

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2010/0303(COD) Procedure completed
European Maritime Safety Agency: further development Amending Regulation (EC) No 1406/2002 <a href="#">2000/0327(COD)</a>	
Subject 3.20.03.01 Maritime safety 8.40.08 Agencies and bodies of the EU	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>TRAN</b> Transport and Tourism		07/12/2010
		S&D <a href="#">FLECKENSTEIN Knut</a>	
		Shadow rapporteur	
		PPE <a href="#">DE GRANDES PASCUAL Luis</a>	
		ALDE <a href="#">BILBAO BARANDICA Izaskun</a>	
		Verts/ALE <a href="#">TAYLOR Keith</a>	
		ECR <a href="#">VAN DALEN Peter</a>	
	Former committee responsible		07/12/2010
	<b>TRAN</b> Transport and Tourism	S&D <a href="#">FLECKENSTEIN Knut</a>	
Former committee for opinion		18/11/2010	
<b>BUDG</b> Budgets	S&D <a href="#">HAUG Jutta</a>		
<b>ENVI</b> Environment, Public Health and Food Safety		30/11/2010	
	Verts/ALE <a href="#">STAES Bart</a>		
<b>ITRE</b> Industry, Research and Energy	The committee decided not to give an opinion.		
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Employment, Social Policy, Health and Consumer Affairs3188</a>		04/10/2012
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">3098</a>	16/06/2011
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">3080</a>	31/03/2011
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">3052</a>	02/12/2010
European Commission	Commission DG	Commissioner	
	Energy and Transport	KALLAS Siim	

Key events			
28/10/2010	Legislative proposal published	<a href="#">COM(2010)0611</a>	Summary

10/11/2010	Committee referral announced in Parliament, 1st reading		
02/12/2010	Debate in Council	<a href="#">3052</a>	Summary
31/03/2011	Debate in Council	<a href="#">3080</a>	Summary
16/06/2011	Debate in Council	<a href="#">3098</a>	Summary
11/10/2011	Vote in committee, 1st reading		
25/10/2011	Committee report tabled for plenary, 1st reading	<a href="#">A7-0372/2011</a>	Summary
14/12/2011	Debate in Parliament		
15/12/2011	Results of vote in Parliament		
15/12/2011	Decision by Parliament, 1st reading	<a href="#">T7-0581/2011</a>	Summary
04/10/2012	Council position published	<a href="#">10090/2/2012</a>	Summary
25/10/2012	Committee referral announced in Parliament, 2nd reading		
27/11/2012	Vote in committee, 2nd reading		
28/11/2012	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A7-0387/2012</a>	Summary
11/12/2012	Decision by Parliament, 2nd reading	<a href="#">T7-0473/2012</a>	Summary
15/01/2013	Final act signed		
16/01/2013	End of procedure in Parliament		
09/02/2013	Final act published in Official Journal		

### Technical information

Procedure reference	2010/0303(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 1406/2002 <a href="#">2000/0327(COD)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 100-p2
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/7/09356

### Documentation gateway

Legislative proposal	<a href="#">COM(2010)0611</a>	28/10/2010	EC	Summary
Document attached to the procedure	<a href="#">SEC(2010)1263</a>	28/10/2010	EC	
Document attached to the procedure	<a href="#">SEC(2010)1264</a>	28/10/2010	EC	
Economic and Social Committee: opinion, report	<a href="#">CES0365/2011</a>	16/02/2011	ESC	

Committee opinion	<b>ENVI</b>	<a href="#">PE458.845</a>	19/04/2011	EP	
Committee draft report		<a href="#">PE464.908</a>	08/06/2011	EP	
Committee opinion	<b>BUDG</b>	<a href="#">PE462.817</a>	15/06/2011	EP	
Amendments tabled in committee		<a href="#">PE467.345</a>	30/06/2011	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A7-0372/2011</a>	25/10/2011	EP	Summary
Text adopted by Parliament, 1st reading/single reading		<a href="#">T7-0581/2011</a>	15/12/2011	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2012)90</a>	01/02/2012	EC	
Council statement on its position		<a href="#">12062/2012</a>	18/09/2012	CSL	
Council position		<a href="#">10090/2/2012</a>	04/10/2012	CSL	Summary
Committee draft report		<a href="#">PE497.796</a>	11/10/2012	EP	
Commission communication on Council's position		<a href="#">COM(2012)0606</a>	16/10/2012	EC	Summary
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A7-0387/2012</a>	28/11/2012	EP	Summary
Text adopted by Parliament, 2nd reading		<a href="#">T7-0473/2012</a>	11/12/2012	EP	Summary
Draft final act		<a href="#">00078/2012/LEX</a>	15/01/2013	CSL	

#### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

#### Final act

[Regulation 2013/100](#)  
[OJ L 039 09.02.2013, p. 0030](#) Summary

## European Maritime Safety Agency: further development

**PURPOSE:** to amend Regulation 1406/2002 by clarifying the European Maritime Safety Agency's (EMSA) existing tasks and role as well as by extending EMSA's tasks to new areas under development at international and/or EU level.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**BACKGROUND:** following the accident of the oil tanker "Erika" and the major oil pollution caused by this accident, the Commission set up the European Maritime Safety Agency (EMSA) as a technical body with the aim to ensure a high, uniform and effective level of maritime safety and prevention of pollution by ships in the EU.

Today, EMSA provides Member States and the Commission with technical and scientific assistance in order to help Member States to apply properly the Community legislation in the field of maritime safety, maritime security and prevention of pollution by ships, to monitor the implementation of this legislation and to evaluate the effectiveness of the measures in place and assist in the development of new measures.

The previous modifications made to regulation 1406/2002 have not been sufficient to address the new challenges ahead for EMSA, most of the challenges being external either to EMSA only or to EMSA and the EU as a whole.

Based on the findings of the external evaluation, the recommendations by the Administrative Board and the multi-annual strategy, some provisions of Regulation (EC) No 1406/2002 should be clarified and updated. Furthermore, the Agency should receive a number of additional tasks reflecting the development of the maritime safety policy at EU and international level.

**IMPACT ASSESSMENT:** the Impact Assessment report and the summary are attached to the proposal. The Impact Assessment Board issued its opinion on 22 June 2008 providing a number of recommendations for improvements of the draft report, which have been incorporated in the

final version.

LEGAL BASIS: Article 100(2) of the Treaty on the Functioning of the European Union (TFEU), which has served as legal basis for Regulation 1406/2002.

CONTENT: the Commission proposes to maintain EMSA's current tasks and institutional structure, ensuring continuity for the Agency's activities which provide added value at EU-level and are well appreciated by the stakeholders. The proposal for a limited extension of EMSA's tasks reflects new needs. EMSA's updated mandate would:

- clarify that the Stand-by Oil Spill Response Vessels under contract by EMSA can intervene also in case of oil pollution caused by offshore installations;
- increase EMSA's involvement in EU research (analysis of research projects and identification of research priorities);
- extend EMSA's technical assistance to all European Neighbourhood Policy countries in order to promote the EU maritime safety policy in all the regional seas bordering the EU;
- emphasise the role of EMSA's operational vessel traffic monitoring services as basis for extended transport and maritime information services, including in the context of the development of a Common Information Sharing Environment for the EU maritime domain;
- extend EMSA's assistance in the development and implementation of EU policies, such as Motorways of the Sea, e-maritime as well as environmental aspects of shipping including climate change.

Following an invitation by the European Parliament and the Council, the Commission services are working on a feasibility study regarding a European Coastguard service. The Commission services have concluded so far that synergies at EU level regarding certain coastguard operations could be reinforced through EMSA's activities. This could be further supported by extending EMSA's tasks in selected areas, in particular regarding the monitoring of maritime traffic and shipping routes as well as assistance to Member States in the tracking of possible polluters.

Lastly, as regards the organisation of inspections by the Agency on behalf of the Commission, the roles of the Agency, the Commission, the Administrative Board and the Member States need to be clarified.

BUDGETARY IMPLICATION: the proposal has a modest budgetary implication insofar as the Agency receives a limited number of new or extended tasks, for which EMSA would need 18 posts to ensure effective and efficient operation. However, in the light of the current budgetary situation, the Commission has agreed with the Agency a considerable redeployment effort, as a result of which 6 of these posts will be provided by EMSA itself through internal redeployment.

This means that the Budgetary authority would need to decide in the forthcoming annual budgetary procedures only on a total of 12 additional posts for the Agency's establishment plan to be phased in between 2012 and 2014 (5 posts in 2012, 4 posts in 2013 and 3 posts in 2014).

The budgetary impact of this proposal is thus limited to a total of approximately EUR 3.9 million for the period 2012-2015.

