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COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

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,
2001/23/EC

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1. PROBLEM DEFINITION

The EU labour law directives are generally applicable to all sectors of activity and all categories of workers. Nevertheless, six directives¹ either exclude seagoing workers (seafarers and/or fishermen) from their scope, or allow the Member States to exclude them from the scope of implementing legislation, without any express justification.

Around 90% of world trade is carried by the international shipping industry. Without shipping the import and export of goods on the scale necessary for the modern world would not be possible. There are over 50,000 merchant ships trading internationally, transporting every kind of cargo. The world fleet is registered in over 150 nations, and manned by over a million seafarers of virtually every nationality. About 30% of the merchant ships are registered in an EU Member State (see Annex 2 of the Impact Assessment Report). In terms of gross tonnage (GT)², the EU represents 19,2% of the world fleet³.

The world fishing fleet consisted of about 4.4 million vessels in 2010, relatively stable since 1998, with 73% in Asia, followed by Africa, Latin America and the Caribbean, North America and Europe. In total, 3.2 million vessels were considered to operate in marine waters and 1.1 million vessels in inland waters.

The EU fishing industry provides some 6.4 million tonnes of fish each year. Fishing and fish processing provide jobs for more than 350,000 people. In 2006 five Member States (Denmark, Spain, France, the Netherlands and the United Kingdom) accounted for 60 % of Community production⁴.

Data on employment in the merchant navy is not systematically collected and figures diverge greatly according to the sources. The Impact Assessment Report is based on the figures provided by national administrations or, when not available, on an average of the figures drawn from different studies. The merchant navy employs **345 455** seafarers while the fisheries sector gives employment to **157 561** fishermen.

Member States have made different choices in terms of use of the exclusions. The table below gives an overview of the situation for the six directives.

¹ Directive 2008/94/EC relating to the protection of employees in the event of the insolvency of their employer (OJ L 283, p. 36), Directive 2009/38/EC on the establishment of European Works Council (OJ L 122, 16.5.2009, p. 28), Directive 2002/14/EC establishing a general framework for informing and consulting employees (OJ L 80, 23.3.2002, p. 29), Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies (OJ L 225, 12.8.1998, p. 16), Directive 2001/23/EC relating to the safeguarding of employees' rights in the event of transfers of undertakings (OJ L 82, 22.3.2001, p. 16) and Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (OJ L 18, 21/01/1997, p. 1).

² Gross Tonnage is the internationally accepted measurement of vessels representing the volume of the vessels enclosed spaces.

³ ECSA, Annual Report 2011-2012

⁴ Eurostat, Fishery Statistics, September 2012

		Insolvency	EWC	Information and Consultation	Collective Redundancies	Transfer of Undertakings	Posting of Workers
MS having used exclusions		CY, EL, MT	CY, EE, EL, HU, IT, LT, LV, MT, RO	CY, LU, MT, RO	BE, CY, DE, DK, EL, IE, LU, LV, MT, SK	CY, DK, EL, HU, IE, LU, LV, MT, NL, RO	BE, BU, CY, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, PL, RO, SE, UK
Total	Merchant navy	Not excluded	159 150	86 497	138 141	155 925	272 520
	Fisheries	26 386	Not excluded	8 452	35 702	43 501	Not excluded
% in category	Merchant navy	Not excluded	46.1 %	25.0 %	40%	45.1 %	78.9 %
	Fisheries	16.7 %	Not excluded	5.4 %	22.7 %	27.6 %	Not excluded
% of EU workforce⁵	Merchant navy	Not excluded	0.07 %	0.04 %	0.06 %	0.07 %	0.11 %
	Fisheries	0.01 %	Not excluded	0.004 %	0.015 %	0.018 %	Not excluded

The existence and/or possibility of introducing exclusions may prevent or limit the possibility for seafarers to enjoy their right to information and consultation and the right to working conditions which respect workers' health, safety and dignity, both of which are enshrined by the Charter in Article 27 and 31.

The directives in question do not provide an express justification for the exclusions, which were not proposed by the Commission or justified explicitly either during the preparatory works or in the text of the Directives. Nevertheless, it can be assumed that the itinerant nature of vessels was seen as an obstacle to the application of rules on the information and consultation of workers, which form part of all the directives concerned, with the exception of the Insolvency Directive and the Posting of Workers Directive. It can be assumed that some Member States in Council may have invoked the difficulty to communicate with vessels plying the high seas as a reason for the possibility to derogate from general rules, particularly on information and consultation. Currently, with the evolution evolutions in terms of communications technology this cannot be seen as a reason for exclusion⁶.

