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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT
AND THE COUNCIL on the exercise of the power to adopt delegated acts
conferred on the Commission pursuant to Directive 2016/802/EU of the
European Parliament and of the Council of 11 May 2016 relating to a
reduction in the sulphur content of certain liquid fuels

Delegations will find attached document COM(2017) 342 final.

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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the exercise of the power to adopt delegated acts conferred on the Commission
pursuant to Directive 2016/802/EU of the European Parliament and of the Council of 11
May 2016 relating to a reduction in the sulphur content of certain liquid fuels**

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**
**on the exercise of the power to adopt delegated acts conferred on the Commission pursuant
to Directive 2016/802/EU of the European Parliament and of the Council of 11 May 2016
relating to a reduction in the sulphur content of certain liquid fuels**

1. INTRODUCTION

Directive 2016/802/EU¹ of the European Parliament and of the Council of 11 May 2016 (codification) relating to a reduction in the sulphur content of certain liquid fuels seeks to prevent and control air pollution caused by noxious emissions resulting from the combustion of liquid fuels, including of marine fuels, with a high sulphur content, which harm human health, the environment and contribute to acid deposition.

This directive empowers the Commission to adopt delegated acts to adapt the following Articles and Annexes to scientific and technical progress, not least, to ensure consistency with the relevant instruments adopted by the International Maritime Organisation (IMO) and, as appropriate, with other EU or international standards:

- Article 2 points (a) to (e) and (p) laying down definitions and specifications for fuels covered by the Directive;
- Article 13(2) point (b)(i) concerning the sampling and analysis of marine fuel for on-board combustion while being delivered to ships;
- Article 13(3) laying down the reference method for determining the sulphur content of liquid fuels;
- Annex I and II laying down equivalent emission values and criteria for the use of emission abatement methods referred to in Article 8.

2. LEGAL BASIS

This report is required under Article 16(2) of Directive 2016/802/EU. Pursuant to this provision, the power to adopt delegated acts is conferred on the Commission for a period of five years from 17 December 2012 and the Commission is required to prepare a report in respect of the delegation of power, at the latest 9 months before the end of the five-year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 16(2).

3. EXERCISE OF THE DELEGATION

The exercise of the empowerment was deemed necessary for adapting several provisions foreseen by the Directive to scientific and technical progress. Since the last amendment to the legal provisions (2012)² however, there have been no significant developments in the area of fuel specifications and sulphur in fuel verification standards or emission abatement methods, urging the Commission to use the delegated powers conferred by the Directive.

However, in view of the entry into force on 1 January 2020, as per Article 6(1)(b) of the Directive, of the stricter 0.50% sulphur in fuel requirement for ships sailing in EU waters outside the Sulphur Emission Control Areas (SOx-ECAs), as well as globally, new marine fuels and emission abatement methods may enter the EU market to ensure compliance with the stricter requirement. Also the IMO is currently working on new relevant standards and other technical

¹ OJ L 132, 21.5.2016, p. 58–78

² OJ L 327, 27.11.2012, p. 1

provisions. Both developments would likely require the Commission to use its delegated powers to ensure the Directive is adapted to scientific and technical progress, and consistent with standards adopted by the IMO.

4. CONCLUSION

The Commission has, over the past five years, not exercised the delegated powers conferred to it under Directive 2016/802/EU. It invites the European Parliament and the Council to take note of this report.