## European Maritime Safety Agency: further development

---

In a note sent to the Delegations by the Commission, it is recalled that the purpose of the proposal is to amend the 2002 regulation that set up the European Maritime Safety Agency (EMSA). The purpose of the amendment is to clarify EMSA's role and to extend its tasks, in particular so as to include response to pollution from offshore oil operations, and not only from ships as under the current regulation.

Given the limited nature of the modifications proposed, the Commission hopes that a swift adoption of the proposal will be possible.

## European Maritime Safety Agency: further development

---

The Council discussed the state of play as regards a proposed modification of the current regulation on the European Maritime Safety Agency (EMSA), providing for an extension of EMSA's tasks, on the one hand, and some changes to its governance structure, on the other.

The great majority of delegations can in principle accept a limited extension, but stressed that new tasks should only be introduced if a clear added value can be demonstrated, and that duplication of work already undertaken by national administrations or other EU bodies needed to be avoided. Many Member States also emphasised that the agency should focus primarily on its core business, which is maritime safety. The possible budgetary consequences of an extension were also a matter of concern; some Member States considered that any new tasks would need to be funded within the agency's current budget and without creating new posts at the agency.

As regards the extension of EMSA's competence to interventions in the event of pollution from oil and gas installations, and not only from ships, as under the current regulation, some delegations stressed that in such cases EMSA should intervene only at the request of the Member State concerned.

Further new tasks proposed by the Commission include increased cooperation with neighbouring countries and closer involvement of EMSA in EU maritime research, an enhanced role in the development of an EU maritime surveillance network, and contributions to other EU policies related to its field of expertise, such as "motorways of the sea" or the European maritime transport space without barriers.

With respect to the governance of EMSA, the text proposed by the Commission intends in particular to clarify the role of the different actors in the organisation of visits and inspections carried out by EMSA, in order to avoid conflicts of interest. Many Member States, however, are critical of what they see as a shift of competences from the agency's administrative board, where Member States are represented, to the executive director and the Commission. Some delegations prefer to maintain the present governance structure, while several Member States support adapting it, on condition that the competence of the agency's administrative board is fully respected, so as to ensure that member states have their say in EMSA's decision taking, in particular when it comes to the appointment procedure for the executive director.

## European Maritime Safety Agency: further development

---

The Council agreed on a general approach on modification of the current Regulation on the European Maritime Safety Agency (EMSA), slightly extending EMSA's tasks and clarifying some governance issues.

The compromise proposal tabled by the Presidency was accepted by all delegations, after the text had been amended to take account of budgetary concerns by clarifying that it is up to the Council and the European Parliament to decide on the agency's resources.

EMSA's competence: under the new draft regulation, EMSA's competence will be extended, in particular to enable the Agency to intervene, upon request from the Member States concerned, in the event of pollution from oil and gas installations, and not only from ships, as under the current regulation. EMSA will also be asked to contribute to other EU policies and projects related to its field of expertise, such as "motorways of the sea" or the European maritime transport space without barriers. In addition, the agency will provide assistance for technical work in international and regional organisations, and cooperation with neighbouring countries will be enhanced.

Tasks of the Agency: there will be a clear distinction between the agency's core and ancillary tasks.

The core tasks are strictly linked to the agency's core business, that is, maritime safety and security and prevention of, and response to, marine oil pollution.

The ancillary tasks will be entrusted to the agency only on condition that they provide real added value, without duplicating work undertaken elsewhere, and do not infringe on Member States' rights and obligations. These tasks include: (i) environmental issues such as greenhouse gas emissions from shipping and the environmental status of marine waters; (ii) the development of an information sharing system; (iii) specific tasks related to inland waterway transport, namely inspecting classification societies for inland waterway vessels and exploring the possibility of interlinking maritime and inland waterway information systems, or contributions to other EU policies.

Governance of EMSA: the revised text clarifies the role of the administrative board on which Member States are represented, in particular as regards the procedure for the appointment of the agency's executive director. The text also provides for multiannual planning concerning the agency's strategy and staff policy, and for an independent external evaluation of the implementation of the regulation at regular intervals, at least every five years.

The European Parliament, whose approval is also required for the adoption of the regulation, has not yet established its position at first reading.

## European Maritime Safety Agency: further development

---

The Committee on Transport and Tourism adopted the report by Knut FLECKENSTEIN (S&D, DE) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency.

The report stresses that point 47 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management should apply for the extension of tasks of the European Maritime Safety Agency. It emphasises that any decision of the legislative authority in favour of such an extension of tasks shall be without prejudice to the decisions of the budgetary authority in the context of the annual budgetary procedure.