Different treatment of workers from a given sector, if not justified by objective reasons, is difficult to reconcile with the European Charter of Fundamental Rights. It is therefore necessary to assess whether objective reasons can justify the different

⁵ 239 608 workers, according to Labour Market Statistics, 2011 edition, Eurostat.

⁶ This is recognised also by the employers' organisation (ECSA). Nevertheless, it argues that the reasons for the exclusions are linked to matters other than the logistics of information and consultation, essentially the need to avoid to add administrative burdes which would undermine European operators' competitiveness.

treatment of seafarers and, if not, to propose measures that would apply the same or equivalent rights to those enjoyed by on-shore workers.

Furthermore, the number of EU national seafarers is steadily decreasing and this could be problematic for the future, notably because experience off-shore is essential for certain shore-based jobs. Although this could be the consequence of different factors such as isolation, workload, and the social environment on board, it is generally accepted that the lack of interest in maritime careers may be reinforced by the impression that seagoing work is an "excluded" sector subject to its own rules or no rules at all⁷.

The feeling of legal uncertainty might deter potential workers from engaging in seagoing professions. Thus the existence of exclusions contributes to undermining the attractiveness of seagoing work. This has been confirmed by important stakeholders including the trade unions and the Task Force on Maritime Employment and Competitiveness.

2. THE EU RIGHT TO ACT AND SUBSIDIARITY

This exercise concerns the possible review of six directives. As such, this can only be done at the level of the EU, by a directive or a series of directives amending the existing acts.

This initiative covers a sector subject to strong international competition and with a large proportion of the workforce employed on vessels of one Member State coming from other Member States or from non-EU countries. An EU initiative would ensure a more level playing field, at least for vessels carrying the flag of a Member State.

3. OBJECTIVES

3.1. General objectives

This initiative aims to improve the level of protection of the rights protected under the EU Charter of Fundamental Rights in labour law. It also contributes to general policy objectives which are enshrined in Article 151 TFEU, namely the promotion of employment, improved living and working conditions, proper social protection and dialogue between management and labour.

3.2. Specific objectives

This initiative has the following specific objectives:

- (a) Improve the level of protection of the rights protected under the EU Charter of Fundamental Rights, in particular by assessing whether different treatment is objectively justified by the characteristics of the sector and, if not, by enhancing the rights of workers in the seafaring professions in order to bring them up to the standard enjoyed by workers on shore;

⁷

See, among others, the Communication 'An Integrated Maritime Policy for the European Union'(COM/2007/575) and the Report of the Task Force on Maritime Employment and Competitiveness. .

- (b) Contribute to bringing more young EU citizens into jobs in the merchant navy and fisheries sectors, by making them more attractive compared with on-shore jobs and improve the retention of seafarers in the profession

4. POLICY OPTIONS

4.1. Policy option 1: no EU action

Under this policy option, the EU would take no new initiative, legislative or non-legislative. The current Directives would remain in place as they stand and Member States would remain free to use or not to use the derogations and exclusions.

Trends indicate that the decline in the number of European seafarers is likely to continue, with more and more jobs aboard European vessels taken up by personnel from non-EU countries.

4.2. Policy option 2: a derogation subject to the guarantee of an equivalent level of protection

This option would entail replacing the blank exclusions by a provision allowing Member States to deviate from the provisions of the Directive for seafarers, provided that a degree of protection equivalent to that of the Directives is ensured.

This option would require Member States to determine the substance of the protection.

4.3. Policy option 3: suppress the exclusions in all Directives

This option would be based on the assumption that all of the Directives were originally intended to include all sectors of activity and that the exclusion of seafarers is unjustified.

4.4. Policy option 4: adapt the rules to the specificities of the sector

This option would entail the adoption of substantive norms aimed at adapting the legal texts to the characteristics of the maritime sector. This option could address the concerns expressed by some stakeholders concerning the specificities of the sector and the additional costs.

Depending on each particular Directive, it could be necessary to put in place special arrangements concerning the eligibility as workers' representative or the application of general rules to the sale of a vessel.

