



Council of the
European Union

Brussels, 25 October 2017
(OR. en)

13350/17
ADD 1

MAR 176
OMI 41
ENV 857

'I' ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee (Part 1)

No. Cion doc.: 12645/17 MAR 161 OMI 36 ENV 780

No. prev. doc.: 12949/17 MAR 167 OMI 38 ENV 811

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))

- Proposal for amendments to the 2015 Guidelines for Exhaust Gas Cleaning Systems
- = *Endorsement*
- = *Statement by the Commission*

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.
