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'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency
- Mandate for negotiations with the European Parliament

1. On 16 December 2015, the Commission submitted the aforementioned proposal to the European Parliament and to the Council, as part of the Border Package. This package also included the proposal for a Regulation establishing a European Border and Coast Guard Agency (EBCGA)¹ and the proposal to amend Council Regulation (EC) No 768/2005 establishing a European Fisheries Control Agency (EFCA)².
2. The proposal aims at improving and strengthening cooperation among the European Maritime Safety Agency (EMSA), the future European Border Guard Agency (EBGA) and EFCA in order to provide more efficient and cost-effective multipurpose services in support of national authorities carrying out coastguard functions.

¹ Doc. 15398/15.

² Doc. 15395/15.

3. The substantive amendments in the proposal are identical to the proposed provisions on European cooperation on coastguard functions in the proposal regarding EBCGA.
4. The Shipping Working Party examined the proposal on 13 and 20 January and on 10 February 2016. The Justice and Home Affairs Counsellors/Mixed Committee, at its meeting on 18 February 2016, where shipping and fisheries counsellors were invited, examined a Presidency (identical as far as possible) compromise texts for the proposals regarding EMSA, EBCGA and EFCA. The Permanent Representatives' Committee on 24 February 2016 confirmed its agreement in principle on the text set out in Annex. Since then, the work has been pursued on the European Border Guard proposal.
5. The Permanent Representatives' Committee is invited to:
 - confirm its agreement on the text as set out in Annex with a view to starting negotiations with the European Parliament;
 - mandate the Presidency to pursue negotiations with the European Parliament on the basis of the above compromise with a view to reaching a first-reading agreement.

Proposal for 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)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C ..., p.

Whereas:

- (1) National authorities carrying out coastguard functions are responsible for a wide range of tasks, which may include maritime safety, security, search and rescue, border control, fisheries control, customs control, general law enforcement and environmental protection. The [European Border and Coast Guard Agency¹], the European Fisheries Control Agency and the European Maritime Safety Agency should therefore strengthen their cooperation, within their mandate, both with each other and with the national authorities carrying out coastguard functions to increase maritime situational awareness as well as to support coherent and cost-efficient action.
- (1a) The implementation of this Regulation does not affect the division of competence between the Union and the Member States or the obligations of Member States under international conventions such as the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, the International Convention for the Prevention of Pollution from Ships, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and other relevant maritime international instruments.
- (1b) In order to allow for an efficient and effective support to national authorities carrying out coastguard functions, the Agency should make use of available state-of-the-art technology, such as remotely piloted aircraft systems.
- (1c) Regulation (EC) No 1406/2002 should therefore be amended accordingly,

¹ **NB:** the name of the new agency remains to be confirmed; therefore it has been put in square brackets everywhere it occurs in the text.

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments

Regulation (EC) No 1406/2002 is amended as follows:

(1) In Article 2a¹, the following paragraph is inserted:

"4. The Agency shall cooperate with the [European Border and Coast Guard Agency] and the European Fisheries Control Agency, each within their mandate, to support the national authorities carrying out coastguard functions, as set out in Article 2b:

(a) by providing services, information, equipment and training, as well as

(b) by coordinating multipurpose operations.

The second sentence of paragraph 1 applies."

(2) The following Article 2b is inserted:

"Article 2b

European cooperation in support of national authorities carrying out coastguard functions

1. The Agency shall, in cooperation with the [European Border and Coast Guard Agency] and the European Fisheries Control Agency, support national authorities carrying out coastguard functions at national and Union level, and where appropriate at international level by:

(a) sharing, fusing and analysing information available in ship reporting systems and other information systems hosted by or accessible to the agencies, in accordance with their respective legal bases and without prejudice to the ownership of data by Member States;

¹ Commission reservation.

- (b) providing surveillance and communication services based on state-of-the-art technology, including space-based and ground infrastructure and sensors mounted on any kind of platform;
- (c) capacity building by elaborating guidelines, recommendations and best practices as well as by supporting the training and exchange of staff, with a view to enhancing the exchange of information and cooperation on coastguard functions, taking into account relevant initiatives in this field;
- (d) capacity sharing by planning and implementation of multipurpose operations and the sharing of assets and other capabilities, to the extent those are coordinated by the agencies, **with the agreement of the Member States concerned**¹.

2. The modalities of the cooperation on coastguard functions of the Agency with the [European Border and Coast Guard Agency] and the European Fisheries Control Agency shall be determined in a working arrangement, in accordance with the respective mandates and financial rules applicable to the agencies. Such arrangement shall be approved² by the Administrative Boards of the Agency, the European Fisheries Control Agency and the Management Board of the [European Border and Coast Guard Agency].

3. The Commission shall, in close cooperation with the Member States, the Agency and [the European Border and Coast Guard Agency] and the European Fisheries Control Agency, make available, a practical handbook on European cooperation on coastguard functions, containing guidelines, recommendations and best practices for the exchange of information. The Commission shall adopt the handbook in the form of a recommendation."

¹ Commission reservation.

² Commission reservation.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg,

For the European Parliament

For the Council

The President

The President