It would not aim at simply suppressing the exclusions or providing for an equivalent level of protection, but rather at determining the substantive rules which would apply to the sector. Taking into account the financial impacts of the options, this could mean, for instance, providing for a specific rule to apply in situations which are specific to the sector such as, for instance, the frequent sale of a vessel or the company only operating one vessel.

5. ANALYSIS OF IMPACTS

5.1. The risk of flagging out and its link with competitiveness

The globalised nature of the shipping industry manifests itself in a number of different ways but a key element is the legal regime for the flagging (and re-flagging) of ships, a process that has no direct equivalent in land-based industries.

The phenomenon of flagging out has been largely driven by the desire of shipowners to avoid the costs and restrictions associated with having their ships registered in the traditional maritime States. One of the main costs of operating a ship is the cost of paying crew salaries and other related costs. It is estimated that crew cost differences between selected EU flags and lower-cost open registry vessels range from +22 % to +333 %⁸.

The benefits of any policy option have to be measured against this risk of flagging out, which should be minimised. A high risk of flagging out associated with a policy option would mean that the perception of the negative competitive impact of that policy option outweighs the perceived benefits of flying the flag of a Member State. An actual flagging out would also trigger a further reduction in the number of EU seafarers. As a consequence, one of the objectives of the proposed EU action would be jeopardised.

5.2. The experience in Member States

Many Member States have chosen not to use the possibility to exclude or derogate seafarers from the scope of the Directives. This means that options 2, 3 and 4 are, to a certain extent, already applied in some Member States, notably Member States with important maritime sectors.

The application of the Directives in certain Member States does not seem to have had any measurable impact, notably on the flagging out of vessels. For instance, between 2001 and 2011, in Spain, the gross tonnage of the national fleet increased by 40.4%. In France, for the same period, the increase was 40.2%. Both France and Spain apply all the Directives (except the Posting of Workers Directive) to the maritime sector. On the other hand, in Greece, between 2001 and 2011, the gross tonnage of national fleet increased by 34%. In Cyprus, between 2003 and 2011, the gross tonnage increased by 0.5%. Both Greece and Cyprus exclude the maritime sector from the scope of national laws transposing the Directives.

Since the implementation of the Directives, the position of the Member States regarding the appropriateness of the exclusions has not evolved significantly.

5.3. Insolvency Directive

In Cyprus, a special Fund has been created, which is managed by a Council consisting of members of the Social Insurance Department. When it was set up, the Fund received a payment of CYP 1 000 000 (approximately EUR 1 724 137) from the Redundancy Fund of the Republic of Cyprus and has since then been receiving monthly contributions from employers at the rate of 0.2 % of gross salaries paid to employees.

⁸ Mitroussi, K. 'Employment of seafarers in the EU context: Challenges and opportunities', Marine Policy 32 (2008) 1043–1049, at page 1046.

In Greece, Law 1836/1989 specifies that the Guarantee Fund is financed in part by employers' contributions and in part by a State subsidy from the Labour Ministry budget. Employers contribute with **0.15 %** of any remuneration paid.

In Malta, the Guarantee Fund is financed by the national budget (Consolidated Fund). It was initially endowed with the sum of MTL 250 000 (approximately EUR 579 722), to be paid out of the Consolidated Fund over a maximum period of five years, at a minimum rate of MTL 50 000 (EUR 115 944). There is therefore no specific contribution from employers or employees. In view of the low number of workers (1 303) concerned, the economic impact of the coverage of share fishermen is marginal.

5.4. European Works Council Directive

In order to assess the possible additional costs of applying the EWC Directive to seagoing workers it is assumed that one of the large European shipping companies based in Denmark (with more than 1000 workers and 150 in each of at least two Member States) has set up a EWC and is obliged to allow merchant navy crews to attend.

It is assumed that the EWC member is at sea when a meeting has to be held and is, for example, an officer (as more likely to be European) aboard a vessel about to land in Hong Kong then go to Shanghai. This would entail the ECW member flying to Copenhagen and a replacement sent to the vessel. The total cost would be around **EUR 5 028 per meeting per participant**. Since the average number of meetings per year is two, and it is not likely that each vessel would have more than one representative on board, the cumulative costs could be **EUR 10 056 per year**.

A second scenario is based on all communications being made by satellite.

Based on the average of 2 meetings per year and the likelihood that some of the participants are on shore, the annual cost would then amount to EUR 663 X 2 = **EUR 1 326**.

