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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the delegation of the power to adopt delegated acts conferred on the Commission pursuant to Regulation (EU) 2019/1239 of the European Parliament and of the Council establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU

1. Introduction

To support the maritime sector's digitalisation efforts, Regulation (EU) 2019/1239 of the European Parliament and of the Council of 20 June 2019 establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU[1] (the EMSWe Regulation) includes a set of measures to achieve harmonisation and simplification in maritime reporting. The EMSWe Regulation entered into force on 15 August 2019 but its provisions are to apply only from 15 August 2025.

The EMSWe Regulation establishes a single-entry point in each Member State for fulfilling all reporting obligations linked to a port call. The Regulation's goal is to enable a fully digital business-to-government exchange of the information required from ships when calling at a port in the EU. To ensure minimum costs and protecting previous investments, the new reporting environment is built largely on the existing legacy systems of maritime National Single Windows established by Directive 2010/65/EU.

Cornerstones of the EMSWe Regulation are the harmonisation of data definitions and formats, and measures to improve data flows for increased efficiency. To this end, Article 3 of the EMSWe Regulation empowers the Commission to adopt delegated acts to amend the Annex to the Regulation for the purpose of introducing, deleting or adapting references to national legislation or requirements, Union or international legal acts, and to establish and amend the EMSWe data set. Inter alia, the EMSWe data set also requires regular updates, to guarantee its alignment with customs data requirements set in Annex B to Regulation (EU) 2015/2446[2] and Annex B to Regulation (EU) 2015/2447[3] and the related EU Customs Data Model, and with the IMO FAL Compendium[4] under the Convention on Facilitation of International Maritime Traffic, facilitating inter-operability between different authorities.

The power to adopt delegated acts referred to in Article 3 of the EMSWe Regulation is conferred on the Commission for a period of 4 years from 14 August 2019. The delegation of power is tacitly extended for periods of an identical duration unless Parliament or the Council opposes such extension no later than 3 months before the end of each period.

In accordance with Article 23(2), the Commission is required to draw up a report in respect of the delegation of power. This report covers this obligation.

[1] OJ L 198, 25.7.2019, p.64.
[2] OJ L 343, 29.12.2015, p. 1. Link to the latest consolidated version: http://data.europa.eu/eli/reg_del/2015/2446/2023-03-14
[3] OJ L 343, 29.12.2015, p.558. Link to the latest consolidated version: http://data.europa.eu/eli/reg_impl/2015/2447/2023-03-15
[4] https://imocompendium.imo.org/public/IMO-Compendium/Current/index.htm.

2. Exercise of delegated powers

Since Regulation (EU) 2019/1239 entered into force on 15 August 2019 until the publication of this report, the Commission exercised once its power to adopt delegated acts. On 7 November 2022, it adopted Commission Delegated Regulation (EU) 2023/205 supplementing Regulation (EU) 2019/1239 of the European Parliament and of the Council as regards the establishment of the European Maritime Single Window environment data set and amending its Annex[5] (the Delegated Regulation).

The Delegated Regulation was adopted after the deadline of 15 August 2021 set in Article 3(3) of the EMSWe Regulation. The reasons for the delay in adopting the Delegated Regulation were related to the complexity of the data modelling activities resulting from a multitude of legal bases and, at the same time, the difficulty for Member State authorities to submit to the Commission in good time the list of the national reporting obligations with the corresponding data elements requested from declarants in their ports. The COVID-19 crisis also had an impact on the data collection process, as Member State authorities in the maritime transport sector were engaged in multiple crisis management situations and therefore had to prioritise health-related issues.

The Delegated Regulation established the EMSWe data set, meaning the complete list of data elements stemming from reporting obligations listed in the Annex to the EMSWe Regulation. The data set is extensive and comprehensive, divided into 92 data groups, each of which contains one or more data elements. In total, the data set lists more than 1120 data elements including their identifier, name, description, and format. In addition, each data element has a reference to the mapping of the EU Customs Data Model and to the IMO Compendium (where relevant), and to any relevant code list or applicable business rule.

In addition, the Delegated Regulation made amendments to the Annex to the EMSWe Regulation which details as regards reporting obligations. The need for these changes arose from updates in the underlying legislation, including the amendment or replacement of existing EU, national and international laws, and the inclusion of more specific references to current legislative texts. Due to the multiple changes, the Annex was integrally comprehensively replaced.

In accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[6], before adopting a delegated act, the Commission must consult experts designated by each Member State. When preparing the Delegated Regulation, the Commission consulted Member State experts and maritime business sector operators participating in the EMSWe expert subgroup of the High-Level Steering Group for Governance of the Digital Maritime System and Services[7], who supported the provisions included in the delegated act.

[5] OJ L 33, 3.2.2023, p.24.
[6] OJ L 123, 12.5.2016, p.1.
[7] https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupID=3450.

Throughout the procedural and decision-making process, the Commission ensured the appropriate transmission of relevant documents to both Parliament and the Council. Parliament and the Council did not object to the adoption of the Delegated Regulation.

To ensure a rapid update of the list of relevant obligations listed in the Annex to the EMSWe Regulation and of the EMSWe data set, the Commission considers that the power to adopt delegated acts conferred on it by the EMSWe Regulation should be kept in place for as long as the EMSWe Regulation remains applicable. In this context, the Commission expects the amendment of the EMSWe data set to be a recurrent necessary activity, considering the strong dependencies with the constant evolution of the EU legislation, international conventions, and national legislation. The empowerment to adopt or amend delegated acts will therefore remain necessary to ensure proper implementation and functioning of the European Maritime Single Window environment. In this regard, the Commission services, with the assistance of the European Maritime Safety Agency, are already discussing with Member State experts the need for a new Commission delegated regulation in 2024 to amend the EMSWe data set and adjust the list of relevant reporting obligations under the EMSWe Regulation.

3. Conclusion

With this report, the Commission complies with its obligation to report to Parliament and the Council on its use of delegated powers under Article 23 of the EMSWe Regulation. The Commission presents this report on the use of delegated its powers to Parliament and the Council as foreseen in Article 23 of the EMSWe Regulation.

The Commission has actively and appropriately exercised the delegated powers conferred on it by the EMSWe Regulation. At the same time, the Commission considers that an extension of this delegation of power to adopt delegated acts was and remains appropriate, in accordance with Article 23 of the EMSWe Regulation (tacit extension). Such extension will enable the Commission to continue to supplement the EMSWe Regulation and update periodically the scope of application of the EMSWe Regulation and EMSWe data set, which define the scope of what is reported in each maritime National Single Window, ensuring a harmonised implementation of the EMSWe Regulation.

The Commission invites the European Parliament and the Council to take note of this report.