

【欧州】 【海事】

Maritime Issues – Environment issues: The EU’ s preparation of a revision of the EMSA mandate to improving its role for decarbonisation, climate action, and digitalisation of maritime transport

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【概要 : Summary】

In 2002, the European Maritime Safety Agency (EMSA) was established as part of the Erika II maritime safety package. The Agency was tasked with the mission to serve EU maritime safety after some marine incidents and accidents had caused severe and high-cost damage to the environment, the fishery and tourism sectors. In the last more than two decades, EMSA has served the EU ‘s interests for improving safety, security, and environmental situation in the maritime sector. It also works as a service provider to the EU Member States and the Commission with its EMSA Remotely Piloted Aircraft Systems (RPAS) as a tool to support the overall surveillance chain of the EU Member States ‘ Coast Guard functions, among others. To better fulfil the ever-increasing scope of EMSA’ s tasks and objectives the European Commission presented on 1 June 2023 a package of proposals to modernise and improving rules on maritime safety and to revise the EMSA founding regulation to amend the EMSA mandate for better managing current tasks and for integrating new tasks. These new tasks are related to the Commission’ s sustainable and smart mobility

legislations, including the Sustainable and Smart Mobility Strategy (COM (2020) 789 final), the legislation based on the Fit for 55 package, the expansion of the EU-ETS to maritime transport, and the adoption of the FuelEU Maritime Regulation.

The new Regulation on EMSA’ s mandate recognises the Agency’ s growing role in safety, pollution prevention and environmental protection, climate action, security, surveillance, and crisis management, as well as digitalisation, including the new safety and sustainability tasks. The revised mandate will improve EMSA’ s current surveillance tasks of monitoring and securing the maritime sector in the EU waters. It will also include new tasks in maritime safety, sustainability, decarbonisation, security and cybersecurity, and assistance in crisis management.

The new mandate will ensure that EMSA’ s support services are up-to-date and ready to meet the new needs and challenges in maritime transport, while giving enough flexibility to incorporate also new tasks in future, including the adjustment of human and financial resources to fulfil the increasing scope of its tasks.

【記事 : Article】

1. Background of EMSA's mandate under Regulation (EC) 1406/2002

In the EU, there are about 2,000 marine incidents and accidents reported every year (European Commission 2023a). Following the Erika and the Prestige oil tanker accidents in 1999 and 2002, respectively, which caused high-cost damage to the environment, as well as to the fishery and tourism sectors, the EU introduced a new legal framework on maritime safety and practical measures to prevent and respond to marine accidents and pollution. The Erika oil tanker accident led to the maritime safety packages Erika I and Erika II, establishing the European Maritime Safety Agency as part of the Erika II maritime safety package on 27 June 2002 (COM(2003)269 final). Based on the Regulation (EC) No. 1406/2002 (European Parliament 2023a), the EMSA provides the EU Member States and the European Commission with assistance and expertise needed to help them applying the EU's legislation in the field of maritime safety and prevention of pollution by ships (European Parliament 2023b). Accordingly, EMSA's main objective is the prevention of and response to pollution caused by ships and by oil and gas installations at sea. However, soon EMSA's scope of tasks was widened to achieve a high, uniform, and effective level of maritime safety aiming towards zero accidents, maritime security, the reduction of GHG emissions from ships and sustainability of the maritime sector (European Parliament 2023a). The new tasks included the maritime surveillance of air and sea pollution and the installation of awareness systems and other observation services on behalf of the Commission and the Member States (European Parliament 2023a). Accordingly, also the EMSA's founding Regulation had to be amended several times in the past two decades to incorporate and reflect EMSA's new tasks regarding maritime

safety, sustainability, decarbonisation, security and cybersecurity, surveillance, and assistance in crises management (European Parliament 2023a).

At present, EMSA's tasks include supporting and advising the EU and Member States in the implementation, monitoring, and evaluation of relevant legislation; the provision of a wide range of centralised tools in support of operations such as vessel, traffic monitoring, remote observations for early warning and the maintenance of databases for ship inspection or accident reporting. It is also tasked with maintaining a fleet and equipment for assistance in pollution response actions on the request of the Member States or third countries sharing a regional basin with the EU; and providing training courses and centralised training tools for the Member States (COM(2023)269 final).

