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

Subject: Draft Directive of the European Parliament and of the Council on seafarers amending Directives 2008/94/EC, 2009/38/EC, 2002/14/EC, 98/58/EC and 2001/23/EC (**first reading**)
- Adoption of the legislative act (**AL + S**)

Statement by Malta

Malta fully supports the amending Directive's objective of improving the living and working conditions of seafarers and increasing the attractiveness of maritime employment. However, it considers that extending the same EU legislative framework applicable to land based workers to seafarers is not the right means to attain such objectives. In maritime transport, internationally-agreed rules and Conventions, in particular by IMO and ILO, and their worldwide ratification, effective implementation and enforcement, are needed to ensure a global level playing-field for safe, secure and environmentally friendly maritime transport, the protection of seafarers and secure the long-term competitiveness of the EU's maritime industry. The only way to ensure the protection of EU seafarers is to adopt global policies rather than regional measures which might lead to flagging out and diluting the possibility to implement and enforce EU maritime related requirements on board ships.

Malta also contests that the adoption of the Directive can be based on Article 153(2) TFEU in conjunction with Article 153(1) paragraphs (b) and (e) TFEU. Malta is of the view that the correct legal basis for amendments to the Collective Redundancies Directive and to the Transfer of Undertakings Directive is Article 153(2) in conjunction with Article 153 (1) paragraph (d) TFEU since they both relate to the protection of workers where their employment is terminated. In line with this, the amendments to these Directives were to be adopted by unanimous decision.

Therefore, for the abovementioned reasons, while firmly supporting the objectives of improving the living and working conditions of seafarers, Malta abstains from voting.

Statement by Germany

On 19 November 2013, the Commission presented a proposal for a Directive of the European Parliament and of the Council on seafarers amending Directives 2008/94/EC, 2009/38/EC, 2002/14/EC, 98/59/EC and 2001/23/EC for the purpose of including seafarers in the scope of and the protection afforded by the above Directives.

The Federal Republic of Germany supports the amending Directive's objectives of improving the living and working conditions of seafarers.

Nonetheless, the Federal Republic of Germany doubts that the adoption of the Directive can be founded on Article 153 (2) TFEU in conjunction with Article 153 (1) point (b) and point (e) TFEU and issued in accordance with the ordinary legislative procedure. This notably applies to the amendments to Directive 98/59/EC of the Council of 20 July 1998 (Collective Redundancies Directive) provided for in Article 4 and the amendments to Directive 2001/23/EC of the Council of 12 March 2001 (Acquired Rights Directive) provided for in Article 5.

From the point of view of the Federal Republic of Germany, Article 153 (2) in conjunction with Article 153 (1) point (d) TFEU is the proper legal basis for amendments to the Collective Redundancies Directive and for amendments to the Acquired Rights Directive since it relates to the protection of workers where their employment is terminated. This is clearly the thematic focus of the two instruments to be amended. Pursuant to this legal basis the Council shall adopt the Directive by unanimous decision in accordance with a special legislative procedure. In line with this, the Directives were adopted by unanimous decision.

In the opinion of the Federal Government the focus of the regulatory substance of the two aforementioned Directives is not on "working conditions" (Article 153(1)(b)) TFEU) nor on "information and consultation of workers" (Article 153(1)(e)) TFEU) to which the ordinary legislative procedure could be applied, i.e. that could be adopted by qualified majority decision.

The Federal Government underlines that it shares and supports the substantive objectives pursued by the amending Directive. The Federal Republic of Germany therefore endorses the present Decision notwithstanding its legal opinion concerning the issue of the appropriate rule governing competence.
