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"I/A" ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a Directive of the European Parliament and of the Council on marine equipment and repealing Directive 96/98/EC (**first reading**)
- Adoption of the legislative (**LA + S**)
= Statements

Commission statement on the Competence of the Committee

The Commission regrets the inclusion of Recital 24 that has the potential to create confusion and legal uncertainty. The role of the Committees which ensure control by Member States on the Commission's exercise of implementing powers is defined only by Regulation No (EU) 182/2011, adopted on the basis of Article 291, third paragraph, TFEU. Therefore, no other secondary legislative act can alter or would need to specify further this role. In particular, the rules of procedures of committees are adopted by the committees on the basis of Regulation No (EU) 182/2011. As such they are to be applied when the Committee exercise its role defined by Regulation No (EU) 182/2011. Any reference to rules of procedures outside this context is superfluous and inappropriate. It also risks complicating the functioning of the committee.

With regard to the possibility of the European Parliament to be invited to meetings, the Commission will implement this recital in accordance with its practice in the implementation of point 15 of the Framework agreement on relations between the European Parliament and the European Commission.

Commission Statement on the 'no-opinion' clause

The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 § 4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the legislator, but must be interpreted in a restrictive manner and thus must be justified.

While the Commission notes the agreement reached by the European Parliament and the Council on the recourse to this provision it regrets that such justification is not reflected in a recital.

Commission statement on the consultation of experts in the context of preparation of Delegated acts

The Commission regrets the inclusion in Articles 8(2), 8(3), 11(3) & 27(6) of a provision stressing the importance for the Commission to '*carry out consultations with experts, including Member States' experts, during the preparation of such delegated acts*' The Commission recalls that the Commission is autonomous in the preparation and adoption of delegated acts. Moreover, Article 290 TFEU contains an exhaustive list of the procedural conditions which a delegation may be made subject to. The standard recital on expert advice contained in the Common Understanding agreed between the three institutions is a reflection of that interpretation. .