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From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 1)

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No. prev. doc.: 14323/15 MAR 155 OMI 12 ENV 714
14889/15 MAR 168 OMI 20 ENV 761

Subject: IMO – Draft Union submission to be submitted to the 3rd session of the Sub-Committee on Pollution Prevention and Response (PPR 3) of the IMO in London from 15 – 19 February 2016 concerning amendments to the Bunker Delivery Note to permit the supply of fuel oil other than in compliance with Regulation 14 of MARPOL Annex VI
- *Approval*
- *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 "joint EU submission" to be submitted the 3rd session of the IMO Sub-Committee on Pollution Prevention and Response (PPR 3) concerning amendments to the Bunker Delivery Note to permit the supply of fuel oil other than in compliance with Regulation 14 of MARPOL Annex IV, 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 would reject such a submission. If the IMO were to do so it would be against the general provisions the UN has made for EU representation and participation in its work (UN GA Res 65/276).

The Commission thus maintains its position that the Treaty rules 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.