



EUROPEAN COMMISSION

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Dear Presidents,

The Commission would like to thank the Congreso de los Diputados and the Senado for their Opinion concerning the proposal for a Directive on seafarers amending several labour law Directives {COM(2013) 798 final}.

The proposal that is now before the co-legislators would amend the Employer Insolvency Directive, the European Works Councils Directive, the Information and Consultation Directive, the Collective Redundancies Directive as well as the Transfer of Undertakings Directive. In particular, it would give a right to information and consultation to seagoing workers in all EU Member States while taking into account the characteristics of the maritime sector.

The Commission welcomes the position of the Congreso de los Diputados and of the Senado that the proposal constitutes progress as compared to the previous situation and will ensure that crews on board of vessels are treated the same as shore based workers. In particular, the Commission welcomes the approval by the Congreso de los Diputados and by the Senado of the amendments proposed. The proposed exception concerning Directive 2001/23/EC takes into account the specific features of the maritime sector such as the daily buying and selling of vessels and the position of SMEs.

With respect to the wish of the Congreso de los Diputados and of the Senado to revise the Directive 96/71/EC concerning the posting of workers to include seagoing workers, the Commission would like to point out that the provisions of Directive 96/71/EC would rarely apply to seagoing personnel at all, even if seafarers would be included in this Directive. Indeed, posted workers are defined in the Directive as workers who, for a limited period, carry out their activities in the territory of a Member State other than the State in which they normally work. In practice, situations equivalent to posting seem to be rare in the maritime sector.

With regard to the establishment of a European legal framework that would encourage the merchant navy to return to European flags and to promote the adoption of international standards to prevent substandard shipping, the Commission has been very active on these

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issues. The Commission's objective is to protect human life and the environment with strict safety rules preventing sub-standard shipping, reducing the risk of serious maritime accidents and minimizing the environmental impact of maritime transport. The Commission has also taken several initiatives in order to improve the social dimension in the maritime industry which, indeed, has been significantly affected by the phenomenon of so-called Flags of Convenience, notably with a view to working conditions, health and safety issues as well as professional qualifications of seafarers.

The EU maritime acquis, particularly in the field of maritime safety, is one of the most advanced in the world. The EU has availed itself with safety directives concerning EU Member States' Flag States responsibilities requirements in terms of performance and quality, stricter Port State Control regimes applicable to all ships calling into EU ports, vessels traffic monitoring and other legislations addressing specific, but also important aspect of the shipping industry such as insurance, accident investigation or liability conditions are covered by EU rules. Last but not least, the creation of the European Maritime Safety Agency has played an essential role in the EU's effort to eradicate sub-standard shipping from EU waters.

The EU has also been very active within International Organisations such as the International Maritime Organisation or the International Labour Organisation. Major achievements are the entry into force of the Maritime Labour Convention (MLC), 2006, the transposition of the MLC into EU law, and the related EU enforcement rules adopted at EU level. Those constitute very important tools to help protecting seafarers' employment and working conditions in a highly competitive environment. The contribution of the EU to the adoption and the enforcement of the MLC is yet another example of the critical role played by the EU to address the spreading of sub-standard shipping globally, as ships flying a flag of a State not having ratified the MLC will be subject to stricter inspection rules when calling into an EU port.

Furthermore, the EU has been active in the adoption and the promotion of the ratification of the 2007 Convention on Work in Fishing (Convention no. 188) by the EU Member States. The EU social partners in the sea fishing sector have concluded a Social Partner Agreement on the implementation of this ILO Convention in May 2013 and jointly requested the European Commission to implement their agreement in accordance with Article 155 TFEU. The Commission is carrying out an in-depth analysis of this agreement. In addition, the new European Maritime and Fisheries Fund will continue supporting measures promoting the improvement of working conditions on board fishing vessels.

The Commission hopes that these clarifications address the concerns raised by the Congreso de los Diputados and the Senado and looks forward to continuing our political dialogue in the future.

Yours faithfully,

Maroš Šefčovič
Vice-President