Meanwhile, a new revision is needed to align the Agency's activities with the new challenges including digitalisation and GHG emission reduction targets of the European Green Deal, emphasising the need to accelerate the transition to a zero pollution and climate-neutral economy including a shift towards cleaner fuels and a more sustainable maritime sector transport (COM(2023)269 final). Accordingly, the European Commission's Sustainable and Smart Mobility Strategy includes an Annex on the Action Plan with Action 77 to revise EMSA's founding Regulation COM (2020) 789 final). Furthermore, as part of the Fit for 55 package, the EU decided to extend the EU-ETS to maritime transport and to adopt the FuelEU Maritime Regulation (ES0 2023). The FuelEU Maritime Regulation (EU) 2023/1805 imposes a limit on the GHG intensity of energy used on board of a ship arriving at, staying within, or departing from ports under the jurisdiction of an EU Member State. It also includes the obligation to use on-shore power supply or zero-emission technology in those ports (ES0 2023).

The objective is to increase consistent use of renewable and low-carbon fuels and substitute sources of energy in maritime transport across the EU (ES0 2023).

Regulation (EU) 2023/957 amends Regulation (EU) 2015/757 to provide for the inclusion of maritime transport activities in the EU-ETS and for the monitoring, reporting and verification of emissions of additional GHG and emissions from additional ship types (Regulation (EU) 2023/957). It lays down rules for the accurate monitoring, reporting and verification of GHG emissions and other relevant information from ships to promote the reduction of GHG emissions from maritime transport (Regulation (EU) 2023/957). The EMSA's tasks in this context will also increase.

2. The legislative package on modernising and improving rules on maritime safety

The current challenge regarding EMSA is to better include and fulfil the increasing scope of tasks and objectives and to amend its founding regulation (COM(2023)269 final). In particular, the European Green Deal emphasised the need to accelerate the transition to a zero pollution and climate-neutral economy, including a shift to sustainable maritime transport (European Parliament 2023b).

On 1 June 2023, the European Commission presented five legislative proposals to modernise EU rules on maritime safety and to prevent water pollution from ships (European Commission 2023a). These legislative proposals include the revision of the EMSA mandate and the repeal of Regulation (EC) No 1406/2002 (COM(2023) 269 final), amending Directive 2009/18/EC on establishing the fundamental principles governing the investigation of accidents in the maritime transport sector (COM(2023) 270 final), a proposal on port state control (COM(2023)271 final), amending Directive 2009/21/EC on compliance with flag State requirements (proposal COM(2023) 272 final), and proposal

COM(2023) 273 final amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences (European Commission 2023a).

The proposal COM (2023) 271 final on port state control is extended to cover additional international rules, such as new Conventions on ballast water and sediments and removal of wrecks. The proposal also updates the way ships are targeted for inspection, reflecting new requirements and the higher importance of the environmental related performance of ships (European Commission 2023a). The measures covered by COM (2023) 271 final and COM (2023) 272 final on port state control and on compliance with flag state requirements operations will be digitalised and the uptake of electronic certificates will be encouraged, ensured by the EMSA's IT systems and databases (European Commission 2023a). Moreover, COM (2023) 273 final to prevent any type of illegal discharges into European seas is essential to lower the environmental impact of maritime transport activities and preserve the marine ecosystem. It requires that if illegal discharges are detected, infringements are pursued thereby helping to lower the environmental impact of maritime transport activities. To detect illegal discharges, pursue infringements and sanction perpetrators of illegal activities, among others, EMSA's surveillance and information sharing database CleanSeaNet is optimised, providing for information sharing and follow up obligations of national authorities (European Commission 2023a). The revision proposes to extend the surveillance services provided by EMSA through "CleanSeaNet" to cover all types of pollutants (European Commission 2023c). The optimisation of the CleanSeaNet system is expected to facilitate timely enforcement and cooperation between Member States in case of cross-border ship-source pollution incidents (European Commission

2023a). EMSA will play a prominent role in the implementation of the new requirements by offering its support to enforcing the new rules by the EU Member States administration (European Commission 2023a). Finally, the proposal COM(2023)269 final will revise EMSA's mandate to better reflect the Agency's growing role in many maritime transport areas and to ensure that EMSA has adequate human and financial resources to meet the increasing scope of tasks (COM(2023)269 final, European Commission 2023a).

