways to go further in protecting the rights and interests of seafarers beyond the provisions of the Convention.
4. Part B of the Convention should be made binding: This would guarantee more uniform application of the Convention and reduce the risks of differences between possible interpretations in the Union.
5. It would be useful to establish a structure at EU level, subordinate to that of the ILO Convention, to reflect the tripartite nature of the monitoring commission provided for by the Convention (Article XIII).

With regard to point 3 there are a number of specific measures which could be undertaken by the EU. The fact that there is such a deficit of people working in the sector raises questions about the burden such a profession causes for the social and family life of seafarers. Mechanisms and proposals should be brought forward to allow for family friendly facilities to be available on ships.

The EU should try to enforce minimum employment standards and wages for all vessels operating in its waters. All seafarers employed on a vessel registered in a Member State, regardless of their nationality, should be protected and provided for under the social security system of the flag state. In particular the Commission should re-table the proposal for an EU Ferries Directive<sup>3</sup>.

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<sup>1</sup> Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (Port State control).

<sup>2</sup> Directive 1999/95/EC of the European Parliament and of the Council of 13 December 1999 concerning the enforcement of provisions in respect of seafarers hours of work on board ships calling at Community ports.

<sup>3</sup> Amended proposal for an EU Directive of the European Parliament and of the Council on manning conditions for regular passenger and ferry services operating between Member States (COM (2000) 0437).

The Commission should monitor and evaluate whether the Member States' national laws and regulations guarantee the fundamental rights and principles set out in Article III of the Convention, enabling them to ratify the Convention.

The Commission should propose, as soon as possible after the 2006 Convention is ratified, appropriate coordination of social security schemes.

### **III. CONCLUSION**

It is the view of the draftsman that the 2006 Convention, which has already been 5 years in negotiation, needs to be ratified as soon as possible. To this end the 2008 deadline called for by the ILO should be adhered to.

This would show EU leadership on a world level in relation to labour standards, sending a strong signal to the rest of the world. In addition, ratification by EU Member States would make a considerable contribution towards reaching the targets needed for the 2006 Convention to enter into force.

19.12.2006

## **OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM**

for the Committee on Employment and Social Affairs

on the proposal for a Council decision on authorising Member States to ratify, in the interests of the European Community, the 2006 Consolidated Maritime Labour Convention of the International Labour Organisation  
(COM(2006)0288 – C6-0241/2006 – 2006/0103(CNS))

Draftswoman: Rodi Kratsa-Tsagaropoulou

### **SHORT JUSTIFICATION**

On 23 February 2006, the 94th Session of the International Conference of the ILO (International Labour Organisation) adopted the Maritime Labour Convention which, when it enters into force, will be the first international maritime labour code.

This Convention is of exceptional importance in that it consolidates and amends about 65 international marine labour standards adopted from 1919, when the ILO was founded, to the present day, seeking to promote decent living and working conditions for crew members and fairer conditions of competition for businessmen and shipowners, affecting an estimated 1.2 million seafarers. This also provides a way of dealing with the low level of ratification of many maritime labour agreements, given that various countries have to date ratified only certain international maritime labour standards when it suited their own interests.

This Convention will enter into force on ratification by at least 30 states, which must together represent at least 33% of the world's entire merchant shipping tonnage.

#### **A. Decent living and working conditions**

The Convention contains a number of general obligations regarding fundamental rights and principles (Article III) governing maritime labour and social rights (Article IV), together with specific rules and implementation guidelines grouped together under five headings:

1. Minimum requirements for seafarers to work on a ship
2. Working conditions and terms of employment
3. Accommodation and living conditions
4. Social security protection and welfare
5. The implementation of, and compliance with, the provisions of the Convention and allocation of responsibilities in this respect

In other words, the provisions of the Convention cover areas such as working conditions, terms of employment, health, training, safety, minimum age requirements, recruitment, placement, working hours, payment of wages protection, leave entitlements, repatriation, onboard accommodation and social security.

The Convention concerns the standards applicable to the working conditions of crews on ships of 500 gross tonnage or over engaged in international voyages (between flag State and foreign ports) or voyages between foreign ports alone (that is to say only outside flag State ports).

