Cooperation Agreement

between

THE EUROPEAN MARITIME SAFETY AGENCY

and

MARITIME ANALYSIS AND OPERATIONS CENTRE –

NARCOTICS
PARTIES

The Maritime Analysis and Operations Centre - Narcotics, referred to hereinafter as “MAOC (N)”, is represented by its Director, on the one part,

And

The European Maritime Safety Agency, established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002, referred to hereinafter as “EMSA” and represented by its Executive Director, on the other part, hereinafter referred to collectively as “the Parties”.

PREAMBLE

- Having regard to the decision of the High Level Steering Group on SafeSeaNet of June 2010, established by Commission Decision of 31 July 2009, defining access rights to AIS information,
- Having regard to the fact that MAOC-N was granted access to SafeSeaNet on

HAVE AGREED AS FOLLOWS:
ARTICLE 1 - OBJECTIVES

1.1 The general objective of this Agreement is to provide a framework for cooperation between MAOC-N and EMSA on mutually agreed topics, including operational assistance and training.

1.2 Both Parties shall comply with the provisions of the Agreement.

ARTICLE 2 - ENTRY INTO FORCE AND DURATION

2.1 The Agreement shall enter into force on the date on which it is signed by the last Party.

2.2 Execution of the tasks shall start from the date of entry into force of the agreement.

2.3 The duration of the Agreement is 5 years from its date of entry into force. This period and all other periods specified in the Agreement are calculated in calendar days unless otherwise indicated.

ARTICLE 3 - RESPONSIBILITIES OF THE PARTIES

3.1 EMSA shall:

3.1.1 Provide access to integrated vessel monitoring information, in support to MAOC-N counter narcotics operations, under the conditions of MAOC-N data access rights, and considering applicable intellectual property rights.

3.1.2 Enable MAOC-N to use existing EMSA systems that can potentially support MAOC-N counter narcotics operations.

3.1.3 Offer training for the relevant EMSA systems.
3.2 MAOC-N shall:

3.2.1 Provide feedback on EMSA services delivered under the terms of this Agreement.

3.2.2 Support the design and development process of relevant EMSA services by providing user requirements and validation in services used to support MAOC-N counter narcotics operations.

3.2.3 Report incidents related with use of the EMSA systems to EMSA Maritime Support Services.

3.2.4 Cover the necessary costs, or ensure the necessary funding from third parties, for the acquisition of products (Earth Observation, Satellite AIS, etc.) to be delivered by EMSA in the scope of MAOC-N projects or operations.

3.2.5 Provide additional data where considered relevant for the services to be delivered by EMSA.

3.3 Where appropriate, the Parties shall, prior to commencing a project or operation, conclude a project implementation plan detailing the specific details of the project, including its duration, financial impacts, technical considerations and legal aspects (including the responsibilities of each Party and applicable intellectual property rights).

**ARTICLE 4 - FINANCIAL RESOURCES**

4.1 Except where otherwise specifically agreed by the Parties, each Party shall bear the cost of any expenditure it incurs relating to the performance of the Agreement.

**ARTICLE 5 - HUMAN RESOURCES**

5.1 Each Party will be responsible for its own personnel in relation to activities undertaken pursuant to the Agreement.

**ARTICLE 6 - INTELLECTUAL PROPERTY**

6.1 For the purposes of this Agreement "proprietary information" shall mean any information, document or other material communicated to the other Party, in order to perform this Agreement.

6.2 Without prejudice to the obligations of the Parties regarding transparency and protection of information, the Parties undertake, when requested by the other Party, not to release proprietary information and keep confidential any information, document or other material communicated to them as confidential or the disclosure of which might be prejudicial to the other Party, until, or unless, the content legitimately
becomes publicly available through other parties or through work or actions lawfully performed outside, and not based on activities under this Agreement, or has been made available to the disclosing Party by another party without any confidentiality restrictions.

6.3 Proprietary Information exchanged in connection with this Agreement shall be maintained for a period of five years following termination of this Agreement.

6.4 MAOC-N shall respect the access rights and intellectual property rights related to data of SafeSeaNet (SSN), LRIT, CleanSeaNet (CSN), Satellite-AIS, and of any other dataset that is subject to specific legislation or commercial agreement, that may be used within the context of this Agreement.

**ARTICLE 7 - LIABILITY**

7.1 Any Party of this Agreement shall not be liable for damages sustained by the other Party in performance of the Agreement except in the event of wilful misconduct or gross negligence. If the damage or loss is caused by the gross negligence or wilful misconduct of one Party or its employees, this Party shall remain liable without any limitation as to the amount of the damage or loss.

7.2 Any Party of this Agreement shall provide compensation in the event of any action, claim or proceeding brought against the other Party by a third party as a result of damage caused by that Party in performance of the Agreement.

7.3 In the event of any action brought by a third party against any Party of this Agreement in connection with performance of the Agreement, the other Party shall provide required assistance.
ARTICLE 8 - COMMUNICATION

8.1 MAOC-N and EMSA shall each designate a person to coordinate matters dealing with this agreement and that will serve as its focal point. The coordinators are free to nominate any other members to represent them.