Furthermore, we can estimate that a maritime company qualifying for the application of the Directive has at least 25 vessels. This estimate is based on the following assumptions: the Directive applies to companies with more than 1000 employees, the number of personnel serving on a vessel is between 20 and 27⁹. The estimate also takes into account the working time arrangements for seafarers. Therefore, the costs amount to **EUR 603 per vessel per year for Scenario 1** and **EUR 79.5 per vessel per year under Scenario 2**. In relation to the benchmarks for the risk of flagging out or increasing social costs within the cost of operation, these are not significant.

In the context of the review of the EWC Directive, some elements on the benefits of the setting up of a EWC have been presented.

All employee representatives consider EWCs to be beneficial (EPEC 2008 survey¹⁰). Despite the financial and the other non-quantifiable costs of operating a EWC, 57 % of the companies with a EWC accept that the benefits of having a EWC outweigh its

⁹ See 'Ship Operating Costs 2009-2010', Published by Nigel Gardiner, Drewry Publishing, July 2009, p. 37, figure 2.5.

¹⁰ Study commissioned by the Commission and carried out by European Policy Evaluation Consortium — EPEC — under the coordination of GHK Consulting, see <http://ec.europa.eu/social/BlobServlet?docId=2421&langId=en>.

costs (while 35% consider that costs outweigh benefits and 8% give no clear answer).

5.5. Information and Consultation Directive

Since this Directive does not allow Member States to exclude seafarers from the scope of national law transposing it, but only to lay down specific provisions on information and consultation, only option 3 could have an economic impact. Option 4 is already implemented by the current text of the Directive. Option 3 could also entail some additional costs since the margin of manoeuvre left to Member States would be reduced.

It can be considered that the scenarios available to enable the rights currently subject to derogation are **the same as for those under the EWC Directive**, namely the repatriation scenario with a replacement being fielded and the participation by satellite with the workers' private time compensated for.

Consultation only occurs when needed and therefore it can be assumed that, on average, there would be one meeting per year, with two representatives being called back to attend the meeting. This would bring the annual cost to EUR 10 056. Given the much smaller nature of the enterprise, taking a worst-case scenario by assuming the enterprise only has two vessels, the costs would be **EUR 5 028 per vessel per year**.

Under Scenario 2, the costs for participation by satellite would be around EUR 663 per meeting per participant. Assuming again one meeting per year and two representatives, the potential annual cost would be EUR 1 326 which under the worst-case two vessel situation would be equivalent to **EUR 663 per vessel per year**.

The institution of information and consultation procedures could reduce resistance to change, support adaptation on the part of workers, contribute to the building of an integrated corporate culture following mergers, convey qualitative grass roots-level information about the company's life to senior management, and help in attracting and retaining qualified employees.

The fact that the exclusion from this Directive applies only to larger companies (i.e., those with more than 50 employees or establishments with more than 20 employees) and to vessels that ply the high seas means that fishing vessels and companies are in practice almost all exempted from the scope of the Directive along with coastal vessels, with some possible exceptions within the French distant water fishing fleet.

5.6. Collective Redundancies Directive

The cost of implementing the Directive for an employer comes from three sources: the cost of consultation before a sale; the direct cost of the 'cooling-off' period and the indirect opportunity cost of having a boat inactive during this period.

Two options are envisaged:

- a) an obligation on employers to inform and consult only when envisaging collective dismissals;
- b) information and consultation obligations plus a cooling-off period of one month for the application of the envisaged redundancies.

For the first option, the consultation is assumed to take place between two employers' and two union representatives. The cost of consultation can be taken as a tele-meeting with two employees' representatives, at EUR 1 326 per meeting (from Scenario 2 of EWC above), that is **EUR 2 652**.

If the second option is chosen it is necessary to add the 'cooling-off' period, i.e., the period between the notification of the intention to proceed to collective dismissals and the effective dismissal¹¹, which would also have a cost. It would include one month's wages for the crew¹² at the standardised cost of **EUR 39 678** per month. In addition, there would also be an opportunity cost of having the vessel tied up for a month. The opportunity cost is calculated at EUR 25 550 per day. For a minimum 30-day cooling-off period this amounts to an opportunity cost of **EUR 766 500**.

The total monthly cost of the one-month cooling-off period would therefore be **EUR 811 442**.