### **B. Prevention of unfair competition**

The Convention also seeks to ensure fair competition. The 'no more favourable treatment' clause seeks to ensure that ships that fly the flag of States that have not ratified the Convention do not receive more favourable treatment than ships that fly the flag of States that have ratified it, thereby protecting the fleets of those States which have ratified the Convention, while ensuring decent working conditions for crews and preventing social dumping at the expense of crews and shipping companies already complying with proper maritime labour standards in accordance with national laws. It is felt that these provisions will help to avert the danger of diminishing recruitment of European seafarers which would adversely affect the European job market, bearing in mind the major disparities regarding their pay and benefits compared with those of seafarers from countries where marine labour costs are particularly low.

### **C. Responsibility for implementing the Convention**

The allocation of responsibilities for implementation of the Convention is intended to ensure the effective and credible enforcement of maritime standards by creating a system of certification by port States and flag States regarding compliance with the standards laid down in the Convention and completion of the necessary inspections.

The certificate and declaration of maritime labour compliance are innovations, providing evidence of adherence to the standards laid down in the Convention. As a result, each vessel is issued by its flag State with a certificate, provided that it complies with the national laws and regulations adopted to implement the provisions of the Convention. The certificate is accompanied by a declaration outlining the national legislation implementing the Convention. This may be subject to verification by the port State (inspection and possibly detention in case of doubts regarding compliance).

### **D. Transposition into Community legislation**

The text of the Convention covers a wide range of subjects and policies which, under the Community legal system, are either the sole competence of the Community (for example, coordination of social security systems) or, in the case of most of its provisions, the concurrent responsibility of the Community and its Member States (for example, working conditions, equality, non-discrimination, health protection, medical care etc.). With regard to the provisions of the Convention concerning areas which are solely the responsibility of the Community, the Council decision authorises the Member States to ratify them in the interests

of the Community.

### **E. Draftswoman's views**

The draftswoman welcomes the signing of the Convention, which helps to safeguard the basic employment and social rights of seafarers, together with a decent standard of living, maritime career advancement and high quality training and further training. For European fleets in particular, it is urgently necessary to make careers at sea more attractive, given the alarming crew shortages which have occurred in recent years (shortfall of 17 000 Community seafarers).

In order to ensure the necessary legal security and avoid misinterpretations, the draftswoman recommends that the original Commission proposal for a Council decision should clearly authorise Member States to ratify those provisions of the Convention which are the responsibility of the Community under the Treaties.

The draftswoman also welcomes the Commission's decision to consult the social partners regarding the best possible way of incorporating the Convention at European level. She points out that, given the multiplicity and variety of the areas involved and organisations concerned (social partners and other bodies, national parliaments) and the large number of contracting parties, the ratification process must not be circumscribed by tight deadlines. In order to allow enough time for the ratification procedure to be completed, the draftswoman proposes that the Commission deadline be extended, Member States being required to commence ratification by 31 December 2010 at the latest.

## **AMENDMENTS**

The Committee on Transport and Tourism calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following amendments in its report:

<u>Text proposed by the Commission</u>	<u>Amendments by Parliament</u>
<b>Amendment 1</b>	
<b>Title</b>	
Proposal for a COUNCIL DECISION on authorising Member States to ratify, in the interests of the European Community, the <b>2006 Consolidated</b> Maritime Labour Convention, of the International Labour Organisation	Proposal for a COUNCIL DECISION on authorising Member States to ratify, in the interests of the European Community, the Maritime Labour Convention, <b>2006</b> of the International Labour Organisation

### *Justification*

*The title of the proposal has to be in accordance with the final official wording of the title of the Convention.*

## Amendment 2

### Recital 1

(1) The **2006 consolidated Convention** of the International Labour Organisation (hereinafter referred to as the ILO) on maritime labour was adopted on 23 February 2006 by the maritime session of the International Labour Conference of the ILO convened in Geneva.

(1) The **Maritime Labour Convention, 2006** of the International Labour Organisation (hereinafter referred to as the ILO) on maritime labour was adopted on 23 February 2006 by the maritime session of the International Labour Conference of the ILO convened in Geneva.

### *Justification*

*The wording of the recital has to be in accordance with the final official wording of the title of the Convention.*

## Amendment 3

### Article 1

The Member States are hereby authorised to ratify **the 2006 ILO consolidated** Maritime Labour Convention, adopted on 23 February 2006.

The Member States are hereby authorised to ratify, **for the parts falling under Community competence**, the Maritime Labour Convention, **2006 of the International Labour Organisation**, adopted on 23 February 2006.