The committee recommends that the Parliaments position adopted at first reading of the ordinary legislative procedure should be to amend the Commission proposal as follows:

Agency's tasks: Member call for the additional tasks to be assigned to the EMSA.

The Agency should assist the Commission:

- in the provision of technical and scientific assistance needed and with a high level of expertise, in order to help them to apply the Union legislation properly with a view to ensuring a high, uniform and efficient level of maritime safety and security;
- in the development and implementation of EU policies related to the Agency's tasks, particularly those in the field of maritime safety as well as Motorways of the Sea, the European maritime space without barriers, the 'Blue Belt' project, maritime, the Marine Strategy Framework Directive, climate change, in the analysis of the safety of offshore oil and gas installations and combating pollution;
- in the exchange of information concerning any other policy which may be appropriate given its areas of competence and its expertise;
- in the development and implementation of a policy to enhance the quality of the training of European seafarers, and in promoting maritime careers, taking account of the demand for highly qualified labour in the EU maritime cluster in the development of requirements or any guidance relating to the licensing of oil and gas exploration and production in the marine environment and, in particular, the environmental and civil protection aspects thereof.

The Agency should collaborate with the Member States to:

- support the monitoring of the recognised organisations that carry out certification tasks on behalf of the Member States in accordance with Article 9 of Directive 2009/151 without prejudice to the rights and obligations of the Flag State;
- assist the Commission in completing the tasks described in Regulation (EC) No 391/20091;
- gather and analyse national data on the qualifications and employment of seafarers so as to share best practice in the training of seafarers across Europe;
- facilitate the establishment of Erasmus type exchanges between maritime training institutions;
- provide technical expertise in the field of shipbuilding or any other relevant activity related to maritime traffic, so as to develop the use of environment-friendly technologies and ensure a high level of security;
- support the actions they take to combat illegal traffic and acts of piracy, by providing data and information which may facilitate these operations and, in particular, by using its Automatic Identification Systems and satellite images;
- develop and implement a macro-regional Union policy relating to the fields of activity of the Agency.

The Agency should assist the Member States and the Commission:

- regarding oil spills from offshore installations, the Agency shall assist the Member States and the Commission by using its CleanSeaNet service to monitor the extent and environmental impact of such spills;
- with respect to offshore oil and gas installations, in assessing Member States arrangements concerning emergency response plans

- and emergency preparedness, and in coordinating the oil pollution response in the event of an accident;
- with respect to offshore installations, in ensuring independent third party oversight of the maritime aspects related to safety, prevention, protection of the environment, and contingency planning.

The Agency shall be invited to assist the Member States during accident investigations involving (costal and offshore) maritime installations including accidents affecting oil and gas installations while the Member States shall be invited to cooperate in a full and timely manner with the Agency.

The Agency shall compile a yearly overview of incidents and near-accidents from the relevant bodies of Member States.

Role of the Parliament: an amendment aims at enshrining in the regulation that the Parliament should be consulted for the adoption of the agencies' multi-annual strategy (Interinstitutional Working Group).

Administrative Board: for a better ownership and follow-up of audit and evaluations findings, the Administrative Board, to whom the Director is accountable, should explicitly be entrusted with their monitoring in line with the recommendation of the Interinstitutional Working Group on Agencies. There should be a provision aimed at preventing any conflict of interest. The duration of the mandate of the Administrative Board members should be aligned with that of other agencies in accordance with the recommendation of the Interinstitutional Working Group on Agencies. The Administrative Board, acting on a proposal from the Commission, taking into account the evaluation report may extend the term of office of the Executive Director for not more than five years.

Feasibility Study: within one year of the date of entry into force of this Regulation the Commission shall submit a feasibility study on a national coastguard coordination system, making clear the costs and the benefits, to the European Parliament and the Council. The report shall, if appropriate, be accompanied by a legislative proposal.

Progress Report: within three years of the date of entry into force of this Regulation, the Commission shall submit a report setting out how the Agency has undertaken the additional responsibilities assigned by this Regulation and the case for further extending its objectives or tasks. It shall include an analysis of the gains in effectiveness that have been realised through greater integration of the Agency and the Paris Memorandum of Understanding on Port State Control. It shall, if appropriate, be accompanied by a legislative proposal.

Lastly, the Commission shall be empowered to adopt delegated acts concerning the operational working methods of the Agency for conducting inspections.

## European Maritime Safety Agency: further development

---

The European Parliament adopted by 539 votes to 66 with 23 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency.

