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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Shipping
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/21/EC on compliance with flag State requirements - Comments by Spain

Delegations will find attached comments by **Spain** on the above proposal.



Representación Permanente de España ante la Unión Europea
Consejería de Transportes y Telecomunicaciones

Comments from Spain on the Flag State directive to document WK 1742/2024

Following our intervention at the shipping working party on 5 February herein we are sending detailed comments to the 4 column document and the way forward proposed by the Presidency. In general Spain supports the general approach.

We also wish to inform that our comments are not be limited to the ones provided herein. Our comments issued on 3 February remains with the following additions/modifications.

Line 79. –e certificates- Spain does not support the proposed way forward. Certificates are protected by data protection law. We cannot support open this certificates in a database with unknown rules of procedure. We stand firmly behind the general approach. Attention is also to be paid in Line 84 where we stick to the general approach

Line 97.-IMO Audit and publication- Spain does not support publishing the results of the IMO audits. The result of the audit needs to remain confidential.

Lines 13b, 29, 53, 164 and 177-332. –III Code -. Spain stands behind the current definition in the general approach. We cannot accept the inclusion of part 1 because it would mean that all Governance issues, not only those of the flag state, but others such as Port State will fall under this directive. This would mean that the Commission would have the power to intervene in our strategy, our performance even imposing indicators.

L36e-g - Scope of the directive- Spain reiterates that a limitation of the scope of the directive is imposed with regards to international voyages, in the proposed article 2 and in the definition of ship in article 3, in line with the general approach. The scope of the current directive is not clear, and since new requirements will be imposed on the member states, Spain considers crucial that the scope of the application of the directive is clear.

Lines 11a, 25a, 49, 58, 69, 78a, 93 – social provisions. We can only accept reference to social provisions in the recitals, never connected to the MLC 2006 but to STCW which falls under the III Code.

Line 21. –genuine link- Our position supporting the GA still remains.

To the conclusion and the way forward

Digitalisation.

1) We can support a digital portal which will bridge the information provided in article 6.1.g provided that exemptions and exceptions (Art 6.1.g. item iv) are removed and provided also that the Commission develops a specific tool customized for our administration to retrieve our data. In this regard we would not do any IT development

2) We cannot share our certificates in digital form. We can provide access to check whether they are authentic or not. We cannot support (Art 6.1.b)



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3) We do not understand why a voluntary database like DONA needs to be mentioned in a directive, however we are a little flexible here provided that no burden is imposed on the member states. In this regard it needs to be recalled that data is being communicated by the EU member states via GISIS to the IMO. Therefore, it is not acceptable that we have to additionally communicate data to the Commission, for example exemptions. The Commission is imposing double reporting in some areas of the directive.