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'I/A' ITEM NOTE

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

Subject: Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL harmonising certain aspects of insolvency law **(first reading)**
- Adoption of the legislative act
= Statements

Spain has requested that the following statement be entered in the Council minutes

España considera que es importante avanzar en el marco legal de insolvencia para lograr una mayor competitividad de nuestras empresas. Ahora bien, nos abstenemos, lamentamos que el texto reintroduzca la figura jurídica del comité de acreedores, a pesar de que se limite solo a las grandes empresas. Es una institución derogada hace mucho tiempo por su ineficiencia y elevados costes. Contamos, al igual que otros Estados miembros, con otros mecanismos para la protección de acreedores que son más eficaces y están dando muy buenos resultados.

En el título IV del Prepack, el texto no es suficientemente ambicioso, deberíamos haber ido más allá en los mecanismos de protección frente a los abusos que se cometen en fraude de acreedores. También hubiera sido necesaria más ambición en los mecanismos que permiten la continuidad de la actividad de la unidad productiva, a fin de mantener el tejido empresarial en funcionamiento.

Courtesy translation in English

Spain considers it important to advance the legal framework for insolvency in order to achieve greater competitiveness for our companies. However, we abstain and regret that the text reintroduces the legal concept of the creditors' committee, even though it is limited to large companies. This institution was abolished long ago due to its inefficiency and high costs. Like other Member States, we have other mechanisms for protecting creditors that are more effective and are yielding very good results.

In Title IV of the Prepack, the text is not ambitious enough; we should have gone further in the mechanisms for protection against abuses committed in fraud against creditors. More ambition would also have been necessary in the mechanisms that allow the continuity of the productive unit's activity, in order to keep the business fabric functioning.

Germany, Slovenia, Finland and Sweden have requested that the following joint statement be entered in the Council minutes

On occasion of the adoption of the Directive harmonising certain aspects of insolvency law and with a view to follow-up steps in the area of insolvency law, we emphasize the importance and significance of corporate insolvency law for the credit and capital markets and the resulting necessity for European insolvency law to create a consistent, coherent, and predictable framework for the resolution of insolvency that accommodates the needs of credit and capital markets. Thorough preparation of legislative proposals is as necessary as an orderly and structured legislative process. In order to cope with the importance of fundamental issues and the wide range of technical questions, it is necessary and advisable to closely involve the Member States in any preparatory work as well as throughout the entire negotiation process.