The resolution stresses that point 47 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management<sup>(2)</sup> should apply for the extension of tasks of the European Maritime Safety Agency. It emphasises that any decision of the legislative authority in favour of such an extension of tasks shall be without prejudice to the decisions of the budgetary authority in the context of the annual budgetary procedure.

Parliaments position at first reading amends the Commission proposal as follows:

The Agency's objectives: Parliament specifies that the Agency shall provide the Member States and the Commission with the technical and scientific assistance needed and with a high level of expertise, in order to help them to apply the Union legislation properly with a view to ensuring a high, uniform and efficient level of maritime safety and security, using their existing capabilities for assistance, preventing and tackling marine pollution, including from offshore oil and gas installations, developing a European maritime space without barriers.

Agency's tasks: Member call for the additional tasks to be assigned to the EMSA.

The Agency should assist the Commission:

- in the provision of technical and scientific assistance needed and with a high level of expertise, in order to help them to apply the Union legislation properly with a view to ensuring a high, uniform and efficient level of maritime safety and security;
- in the development and implementation of EU policies related to the Agency's tasks, particularly those in the field of maritime safety as well as Motorways of the Sea, the European maritime space without barriers, the 'Blue Belt' project, maritime, the Marine Strategy Framework Directive, climate change, in the analysis of the safety of offshore oil and gas installations and combating pollution;
- in the exchange of information concerning any other policy which may be appropriate given its areas of competence and its expertise;
- in the development and implementation of a policy to enhance the quality of the training of European seafarers, and in promoting maritime careers, taking account of the demand for highly qualified labour in the EU maritime cluster in the development of requirements or any guidance relating to the licensing of oil and gas exploration and production in the marine environment and, in particular, the environmental and civil protection aspects thereof.

The Agency should collaborate with the Member States to:

- support the monitoring of the recognised organisations that carry out certification tasks on behalf of the Member States;
- assist the Commission in completing the tasks described in Regulation (EC) No 391/2009 on common rules and standards for ship inspection and survey organisations;
- gather and analyse national data on the qualifications and employment of seafarers so as to share best practice in the training of seafarers across Europe;
- facilitate the establishment of Erasmus type exchanges between maritime training institutions;

- provide technical expertise in the field of shipbuilding or any other relevant activity related to maritime traffic, so as to develop the use of environment-friendly technologies and ensure a high level of security;
- support the actions they take to combat illegal traffic and acts of piracy, by providing data and information which may facilitate these operations and, in particular, by using its Automatic Identification Systems and satellite images;
- develop and implement a macro-regional Union policy relating to the fields of activity of the Agency.

The Agency should assist the Member States and the Commission:

- regarding oil spills from offshore installations, the Agency shall assist the Member States and the Commission by using its CleanSeaNet service to monitor the extent and environmental impact of such spills;
- with respect to offshore oil and gas installations, in assessing Member States arrangements concerning emergency response plans and emergency preparedness, and in coordinating the oil pollution response in the event of an accident;
- with respect to offshore installations, in ensuring independent third party oversight of the maritime aspects related to safety, prevention, protection of the environment, and contingency planning.

The Agency shall be invited to assist the Member States during accident investigations involving (costal and offshore) maritime installations including accidents affecting oil and gas installations while the Member States shall be invited to cooperate in a full and timely manner with the Agency.

The Agency shall compile a yearly overview of incidents and near-accidents from the relevant bodies of Member States.

Regional centres: at the request of the Commission, the Administrative Board may decide, with the agreement and cooperation of the Member States concerned, to establish the regional centres necessary in order to carry out the Agency's tasks in the most efficient and effective way, enhancing cooperation with existing regional and national networks already engaged in prevention measures and by defining the precise scope of activities of the regional centre while avoiding unnecessary financial costs .

Role of the Parliament: an amendment aims at enshrining in the regulation that the Parliament should be consulted for the adoption of the agencies' multi-annual strategy (Interinstitutional Working Group).

The Executive Director shall reply positively to any invitation by the competent committee of the European Parliament to present and hold an exchange of views on the annual work programme.

Administrative Board: for a better ownership and follow-up of audit and evaluations findings, the Administrative Board, to whom the Director is accountable, should explicitly be entrusted with their monitoring in line with the recommendation of the Interinstitutional Working Group on Agencies. There should be a provision aimed at preventing any conflict of interest. The duration of the mandate of the Administrative Board members should be aligned with that of other agencies in accordance with the recommendation of the Interinstitutional Working Group on Agencies (i.e four years). The Administrative Board, acting on a proposal from the Commission, taking into account the evaluation report may extend the term of office of the Executive Director for not more than five years.

