



Brussels, 17 October 2016
(OR. en)

12972/16

Interinstitutional File:
2016/0296 (NLE)

MAR 253
OMI 63
ENV 641

'A' ITEM NOTE

From:	General Secretariat of the Council
To:	Council
No. prev. doc.:	12706/16 MAR 243 OMI 62 ENV 620
No. Cion doc.:	12519/16 MAR 236 OMI 61 ENV 604
Subject:	Proposal for a Council Decision on the position to be adopted on behalf of the European Union at the International Maritime Organization during the 70th and 71st session of the Marine Environment Protection Committee on the approval and adoption of amendments to MARPOL Annex VI concerning the designation and taking effect of the Baltic Sea and North Sea as Nitrogen Oxide Emissions Control Area (NECA) <i>- Decision not to work further on the Commission proposal</i>

Introduction

1. The Commission proposal, which was adopted and transmitted to the Council on 22 September 2016, concerns the position to be adopted on behalf of the European Union position during the 70th and the 71st session of the IMO Marine Environment Protection Committee (MEPC 70 and MEPC 71) of the International Maritime Organization (IMO) in relation to the approval and the adoption of amendments to Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL Annex VI) concerning the designation and taking effect of the Baltic Sea and the North Sea as Nitrogen Oxide Emissions Control Areas (NECAs).

Work in the Council

2. The Commission presented the draft proposal to the Shipping Working Party on 21 September 2016. On 28 September 2016, the Shipping Working Party examined the proposal.
3. At working party level, a significant number of delegations raised concerns as regards the necessity for a Council Decision on this matter given that they consider this to fall in the domain of unexercised Union competence (NO_x emissions from international shipping).
4. The Council Legal Service, invited to provide guidance, confirmed that the issue does not fall under exclusive Union competence but under shared competence. It also confirmed that it is a political choice for the Council whether to exercise competence in this area.
5. Against this background, the Chair of the Shipping Working Party concluded that the Permanent Representatives Committee should be asked to decide whether it is appropriate to exercise Union competence in this area.
6. On 5 October 2016, the Permanent Representatives Committee examined the matter, confirmed that Member States did not want to exercise Union competence in this area and, consequently, agreed to recommend to the Council not to work further on the proposal.
7. The Commission entered a statement to the minutes of the Committee, regretting the Committee's conclusions.

Conclusion

8. In light of the above, the Council is invited to decide not to work further on the Commission proposal.