3. The main objectives of new rules on EMSA tasks towards a decarbonisation of maritime transport

The update of the EMSA mandate in proposal COM (2023)269 final maintains EMSA's current tasks set in Regulation (EC) No 1406/2002 and adds the new tasks in maritime safety, sustainability, decarbonisation, security and cybersecurity, surveillance, and assistance in crisis management as well as the necessary administrative and financial provisions (European Commission 2023c). The objective is to ensure that EMSA's support services are up to date in the light of new needs and challenges, in particular regarding EMSA's growing role for climate change and digitalisation among others (European Commission 2023b). The revision of EMSA's mandate also aims to help EMSA fulfilling these tasks and to support the Member States and the Commission with the necessary technical, operational, and scientific assistance in ensuring the environmental and digital transition of the maritime transport sector (European Parliament 2023a). The revision also envisages the continuation of EMSA's tasks in maritime surveillance, cybersecurity resilience and crisis preparedness, including in the framework of the war on Ukraine (COM (2023) 269 final). The new Regulation on EMSA's tasks also clarifies the structure of the legal act as it removes the former distinction between EMSA's

core and ancillary tasks by replacing it with a thematic approach in the areas: maritime safety, sustainability, decarbonisation, security and cybersecurity, maritime surveillance and crises, digitalisation and simplification, visits, and inspections (COM (2023) 269 final).

Regarding the implementation of the FuelEU Maritime Regulation (EU) 2023/1805 and the extension of the EU's ETS to maritime transport (Regulation (EU) 2023/957), the European Commission and EU Member States will increasingly rely on EMSA's support.

The FuelEU Maritime Regulation (EU) 2023/1805 aims to increase the use of renewable and low-carbon fuels and to substitute sources of energy in maritime transport across the EU, and the electronic "FuelEU database" for the monitoring of compliance with Regulation (EU) 2023/1805 will be accessible to EMSA (Regulation (EU) 2023/1805), according to COM(2023)269 final. The proposal COM(2023)269 final also covers key changes to reducing GHG emissions from ships, and regarding the revision of Regulation (EU) 2015/757 the Regulation (EU) 2023/957 lays down rules for the accurate monitoring, reporting and verification of GHG emissions and of other relevant information from ships arriving at, within or departing from ports under the jurisdiction of a Member State (Regulation (EU) 2023/957). In the case of a ship that has failed to comply with the monitoring and reporting obligations for two or more consecutive reporting periods, where other enforcement measures have failed to ensure compliance, the competent authority of the Member State of the port of entry may issue an expulsion order, which shall be notified to the Commission, the European Maritime Safety Agency (EMSA), the other Member States and the flag State concerned (Regulation (EU) 2023/957).

Therefore, not only regarding the maritime transport's safety, but also regarding the climate action, the European Commission and the

EU Member States will rely on EMSA's support when implementing the FuelEU Maritime Regulation (EU) 2023/1805 and extending the EU-ETS to maritime transport (European Parliament 2024, DG Mobility 2023). Moreover, EMSA will continue assisting the Commission and the Member States with maritime surveillance, cybersecurity resilience and crisis preparedness and play a significant role in simplifying reporting between Member States by using IT tools (DG Mobility 2023, European Parliament 2024).

Moreover, since the EMSA should provide the EU Member States and the Commission in an increasing scope with technical, operational, and scientific assistance, proposal COM (2023) 269 final has also to prepare for EMSA's increasing needs of a budget and human resources. Therefore, the new regulation on EMSA's mandate will also have to keep the EMSA's founding flexible enough to incorporate new tasks in addressing the evolving needs of the maritime sector and ensuring that EMSA will have adequate financial resources to fulfil its role. (European Parliament 2023a). It is estimated that an additional budget of EUR 50.997 million and 33 additional posts would be needed to ensure the Agency's tasks under its revised mandate (European Parliament 2023a).

