



Council of the
European Union

Brussels, 22 December 2021
(OR. en)

14990/21
ADD 1

MAR 230
OMI 105
ENV 992
CLIMA 446

'I' ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee (Part 1)

No. Cion doc.: 14983/21

Subject: Draft submission by Member States and the Commission to the ninth session of the International Maritime Organization's Sub-Committee for Pollution Prevention and Response suggesting to update three guidelines linked to the International Convention on the Control of Harmful Anti-fouling Systems in Ships

– *Commission statement*

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

Commission statement

The Commission considers that Union submissions to be sent to the IMO are covered by EU exclusive competence. Submission of proposals to the IMO on issues of EU competence is an act of external representation, which, in accordance with Article 17(1) TEU, is the institutional prerogative of the Commission.

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

The Treaty provisions on external representation of the Union must be applied. It should therefore be made by the European Commission on behalf of the European Union and sent to the IMO by the Commission.

The Commission reserves all its rights in this regard.
