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DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at its first reading with a view to the adoption of a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL on the European Maritime Safety Agency and repealing
Regulation (EC) No 1406/2002
– Draft Statement of the Council's reasons

I. INTRODUCTION

1. The Commission submitted this legislative proposal to the European Parliament and to the Council on 1 June 2023 as a part of the Maritime Safety Package¹.
2. The Council agreed on a *general approach* on 18 June 2024.²
3. The European Parliament adopted its first reading position on 12 March 2024. For the Parliament's 10th term, Mr Sérgio Humberto (EPP, Portugal) was appointed as rapporteur.
4. The negotiations started with a first trilogue on 19 November 2024, followed by a second trilogue on 20 May 2025. During the second trilogue on 20 May 2025 the negotiators achieved political agreement.
5. On 4 June 2025, Coreper analysed the final compromise text with a view to agreement and confirmed it.
6. On 24 June 2025, the TRAN Committee's Chair sent a letter to the Chair of Coreper confirming that, should the Council approve the agreed text at first reading, after legal-linguistic revision, the Parliament would approve the Council's position at its second reading.

II. OBJECTIVE

7. The main objectives of the revision are to:
 - a. better anchor and reflect the current tasks and objectives of the Agency so that it is legally mandated to fulfil these and support the Member States and the Commission with the necessary technical, operational and scientific assistance to ensure maritime safety and security, and support the green and digital transition in the sector;
 - b. ensure that EMSA's mandate is future-proof by allowing enough flexibility to incorporate new tasks that address the evolving needs of the maritime sector; and
 - c. ensure that the Agency has adequate human and financial resources to fulfil its role.

¹ 10160/23.

² 10828/24.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

1. Procedural context

8. On the basis of the Commission proposal, the Parliament and the Council conducted negotiations with the aim of agreeing on the Council's first-reading position, resulting in an early second-reading agreement. The text of the draft Council position fully reflects the compromise reached between the two co-legislators.

2. Summary of the main issues

9. The Council's position at first reading on the various reform elements, after agreement between the co-legislators, is the following:

10. As regards the 'technical' part of the regulation (Articles 1 to 13), the main objectives of the Council are to ensure that the Agency will focus on providing support to Member States and the Commission for the proper implementation of *existing* Union legislation, to avoid duplication of effort and to ensure that the Agency uses its resources efficiently. The amendments made to the Commission proposal mostly serve the purpose of simplifying the text and making it less detailed, thus providing flexibility and ensuring a future-proof mandate.

11. The Council largely maintained its position from the *general approach* on the proposed tasks relating to maritime autonomous surface ships (MASS) and NOx emissions, as these elements are outside EU competence (Articles 4 and 5, respectively). The Council accepted several additions from the Parliament with respect to alternative fuels used in maritime transport, within the limits of existing EU legislation on the matter (FuelEU Maritime Regulation³) (Articles 4 and 6). At the same time, the tasks relating to the implementation of the Maritime Labour Convention⁴ are now limited to elements that are already included in the Port State Control Directive⁵ (Article 4).

³ Regulation (EU) 2023/1805 of the European Parliament and of the Council of 13 September 2023 on the use of renewable and low-carbon fuels in maritime transport, and amending Directive 2009/16/EC.

⁴ Maritime Labour Convention, 2006, as amended.

⁵ Directive (EU) 2024/3099 of the European Parliament and of the Council of 27 November 2024 amending Directive 2009/16/EC on port state control