The Directive establishes a two-stage procedure: information and consultation of workers when the employer is considering a collective dismissal 'with a view to reaching an agreement' and a notification to the competent authority which should 'seek solutions to the problems raised by the projected collective redundancies'. The involvement of workers and their representatives and of the competent authorities can limit the scale of job losses and the longer-term impact on workers. There is no reason why this would not be valid in the maritime sector.

5.7. Transfer of Undertakings Directive

It is also necessary to envisage two possible sub-options in order to assess the economic and social impacts of any amendment to the current situation:

a) The Directive would apply to seagoing vessels but its Chapter II would not apply in case when only a vessel/vessels is/are to be transferred.

b) the Directive would apply entirely to seagoing vessels.

If sub-option a) is considered, the employers' increased cost would only consist of some consultation with the crew. This could be indicated by two tele-meetings with the crew as per Scenario 2 for the EWC Directive, which would amount to an additional cost of around EUR 2 652.

The application of the rules of the Directive as it stands in the event of the sale of a vessel would have a substantial financial impact. Indeed, there is a huge indirect opportunity cost if a vessel, as an undertaking, must be sold complete with the crew; the reduction in price could be around 5% of the sale price. For a vessel worth EUR 30 million, this could amount to an opportunity cost of **EUR 1.5 million**.

Policy option 1 would result in no additional economic costs for employers.

Policy option 2 and policy option 3, however, are likely to cause significant impacts to employers due to the fact that the notion of an 'undertaking' as defined in the Directive and in case-law appears to be broad enough to include a vessel. These

¹¹ Article 4(1) of the Directive states that: *Projected collective redundancies notified to the competent public authority shall take effect not earlier than 30 days after the notification referred to in Article 3(1) without prejudice to any provisions governing individual rights with regard to notice of dismissal.*

¹² The directive permits a reduction in the 30 day notice period, but it also permits such period to be extended. That is why the MRAG Study took 30 days as an average.

options would be likely to have a significant effect on vessel owners in terms of the marketability of vessels.

In these circumstances policy option 4a) would appear to be the optimal solution.

5.8. Posting of Workers Directive

Almost all Member States have made use of this exclusion and therefore do not apply their national laws on the posting of workers to seafarers. The exceptions are Austria, the Czech Republic, the Netherlands, Portugal, Slovenia and Slovakia. Malta has adopted specific provisions for this sector.

It should be recalled that the legislative package adopted in March 2012 by the European Commission leaves unchanged the provisions of the Posting of Workers Directive and thus the exclusion of seagoing vessels.

The impacts of this exclusion are very difficult to discern largely because addressing this exclusion within the present parameters of the Directive is not technically feasible. The specific focus on postings to the territory of a Member State makes it difficult to assess the impacts of an exclusion in terms of merchant navy crews which is all but impossible: a vessel is not the territory of a Member State.

In practice, options 2 and 3 would be inapplicable to the sector due to the link with the territory of a Member State.

Option 4 could be implemented for the sake of harmonisation and but it would require fundamental changes in the text of the Directive.

6. COMPARING THE OPTIONS

For every Directive and for the four policy options, the following elements are taken into account, with each being assessed from zero to three, with a negative (-) or positive (+) impact in Section 6 of the Impact Assessment Report, on the basis of the analysis carried out in the previous section.

- Ability to achieve the specific objectives:
 - Improve the level of protection of the rights protected under the EU Charter of Fundamental Rights, in particular by assessing whether different treatment is objectively justified by the characteristics of the sector and, if not, enhancing the rights of workers in the seafaring professions, in order to bring them up to the standard enjoyed by workers on shore;
 - Contribute to bringing more EU young citizens into jobs in the merchant navy and fishing sectors, by making them more attractive compared to on shore jobs and to improving the retention of seafarers in the profession.
- Likely economic and social impact
- Risk of flagging-out.

6.1. Insolvency Directive

For the Insolvency Directive, policy option 1 would not meet any of the objectives. All the other options would allow the three objectives to be met and all would have a limited economic impact, due to the fact that only share-fishermen are concerned and

only in three Member States. Furthermore, the rate of employers' contribution is low (0.15% of the remuneration in Greece, 0.2% in Cyprus) or non-existent (in Malta).

Policy options 2 to 4 are therefore very similar in terms of capacity to reach the objectives, as well as in terms of economic impact. Nevertheless, policy option 3 is the most effective as far as the attractiveness of the profession is concerned, without an increase of costs compared with options 2 or 4.