4. The TRAN Committee's amendments regarding the EMSA mandate and the Council's general approach on parts of the maritime safety package

Regarding the legislative process, in the European Parliament, the Committee on Transport and Tourism (TRAN Committee) is leading the work on this file. On 7 December 2023, the TRAN Committee adopted the report by rapporteur Cláudia Monteiro de Aguiar on the proposal COM (2023) 269 final on the amendments of EMSA's mandate and repealing Regulation (EC) No 1406/2002 (COM (2023) 269 final, European Parliament n.d.). The TRAN Committee also

decided to open trilogue negotiations with the Council of the EU on the file (European Parliament 2024). According to the TRAN Committee's report, several amendments need to be introduced in the scope of the EMSA's tasks, mainly regarding the decarbonisation of maritime transport and the FuelEU Maritime Regulation (EU) 2023/1805. According to the TRAN Committee's report, EMSA should monitor the progress on the operational and technical measures undertaken to increase the energy efficiency of ships and ports and the deployment of sustainable alternative fuels, energy, and power systems for ships, including onshore power supply and wind-assisted propulsion and onboard carbon capture, to reduce GHG emissions from ships (European Parliament 2023c). Moreover, according to the TRAN Committee's report, EMSA should research, analyse, and propose relevant guidance or recommendations regarding the uptake and deployment of sustainable alternative fuels, energy, and power systems for ships, including onshore power supply among others (European Parliament 2023c). On 13 December 2023, the TRAN Committee's decision to enter interinstitutional negotiations with the Council of the European Union was confirmed by the European Parliament's plenary under Rule 71 (European Parliament n.d.).

Furthermore, while the Council of the European Union has not presented its general approach on the amendments regarding EMSA's mandate, yet it adopted its general approach on other parts of the maritime safety legislative package at the Transport, Telecommunications and Energy Council (Transport) on 4 December 2023 (Council of the EU 2023a).

More precisely, the Council adopted its position on four proposals regarding port state control, ship-source pollution, compliance with flag state requirements, and investigation of accidents in the maritime transport sector - all submitted as part of the legislative package

on maritime safety (Council of the EU 2023b). The separate proposal on the changes to EMSA's mandate and incorporating these new tasks will still have to be agreed on by the Council later. The proposal COM (2023) 269 final will also have to be considered and the general approach will have to be adopted by the Council before the trilogue negotiations can finally start in the ordinary legislative procedure.

5. Conclusion

On 1 June 2023, the European Commission presented a maritime safety package, focusing on modernising maritime safety and security rules. Besides other proposals, the legislative package includes a proposal on revising the EMSA mandate and to replace the structure of core and ancillary tasks with a more thematic approach, adding tasks in areas such as sustainability, decarbonization and digitalisation. Therefore, the Agency's revised mandate will include current tasks and new tasks in the areas of maritime safety, sustainability, decarbonisation, security and cybersecurity, maritime surveillance and crises, digitalisation and simplification, visits, and inspections. The new tasks will also include the implementation of the FuelEU Maritime Regulation (EU) 2023/1805 and the extension of the EU-ETS to maritime transport. Therefore, considering the widened scope of EMSA's new mandate it will also have to ensure that EMSA support services are up to date, considering new rules, needs and challenges, as well as EMSA's continued assistance for the Commission and the Member States with maritime surveillance, cybersecurity resilience and crisis preparedness, among others. Ultimately, the new regulation is expected to ensure that EMSA will receive enough flexibility and adequate human and financial resources to effectively fulfil its expanding range of tasks and objectives arising from the evolving needs of the EU's maritime sector.

The TRAN Committee's report, which serves as the foundation for the European Parliament's stance in trilogue negotiations with the Council of the European Union on the final legislative text, includes several amendments on the scope of the EMSA's tasks. Notably, the amendments focus on the decarbonization of maritime transport and the FuelEU Maritime Regulation (EU) 2023/1805. According to the TRAN Committee's report, EMSA's tasks should be widened and include the monitoring of the progress on the operational and technical measures undertaken to increase the energy efficiency of ships, ports and the deployment of sustainable alternative fuels, energy, and power systems for ships, among others.

Additionally, EMSA is expected to engage in research, analysis, and the formulation of guidance or recommendations concerning the adoption and deployment of sustainable alternative fuels, energy, and power systems, including onshore power supply.

Finally, the Council of the European Union has not yet presented its general approach on the revision of EMSA's current mandate. However, once presented, an analysis will be required to identify the further amendments the EU Member States considered necessary, as well as an analysis of the final legal text on EMSA's new mandate the Parliament and the Council agreed on.

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