Feasibility Study: within one year of the date of entry into force of the Regulation the Commission shall submit a feasibility study on a national coastguard coordination system, making clear the costs and the benefits, to the European Parliament and the Council. The report shall, if appropriate, be accompanied by a legislative proposal.

Progress Report: within three years of the date of entry into force of this Regulation, the Commission shall submit a report setting out how the Agency has undertaken the additional responsibilities assigned by this Regulation and the case for further extending its objectives or tasks.

Lastly, the Commission shall be empowered to adopt delegated acts concerning the operational working methods of the Agency for conducting inspections.

## European Maritime Safety Agency: further development

---

The Councils position at first reading significantly modifies the original Commission proposal, rewording it and deleting several provisions.

In the Council's view, it is particularly important at a time of limited financial and human resources, the European Maritime Safety Agency (EMSA) should concentrate on those areas in which the Agency has established and recognised expertise and tools. The Council has chosen an approach clearly setting out the objectives of the Agency. Furthermore, the Agency's tasks are separated into core tasks and ancillary tasks. Ancillary tasks would only be carried out by the Agency after a thorough examination of cost-effectiveness.

As regards the amendments put forward by the European Parliament, the Council indicates that a large number of them have been integrated in its position at first reading wholly, partially or in spirit. The Councils position on Parliaments amendments on certain key issues is the following:

1. The Agency's objectives: the Council welcomes the clear description of the Agency's objectives proposed by the Parliament, and the prioritisation of tasks. However, it is not willing to accept the extension of the Agency's tasks to cover prevention of pollution from offshore oil and gas installations, as suggested by Parliament.

### 2. The Agency's tasks

- Training of seafarers: Parliament proposed several amendments with a view to involving the Agency in the training of seafarers. The Council can agree with the Parliament that EMSA could play a role in matters relating to the training of seafarers, but that should not be part of its core tasks, except as far as statistics are concerned, and it should fully respect the responsibility of the Member States for the content and organisation of vocational training (Article 166 TFEU). This is reflected in the Council position.

- Piracy: Parliament considered that combating piracy and "illegal traffic" should be a core task for the Agency.

The Council position takes account of the increasing threat of acts of piracy and other unlawful acts against maritime transport, and the fact that the Agency does have certain data at its disposal that could be useful in this respect. It thus includes among the Agency's core tasks the

provision of relevant vessel positioning and earth observation data to competent national authorities and relevant Union bodies in order to facilitate measures against threats of piracy and of intentional unlawful acts. Data should only be provided upon request, without prejudice to national and Union law, subject to applicable data protection rules.

- Pollution from offshore oil and gas installations: in line with what the Commission proposed, the Council believes it is feasible and appropriate to give EMSA a role in the response to marine pollution from offshore installations. However, the Council considers it premature to give the Agency an increased role in the prevention of pollution from offshore oil and gas installations, as suggested by Parliament.

Some of Parliament's concerns were, nevertheless, taken into account in the Council's position. In particular:

- the Council introduces a new, broader understanding of marine pollution, covering not only oil but also other hazardous and noxious substances;

- the Agency's core tasks will include using its CleanSeaNet service to monitor the extent and environmental impact of marine oil pollution caused by oil and gas installations;

- lastly, in the context of a progress report, the Commission is invited to examine the Agency's potential contribution to the implementation of a future legislative act on the safety of offshore oil and gas prospecting, exploration and production activities, with regard to the prevention of pollution from offshore oil and gas installations.

- other new tasks assigned to the Agency: the Council has taken Parliament's amendment into account giving the Agency the task of providing, at the request of a Member State, appropriate information resulting from EMSA's inspections of recognised organisations in order to support the monitoring of the recognised organisations that carry out certification tasks on behalf of the Member States in accordance with Article 9 of Directive 2009/15/EC.

Parliament tabled a number of amendments concerning the establishment of a European Maritime Transport Space without Barriers and closely related matters, such as e-Maritime and the Blue Belt project. The Blue Belt concept is thus included among the ancillary tasks in Article 2a(3)(a), as one of the policies and projects supporting the establishment of the European Maritime Transport Space without Barriers.

Parliament proposed that the Agency should not be involved in tasks relating to inland waterways. However, the Council considers that it could be useful to give the Agency limited, well-defined ancillary tasks in providing relevant information with regard to classification societies for inland waterway vessels and in exploring the possibility of sharing information between the River Information Services System and maritime transport information systems.