### *Justification*

*Most of the provisions of the Convention concern competences shared between the Community and the Member States. The Convention also contains explicit provisions on areas which is solely the competence of the Community. In legal terms, Member States are not free to ratify an international convention which concerns areas of exclusive Community competence. The authorisation for ratification concerns only these areas.*

## PROCEDURE

<b>Title</b>	Proposal for a Council decision on authorising Member States to ratify, in the interests of the European Community, the 2006 Consolidated Maritime Labour Convention of the International Labour Organisation
<b>References</b>	COM(2006)0288 – C6-0241/2006 – 2006/0103(CNS)
<b>Committee responsible</b>	EMPL
<b>Opinion by</b> Date announced in plenary	TRAN 5.9.2006
<b>Enhanced cooperation – date announced in plenary</b>	
<b>Drafts(wo)man</b> Date appointed	Rodi Kratsa-Tsagaropoulou 5.9.2006
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	23.11.2006 18.12.2006
<b>Date adopted</b>	19.12.2006
<b>Result of final vote</b>	+: 43 –: 0 0: 3
<b>Members present for the final vote</b>	Gabriele Albertini, Robert Atkins, Inés Ayala Sender, Etelka Barsi-Pataky, Paolo Costa, Michael Cramer, Arūnas Degutis, Christine De Veyrac, Petr Duchoň, Saïd El Khadraoui, Emanuel Jardim Fernandes, Roland Gewalt, Luis de Grandes Pascual, Mathieu Grosch, Ewa Hedkvist Petersen, Stanisław Jałowiecki, Georg Jarzembowski, Dieter-Lebrecht Koch, Rodi Kratsa-Tsagaropoulou, Jörg Leichtfried, Bogusław Liberadzki, Eva Lichtenberger, Erik Meijer, Robert Navarro, Seán Ó Neachtain, Josu Ortuondo Larrea, Willi Piecyk, Reinhard Rack, Gilles Savary, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Gary Titley, Georgios Toussas, Armando Veneto, Marta Vincenzi, Corien Wortmann-Kool, Roberts Zīle
<b>Substitute(s) present for the final vote</b>	Zsolt László Becsey, Johannes Blokland, Nathalie Griesbeck, Zita Gurmai, Anne E. Jensen, Sepp Kusstatscher, Zita Pleštinská, Vladimír Remek
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	
<b>Comments (available in one language only)</b>	

## PROCEDURE

<b>Title</b>	Proposal for a Council decision on authorising Member States to ratify, in the interests of the European Community, the 2006 Consolidated Maritime Labour Convention of the International Labour Organisation
<b>References</b>	COM(2006)0288 – C6-0241/2006 – 2006/0103(CNS)
<b>Date of consulting Parliament</b>	17.7.2006
<b>Committee responsible</b> Date announced in plenary	EMPL 5.9.2006
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	TRAN 5.9.2006
<b>Rapporteur(s)</b> Date appointed	Mary Lou McDonald 10.7.2006
<b>Discussed in committee</b>	22.11.2006    23.1.2007
<b>Date adopted</b>	24.1.2007
<b>Result of final vote</b>	+: 42 –: 1 0: 0
<b>Members present for the final vote</b>	Jan Andersson, Alexandru Athanasiu, Roselyne Bachelot-Narquin, Jean-Luc Bennahmias, Herbert Bösch, Iles Braghetto, Philip Bushill-Matthews, Milan Cabrnoch, Alejandro Cercas, Derek Roland Clark, Luigi Cocilovo, Jean Louis Cottigny, Proinsias De Rossa, Richard Falbr, Carlo Fatuzzo, Ilda Figueiredo, Joel Hasse Ferreira, Roger Helmer, Stephen Hughes, Ona Juknevičienė, Jan Jerzy Kułakowski, Jean Lambert, Raymond Langendries, Elizabeth Lynne, Mary Lou McDonald, Thomas Mann, Mario Mantovani, Ana Mato Adrover, Maria Matsouka, Ria Oomen-Ruijten, Csaba Óry, Siiri Oviir, Marie Panayotopoulos-Cassiotou, Pier Antonio Panzeri, Jacek Protasiewicz, José Albino Silva Peneda
<b>Substitute(s) present for the final vote</b>	Françoise Castex, Pedro Guerreiro, Richard Howitt, Gabriele Stauner, Patrizia Toia, Georgios Toussas, Tadeusz Zwiefka
<b>Date tabled</b>	5.2.2007
<b>Comments (available in one language only)</b>	