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### WORKING PAPER

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#### **CONTRIBUTION**

From:	General Secretariat of the Council
To:	Working Party on Shipping
N° prev. doc.:	ST 9051/18 + ADD 1-3
N° Cion doc.:	COM (2018) 278 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU - Comments by Spain

Delegations will find attached comments by Spain on the above proposal.



## PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ESTABLISHING A EUROPEAN MARITIME SINGLE WINDOW ENVIRONMENT AND REPEALING DIRECTIVE 2010/65/UE

### COMMENTS AND PROPOSALS FROM SPAIN

Spain agrees that there is still scope for simplification (reduce administrative burden for reporting formalities) and harmonization (asking the same data in the same way) in maritime transport, so welcomes the Commission's proposal for a Regulation establishing a EMSW environment.

We specially welcome that the Directive is replaced by a Regulation, as this truly ensure harmonization and interoperability which is intended.

We also welcome the fact that the option chosen respects the existing NMSW and makes use of the investments already made.

However we believe that the proposal need more clarity and specification on various points before adoption.

#### Article 2

Include al least three more definitons:

*(7) 'National Single Window', means the place where all information is reported once and made available to various competent authorities at the Member States.*

*(8) 'Electronic Transmission of Data', means the process of transmitting information that has been encoded digitally, using a revisable structured format which can be used directly for storage and processing by computers.*

*(9) 'Ship', means any seagoing vessel or craft.*

(10) 'port service provider', means any natural or legal person providing one or more categories of the port services established in Article 1(2) of the Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports

Rationale: There are basic concepts of the Regulation that were defined in the Directive 2010/65 and that must be included here because Directive is going to be repealed.

Port service provider is a concept that need to be defined in order to clarify obligation to NSW established in Article 5(6) of the proposal.

### Article 3.1

Amend of wording:

*The Commission shall lay down a complete list of data elements (the 'EMSWe data set') on the basis of the reporting obligations set out in the Union and international legal acts listed, and the national legislation referred to, in the Annex. The Commission shall ensure that the common data requirements, format and codes ~~established in the Union legal acts listed in the Annex~~ are respected.*

Rationale: Must be respected the common data requirements, formats and codes for all reporting obligations, (Union, international and national acts), not only for the Union acts.

### Article 3.3

Amend of wording:

*A Member State may request the Commission to introduce data elements in the EMSWe data set, on the basis of the reporting obligations contained in the national legislation. By six months from the entry into force of this Regulation at the latest, the Member States shall notify the Commission of the provisions of national legislation and corresponding reporting obligations, containing the data elements to be included in the EMSWe data set. They shall precisely identify those data elements. The Commission shall ~~assess the necessity of inserting or modifying~~ insert or modify a data element in the EMSWe data set on the basis of those notifications.*

Rationale: It should not be discretionary for COM to decide whether or not to include a data required by a Member State. COM should only decide between insert or modify a data element.

#### Article 4.2

Amend of wording:

*The Commission shall ~~assess the necessity of amending~~ amend the EMSWe data set in accordance with Article 3(2).*

Rationale: Same as article 3.3

#### Article 5.3(d)

Amend of wording:

*(d) the provision of an online support ~~website~~. ~~The provision of an online support service by means of email, Phone or website.~~*

Rationale: Our experience tells us that the most effective means of access are telephone and email, not the website. The way to access to the support service should be chosen by each MS.

#### Article 5.4

To delete article 5(4):

~~4. National Single Windows shall also allow declarants to provide information by way of digital spreadsheets, harmonised at Union level, and shall include the function of extracting reporting data elements from those spreadsheets.~~

Rationale: Spreadsheets are generally considered not secure and there are concerns about their compatibility with the General Data Protection Regulation (2016/679).

#### Article 5.10

To delete article 5.10

~~10. National Single Windows shall have uniform internet address and support webpages, harmonised at the Union level.~~

Rationale: In coherence with Article 5.3(d)

#### Article 5.11

Amend of wording:

*11. The Commission shall adopt, by means of implementing acts:*

*(a) the functional and technical specifications, quality control mechanisms and procedures for deploying, maintaining and employing the reporting interface module referred to in paragraph 2;*

~~*(b) the harmonised digital spreadsheet referred to in paragraph 4;*~~

~~*(e) (b) harmonised technical specifications for making available arrival and departure times referred to in paragraph 9;*~~

*(d) uniform format for internet addresses and harmonised structure of the support website, referred to in paragraph 10.*

*(c) Procedures and Business Rules for reporting different data elements for the same Port call in different time periods.*

*Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).*

*The Commission shall amend, by means of implementing acts, the technical specifications, standards and procedures, in order to take into account the availability of new technologies.*

Rationale: Deletion of (b) in coherence with Article 5.4, deletion of (d) in coherence with Article 5.10

New text (c) because the information necessary for the fulfilment of reporting obligations shall be provided once but not all data at the same time so it is necessary to define common business rules.

## **Article 6.1**

Amend of wording:

*1. Member States may allow declarants to provide the information through other reporting channels, such as port community systems, provided that those channels are voluntary for the declarants, and that all data elements reported for the same Port call are reported through the same channel. In this case, Member States shall ensure that those other channels make available the relevant information to the National Single Window.*

Rationale: Given that the necessary data for the fulfilment of reporting obligations shall be provided once but not all at the same time, we consider that maintaining the same channel for successive data reporting in each ship call simplifies the management of the NSW and of the PCS.

### Article 9.1

Amend of wording:

*1. The Commission shall establish a common user and access management system for declarants and data service providers using National Single Windows ~~as well as for authorities accessing the National Single Windows~~. The system shall provide for a single user registration with EU level recognition, federated user management and EU level user monitoring.*

Rationale: Authorities are in relation only with NSW, in principle through their own systems, so there is no reason for a common user and Access management system.

### Article 9.3

Move this paragraph to article 13.

Rationale: From our experience it is better to ensure that there is a single national authority responsible for all aspects of the NSW.

### Art 13

Amend of wording:

*Each Member State shall designate a competent authority to act as a national coordinator for the EMSWe. The national coordinator shall:*

*(a) act as a national contact point for all matters relating to the implementation of this Regulation;*

*(b) coordinate the application of this Regulation by the competent national authorities within a Member State;*

*(c) coordinate the activities aiming at ensuring the connection with the relevant systems of competent authorities as referred in Article 5(3)(c);*

*(d) act as a single contact point with the Commission for all matters relating to the EMSWe.*

*(e) Be responsible for the development, availability, maintenance, security and operation of the National Single Window.*

*(f) Be responsible for the user management of declarants and data service providers including for registering new users, modifying and terminating existing accounts of the user authentication instrument.*

Rationale: From our experience it is better to ensure that there is a single national authority responsible for all aspects of the NSW.

#### **Annex EMSWe Data Set**

##### **Part A Point 5**

Amend of wording:

##### *5. Notification of security information*

*Article 6 of Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security (OJ L 129, 29.4.2004, p.6).*

*Until the adoption of a harmonised form at international level, the form set out in the Appendix to this Annex shall be used for identifying the information required under Article 6 of Regulation (EC) No 725/2004. ~~The form can be transmitted electronically.~~*

Rationale: COM has explained that, with the proposal of Regulation, we must think more in terms of data than in terms of reporting formalities, so it is not operational to transmit a form. The form must be used only as a reference for the definition of the data set.

##### **Part C**

To add fisheries as a category:

#### **12. Fisheries**

Rationale: Is for interest of our authorities. Now they are part of our NSW.