12. The Council maintained its position from the general approach and added three new tasks for the Agency: most importantly, EMSA may now provide support to the Commission, national authorities and relevant Union bodies in the implementation of Union restrictive measures (i.e. sanctions, in particular data on movements of ships falling under the sanctions regime) (Article 8). At the same time, it will prepare and update a risk assessment for all European sea basins, which will only serve as a basis for the location of the Agency's oil and chemical pollution response vessels for supporting the Member States in marine environment pollution response activities (Article 5). Lastly, the Agency may also carry out site inspections on behalf of the Commission, in accordance with Regulation (EU) 1257/2013 on recycling facilities in third countries, if the Commission decides to delegate this task to the Agency (Article 5).
13. As regards one task, namely the Agency's visits to Member States and inspections (Article 10), the Council moved towards the Parliament and the Commission and agreed to revise its *general approach* position of setting up a closed list of legal acts in accordance with which such visits and inspections may take place. The Council accepted that EMSA visits to Member States will focus on the implementation of relevant Union law in the areas of maritime safety and pollution prevention, subject to the condition that the Commission delegates that task to the Agency.
14. Finally, when it comes to the tasks of the Agency regarding international relations (Article 11), the Council agreed to give the Executive Director the option to locate staff in the Union delegation to the United Kingdom, with the prior consent of the Commission and the Management Board, in order to support Member States and the European Commission in activities related to their participation in the work of the International Maritime Organization.
15. In the 'governance' part of the text (Articles 14 to 45), the Council aims to ensure that the institutional balance between the Member States and the Commission in the governance of the Agency is preserved.
16. Several issues were examined in detail with the Parliament and the Commission: the added value of creating a new executive board, the relative weight of the Commission in the management board (the number of Commission representatives), the voting rules of the management board, the Commission 'veto' on potential Agency decisions that could be contrary to the Framework Financial Regulation or the Staff Regulations, and the possibility of the Agency being authorised to set up regional centres.

17. The Council maintains its *general approach* position on the deletion of the provisions concerning the Executive Board and the voting rules for the Management Board (Article 16). However, the Council agreed with the Parliament to revise the majority needed to appoint the executive director, which can now be done by the Management Board with a two-thirds majority, instead of the four-fifths majority in the *general approach*. In addition, the Council introduced a mechanism allowing one third of the voting members of the Management Board to propose that the executive director be removed from office; until now only the Commission could make such a proposal (Article 21).
18. At the same time, to preserve the institutional balance in the governance of the Agency, the Council moved towards the Parliament and the Commission and agreed that the management board of the Agency would continue to include four representatives of the Commission, as under the existing EMSA Regulation. At the same time, the Parliament agreed there is no need to nominate its own observers in the management board.
19. Both the Council, in its *general approach*, and the Parliament, in its *first reading*, agreed to delete the Commission ‘veto’ on potential Agency decisions that could be contrary to the Framework Financial Regulation or the Staff Regulations. Following extensive discussions with the Commission, the Council and the Parliament agreed to replace the Commission veto with a ‘re-examination procedure’, which would allow the Commission to voice its concerns if it considers that certain decisions on matters related to the Financial Framework Regulation and the Staff Regulations could expose the Agency (and the EU budget) to serious legal risks. (Article 20) This will allow the management board to reconsider the issue, with a procedure similar to the one used for the adoption of the Single Programming Document: if the Commission is still opposing a decision in a second reading, it can only be adopted by unanimity among the representatives of the Member States.
20. Finally, the Council accepted the arguments of the Parliament and the Commission with respect to the Agency being authorised to set up regional centres, as this option already exists in the current EMSA Regulation (Article 31). While the creation of such regional centres could have significant financial implications, the Council agreed that the safeguards proposed by the Commission are sufficient to protect the Agency’s budget, since any decision in this regard would only be taken by the management board, at the request of the Commission, and ‘with due regard for budgetary implications’.

IV. CONCLUSION

21. The Council's position supports the aim of the Commission proposal and fully reflects the compromise reached in the informal negotiations between the Council and the European Parliament, with the support of the Commission.
 22. The Council therefore believes that its position at first reading is a balanced representation of the outcome of the negotiations and that, once adopted, the new 'EMSA Regulation' will ensure that the Agency is legally mandated to support the Member States and the Commission with the necessary technical, operational and scientific assistance to ensure maritime safety and security, and to support the green and digital transition of the sector.
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