3. Governance structure of the Agency: the main points of divergence between the institutions concern:

- Decision-making procedure for visits and inspections in the Member States and third countries: the Commission proposed that the inspections policy should be established through an implementing act whereas Parliament tabled amendments to the effect that the inspections policy should be decided by delegated act.

The Council considers that the current system works well and the Administrative Board is the body best suited to decide on the methodology for the visits. Nevertheless, the Council has introduced an additional safeguard in the event that the Commission disagrees with the methodology decided by the Administrative Board.

As for the other amendments proposed by the Parliament in this context, the Council does not consider it appropriate to involve the Agency in reviewing environmental impact assessments and carrying out inspections in the Member States at the request of the Commission.

- Gender balance: Parliament introduced some amendments with the aim of ensuring balanced gender representation on the Administrative Board and when electing the Chairperson, the Deputy Chairperson and third country representatives.

The Council has included a provision to the effect that the Member States and the Commission must each strive for a balanced representation between men and women on the Administrative Board.

- Provisions concerning the members of the Administrative Board: Parliament proposed to insert a specific provision on conflicts of interest and to shorten the term of office to four years, renewable once. The current Regulation already contains a provision on conflict of interest for those board members who are nominated in their capacity as professionals from the sectors concerned. The Council therefore finds it more appropriate and simpler to amend this existing provision, making it applicable to all board members.

As regards the term of office of board members, the Council's position shortens it to four years but makes it renewable more than once.

- Procedure for the appointment of the Executive Director and his term of office: in its general approach, the Council accepted the proposed duration of the term of office (five + three years). However, the Council considers that it should be renewable only once.

Parliament amended the Commission proposal by increasing the possible renewal period to five years. Furthermore, it proposed that the Parliament committee should be more involved in the selection procedure through an opinion on the candidate selected, which should be considered before appointment and reappointment.

The Council's position sets the possible renewal period at a maximum of four years. It also gives the Parliament the right to invite the candidate selected to an exchange of views. Nevertheless, the Council does not consider it appropriate to involve the Parliament or the Council in the selection procedure.

## European Maritime Safety Agency: further development

---

The Commission supports the results of the inter-institutional negotiations and can therefore accept the Council's position at first reading. The latter reflects the political agreement reached between the European Parliament and the Council on 12 April 2012. The Commission supports this agreement and has made the following observations:

- The Council has made a distinction between core and ancillary tasks. All Commission objectives with regard to EMSA's tasks have been adequately reflected in the final text, in some cases additional safeguards or limitations are provided. This gives EMSA a clear mandate for the future.



- While focus remains on maritime safety, it allows EMSA to contribute with its expertise and tools to other EU policies in the interest of creating EU added value in the most efficient way.
- It seems possible to implement the new mandate with the resources identified in the legislative financial statement attached to the initial Commission proposal.
- Lastly, the Commission accepts the revised methodology for EMSA's visits to Member States as it appropriately covers the policy concerns of the Commission.

The Commission has made four statements to clarify the understanding.

1) Statement on maritime security inspections: with regard to the technical assistance the Agency is providing to the Commission in the performance of maritime security inspection tasks, the Commission confirms that this provision does not affect the character of maritime security inspections in Commission Regulation (EC) No 324/2008 and does neither extend the Commission powers to undertake inspections nor does it confer any power to EMSA for carrying out maritime security inspections on its own.

2) Statement on Union competence: with regard to the technical assistance for Member States and the Commission to contribute to the work of the technical bodies of IMO, the Commission understands the notion of competence in the sense of the Treaty as encompassing the notion of Union interest currently used in the EU coordination practice with regard to IMO.

3) Statement on the Marine Strategy Framework Directive and greenhouse gas emissions from ships: with regard to the ancillary tasks listed in Article (2a), the Commission recalls the following:

- the Marine Strategy Framework Directive has the objective of achieving good environmental status of marine waters. Some of the pressures and impacts listed in Table 2 of Annex III are shipping related. The Commission, which has inter alia to measure progress in the implementation of the various areas covered by the Directive, considers it useful to receive the Agency's technical assistance for the shipping-related elements, in particular through exploiting the results of existing tools such as SafeSeaNet and CleanSeaNet;
- with regard to greenhouse gas emissions from ships, the Commission considers that the Agency's potential technical assistance should not be limited to the calculation of emissions, as this could be seen as an EU preference for a certain market-based instrument. Furthermore, the Commission considers that any technical assistance provided by EMSA will not affect the EU's position with regard to a global or regional situation.

