



Brussels, 16.10.2012
COM(2012) 606 final

2010/0303 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

**position of the Council on 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**

(Text with EEA relevance)

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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council 28 October 2010
(document COM(2010) 611 final – 2010/303 COD):

Date of the opinion of the European Economic and Social Committee: 16 February 2011

Date of the position of the European Parliament, first reading: 15 December 2011

Date of transmission of the amended proposal: N/A

Date of adoption of the position of the Council: 4 October 2012

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The objective of the proposal is to amend Regulation 1406/2002 by clarifying EMSA's existing tasks and role as well as by extending EMSA's tasks to new areas under development at international and/or EU level. Regulation 1406/2002 has been modified three times since 2002, mainly due to the evolution of the EU's maritime transport legislation.

The Commission proposal suggests maintaining EMSA's current objectives and tasks. However, they need some further clarification and to define more precisely EMSA's assistance to the Commission, to the Member States and to other parties. Some new tasks to EMSA arise from the implementation of the 2009 third maritime safety package, covering Port State Control, classification societies, vessel traffic monitoring, accident investigation, indemnity of passengers, Flag State requirements and liability of shipowners.

In the area of research, EMSA should become closer involved in EU maritime research and - through the analysis of research projects - identify the possible follow-up from a regulatory perspective.

The proposal also aims at clarifying EMSA's technical assistance to the Commission and to the Member States in various international and regional organisations. Furthermore, some of the high-value operational services operated by EMSA (SafeSeaNet, CleanSeaNet, LRIT, Port State Control etc.) can contribute significantly to other EU-policies, for example the integrated approach to maritime surveillance under the integrated EU maritime policy. In addition EMSA should be able to help with assessing and analysing the contribution of shipping related pressures such as ballast water, marine litter and underwater noise in the marine environment. This revision also clarifies that EMSA's response capabilities can be used in case of marine pollution caused by other sources than vessels, notably by oil platforms. The proposal also tries to make it easier to increase technical cooperation with neighbouring countries. Limited additional resources for EMSA are foreseen through this revision which is in line with the legislative financial statement attached to the proposal.

3. COMMENTS ON THE POSITION OF THE COUNCIL

The position of the Council reflects the political agreement reached between the European Parliament and the Council on 12 April 2012. The Commission supports this agreement. The Commission has made four statements to clarify the understanding. The four statements are attached in the annex.

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 foreseen. 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. The Commission accepts the revised methodology for EMSA's visits to Member States as it appropriately covers the policy concerns of the Commission.

4. STATEMENTS BY THE COMMISSION

The Commission has made four statements which can be found in the annex.

5. CONCLUSION

The Commission supports the results of the inter-institutional negotiations and can therefore accept the Council's position at first reading.

ANNEX
Statements by the Commission

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 as referred to in Article 2(2)(b), the Commission confirms that this provision does not affect the character of maritime security inspections as foreseen by Commission Regulation (EC) No 324/2008 of 9 April 2008 laying down revised procedures for conducting Commission inspections in the field of maritime security.

In particular, this provision 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 the Member States and the Commission to contribute to the relevant 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 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:

1. The Marine Strategy Framework Directive has the objective to achieve 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;
2. 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 to the Commission as foreseen in Article 2a (2) (f) can be undertaken on the basis of EMSA's existing expertise and therefore does not require additional resources for inspections.