



Council of the  
European Union

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#### 'I' ITEM NOTE

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From: General Secretariat of the Council

To: Permanent Representatives Committee (Part 1)

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No. prev. doc.: 12956/17 MAR 168 OMI 39 ENV 813

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Subject: IMO – Draft Union submission to be submitted to the 5th session of the Sub-Committee on Pollution Prevention and Response (PPR 5) of the IMO in London from 5 - 9 February 2018 concerning review of the 2015 Guidelines for Exhaust Gas Cleaning Systems (Resolution MEPC.259(68))

- Guidance on accidental breakdown, instrument malfunction and perceived temporary non-compliance and transient performance of Exhaust Gas Cleaning Systems (EGCS)
- = *Endorsement*
- = *Statement by the Commission*

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Delegations will find attached a statement by the Commission to the minutes of the Permanent Representatives Committee.

**Statement by the Commission**

The Commission considers that the above mentioned "Union submission" to be submitted to the IMO is covered by EU exclusive competence. Submission of proposals to the IMO on issues of EU competence is an act of external representation and should be made by the Commission on behalf of the EU to IMO and should therefore be sent to the IMO by the Commission.

In the view of the Commission, the procedural arguments against presenting submissions to the IMO by the Commission on behalf of the EU are not convincing as there is no evidence to suggest that the IMO, as a specialized agency of the United Nations, would be in a position to reject such a submission.

The Commission thus maintains its position that the Treaty provisions on external representation of the Union should be applied and, consequently, to present the submission in question to the IMO by the European Commission on behalf of the European Union is the only legally correct way forward. In case of non-respect of the above rules, the Commission reserves all its rights in this regard.

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