4) Statement on classification societies for inland waterway vessels: the Commission takes the view that the provision of relevant information by the Agency can be undertaken on the basis of EMSA's existing expertise and therefore does not require additional resources for inspections.

## European Maritime Safety Agency: further development

---

The Committee on Transport and Tourism adopted the recommendation for second reading in the report by Knut FLECKENSTEIN (S&D, DE) on the Council position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency.

The committee recommends that the European Parliament approved the Council position at first reading.

## European Maritime Safety Agency: further development

---

The European Parliament approved the Council position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency.

It should be noted that a proposal to reject the Council's position tabled by the EFD group was rejected in plenary with 63 votes in favour, 582 against and 33 abstentions.

## European Maritime Safety Agency: further development

---

**PURPOSE:** to amend Regulation 1406/2002 by clarifying the European Maritime Safety Agency's (EMSA) existing tasks and role as well as by extending EMSA's tasks to new areas under development at international and/or EU level.

**LEGISLATIVE ACT:** Regulation (EU) No 100/2013 of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (EMSA).

**CONTENT:** the main amendments introduced by the new Regulation are the following:

**Objectives:** it is clarified that EMSA's objective is to ensure a high, uniform and effective level of maritime safety, maritime security, prevention of, and response to, pollution caused by ships, as well as response to marine pollution caused by oil and gas installations.

To this end, the Agency will cooperate with the Member States and will provide them with technical assistance operational and scientific assistance to help the Member States and the Commission to apply the relevant legal acts of the Union properly.

As regards the field of response to pollution, the Agency shall provide operational assistance only upon the request of the affected State(s).

The ESMA will also be invited to contribute to other EU policies and projects that fall within its field of competence, such as the European Maritime Transport Space without Barriers, as well as Motorways of the Sea.

**Tasks of the Agency:** a clear distinction is made between the Agency's core and ancillary tasks.

1. The Agency's core tasks relate mainly to the following areas: (i) the preparatory work for updating and developing relevant legal acts of the

Union, in particular in line with the development of international legislation; (ii) the effective implementation of relevant binding legal acts of the Union; (iii) provide appropriate information resulting from the inspections in order to support the monitoring of the recognised organisations that carry out certification tasks on behalf of the Member States (iv) support pollution response actions in case of pollution caused by ships as well as marine pollution caused by oil and gas installations.

The Agency shall also facilitate cooperation between the Member States and the Commission: (i) by developing and operating the European Union Long-Range Identification and Tracking of Ships European Data Centre and the Union Maritime Information and Exchange System (SafeSeaNet); (ii) by providing relevant vessel positioning and Earth observation data to the competent national authorities and relevant Union bodies; (iii) provide operational support to these Member States concerning investigations related to serious or very serious casualties.

2. Ancillary tasks shall only be entrusted to the Agency if they create substantial added value, avoid the duplication of efforts and if they do not infringe upon Member States rights and obligations. These tasks relate for the most part to environmental matters such as: (i) the objective of achieving good environmental status of marine waters; (ii) greenhouse gas emissions from ships; (iii) the development of a Common Information Sharing Environment for the EU maritime domain; (iv) the potential threats arising from mobile offshore oil and gas installations; (v) provision of relevant information with regard to classification societies for inland waterway vessels; (vi) facilitating voluntary exchange of best practices in maritime training and education in the Union

Visits to Member States and inspections: in order to perform the tasks entrusted to it and to assist the Commission in fulfilling its duties, the Agency shall carry out visits to Member States in accordance with the methodology established by the Administrative Board. At the end of each visit or inspection, the Agency shall draw up a report and send it to the Commission and to the Member State concerned.

Governance: the new Regulation stipulates the role of its Administrative Board on which the Member States are represented, in particular in regard to the procedure for the appointment of the Agency's Executive Director. The Executive Director shall be appointed and dismissed by the Administrative Board. The appointment shall be made for a period of five years on grounds of merit and documented administrative and managerial competence.

The text also provides for multiannual planning concerning the Agency's strategy and policy as regards human resources, as well as for an independent external evaluation of the implementation of the Regulation at regular intervals and at least every five years.

By 2 March 2018, and taking into account the evaluation report, the Commission shall submit a report to the European Parliament and the Council setting out how the Agency has undertaken its additional responsibilities.

ENTRY INTO FORCE: 01/03/2013.