6.2. European Works Council Directive

For the Works Council Directive, option 1 would meet none of the objectives set for the initiative.

One common feature of options 2 to 4 is the low economic costs due to the fact that this Directive only applies to large companies (undertakings with at least 1000 employees within the Member States and at least 150 employees in each of at least two Member States) and does not apply automatically: the introduction of a EWC requires a central management initiative or a request from employees. Policy option 3 would be more effective in contributing to the attractiveness of maritime jobs, since the perception of the different levels of protection is a central element of the problem.

6.3. Information and Consultation Directive

The Information and Consultation Directive is in a peculiar position as far as this assessment is concerned. It does not exclude seafarers from its scope; it merely allows Member States to derogate from its provisions 'through particular provisions applicable to the crews of vessels plying the high seas'. Therefore, Member States may deviate from the general rules of the Directive, but need to have in place specific rules on the information and consultation of seafarers.

Option 3 is simply not applicable concerning this Directive and option 4 is already implemented. Nevertheless, the provisions of the Directive could be made clearer on the fact that an equivalent level of protection should be granted (policy option 2).

6.4. Collective Redundancies Directive

Option 1 would meet none of the objectives set for this initiative. Option 3 would have the highest impact, while options 2 and 4 would allow the objectives to be reached at a lower cost if the nature of the maritime sector is taken into account.

Option 4a would improve the current situation without imposing substantial costs on employers. Option 4b would entail high costs, notably in the event of the sale of the vessel. The cost could be limited if the envisaged proposal were to abolish the 'cooling-off' period in the event of a dismissal provoked by the sale of a vessel. This option would address the concerns expressed by some Member States.

6.5. Transfer of Undertakings Directive

The impacts of the different policy options are very much influenced by the fact that, unlike factories, vessels are sold frequently and quickly. If the Directive were to apply in such a case, the market price of the vessel could be negatively affected.

In this context, policy option 1 would entail no additional costs but would not allow any of the objectives to be reached. On the other hand, policy option 3 would entail a very high potential cost and a very high risk of flagging-out.

The costs associated with option 4a would be limited. It would improve the current situation in terms of information and consultation but would not ensure an equivalent level of protection. However, option 4b would entail high costs in the event of the sale of the vessel. Policy option 4a appears to be the option that could best achieve the objectives without resulting in disproportionate additional costs. This option addresses the concerns expressed by some stakeholders concerning the costs.

6.6. Posting of Workers Directive

There is a broad consensus among stakeholders on two points: that it would not be possible to apply the Directive to the sector without major amendments, notably to the definition of ‘posting’, and that, in practice, situations of posting within the meaning of the Directive are extremely rare, if they occur at all, in the maritime sector.

6.7. Ranking of the options

The preferred option for this initiative would be a combination of the four different policy options, according to the individual Directive:

- Policy option 3 (suppression of the exclusions) for the Insolvency Directive;
- Policy option 3 (suppression of the exclusions) for the European Works Council Directive;
- Policy option 2 (equivalent level of protection) for the Information and Consultation Directive;
- Policy option 4a (specific provisions) for the Collective Redundancies Directive;
- Policy option 4a (specific provisions) for the Transfer of Undertakings Directive;
- Policy option 1 (no action) for the Posting of Workers Directive.

7. MONITORING AND EVALUATION

This initiative will result in amendments to Directives currently in force. The legislative proposal will provide for a reviewing and reporting exercise.

The Commission will monitor in particular the impact of the Directive on two issues: the phenomenon of flagging out and the level of employment of EU seafarers. On flagging out, the evolution of the fleet under the flag of an EU Member State will give an accurate view of the phenomenon. Data is available on an annual basis on the gross tonnage of the fleet by national flag: the follow-up of this indicator will provide a clear indication of the trend in flagging out. Movements in the level of employment will be more difficult to monitor, at least if the collection of data at national level does not improve. If the recommendations of the Task Force on Maritime Employment on the improvement of data collection are not implemented, recourse to external expertise will be needed.

The Commission supports the Task Force's request to improve 'the availability of comparable data'¹³ and will cooperate with Member States and social partners with a view to assessing the impact of the Directive on employment.

In view of the limited formal changes to be made to existing Directives, the transposition of the Directive by Member States should not be problematic. The Commission aims at a compliance rate of close to 100% within three years of transposition.

¹³

See the Report of the Task Force on Maritime Employment and Competitiveness, p. 21.