The coordinator for EMSA shall be:

Name:
Position:
Tel:
Email:

The coordinator for MAOC-N shall be:

Name:
Position:
Tel
Email:

8.2 All notifications and correspondence under this Agreement shall be sent to the coordinators.

8.3 The Parties shall communicate to each other in writing any changes with regard to the above-mentioned coordinators.

8.4 The notifications mentioned in this Agreement shall be made by registered mail, with acknowledgement of receipt.

8.5 The coordinators can nominate operational and technical points of contact. Appointment of operational and technical contacts can be made via electronic mail.

ARTICLE 9 - RELEVANT COSTS

9.1 All activities conducted pursuant to this Agreement shall be subject to the availability of appropriate funds, personnel and other resources as well as to the applicable laws and regulations, policies and programmes of each Party.
9.2 MAOC-N shall ensure the necessary funding to cover the acquisition of products used in the delivery process of EMSA services in support to specific MAOC-N operations. These include:

9.2.1 Synthetic Aperture Radar and optical satellite images and respective value added products.

9.2.2 Satellite AIS data.

9.2.3 LRIT data (upon approval by the Member States owning the data).

9.3 EMSA will not charge fixed costs to MAOC-N for the delivery of integrated services, as long as the workload involved in such delivery remains well below one full time equivalent.

9.4 In the interest of avoiding duplication of the collection of information, EMSA will not charge MAOC-N for services already acquired for other purposes, as long as MAOC-N is entitled to receive these products, in accordance with Article 6 of this Agreement.

**ARTICLE 10 - CONFLICT OF INTEREST**

10.1 The Parties shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the Agreement. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Agreement must be notified to the other Party in writing without delay. In the event of such conflict, each party shall immediately take all necessary steps to resolve it. The other Party reserves the right to verify that such measures are adequate and may require additional measures to be taken, if necessary, within a time limit which it shall set.

**ARTICLE 11 - CONFIDENTIALITY**

11.1 For the purposes of the Agreement "confidential information" shall mean any information, document or material linked to the performance of the Agreement and not generally known to third parties which unauthorised disclosure could harm essential interests of the Parties.

11.2 The Parties undertake, when requested by the other Party, to preserve the confidentiality of any document, information or other material linked to performance of the Agreement. The Parties shall continue to be bound by this undertaking after the Agreement has ended.
ARTICLE 12 - DATA PROTECTION

12.1 Any personal data included in or relating to the Agreement shall be processed pursuant to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Such data shall be processed solely for the purposes of the performance, management and monitoring and follow up of the Agreement by EMSA and MAOC-N.

I, will act as data controllers without prejudice to possible transmission to the bodies charged with monitoring or inspection task in application of Union law.

ARTICLE 13 – FORCE MAJEURE

13.1 Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the Parties which prevents either of them from performing any of their obligations under the Agreement, was not due to error or negligence on their part, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.

13.2 If either Party is faced with force majeure, it shall notify the other Party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.

13.3 Neither Party shall be held in breach of its obligations under the Agreement if it has been prevented from fulfilling them by force majeure. Where a Party is unable to perform its obligations owing to force majeure, it shall have the right to remuneration only for tasks actually executed.

13.4 The Parties shall take the necessary measures to reduce damage to a minimum.
ARTICLE 14 – CHECKS AND AUDITS

14.1 Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the European Union from signature of the Agreement up to five years after payment of the balance.

14.2 The Parties or an outside body of their choice shall have the same rights as the Court of Auditors for the purpose of checks and audits limited to compliance with obligations from signature of the Agreement up to five years after payment of the balance.

14.3 In addition, the European Anti Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Agreement up to five years after payment of the balance.

ARTICLE 15 – AMENDMENTS

15.1 Any amendment to the Agreement shall be the subject of a written amendment concluded by the Parties. An oral agreement shall not be binding on the Parties.

ARTICLE 16 – TERMINATION BY EITHER PARTY

16.1 Either Party may, of its own volition and without being required to pay compensation, terminate the Agreement by serving six months formal prior notice.

16.2 Should any Party terminate the Agreement, the other Party shall only be entitled to payment corresponding to the part-performance of the services ordered before the termination date.
ARTICLE 17 - APPLICABLE LAW AND SETTLEMENT OF DISPUTES

17.1 The Agreement shall be governed by European Union law.

17.2 The Parties agree to use reasonable efforts to resolve amicably and expeditiously any disagreement or dispute that may arise during the performance of this Agreement.

17.3 Any dispute between the Parties resulting from the interpretation or application of the Agreement which cannot be settled according to 17.2 shall be brought before the General Court of the European Union and, in the event of appeal, the Court of Justice of the European Union.

Signed in two originals in the English language.

On behalf of the:
MARITIME ANALYSIS AND OPERATION CENTRE - NARCOTICS

Date and place: Lisbon 12th August 2014

BY: 
Signature:

On behalf of the:
EUROPEAN MARITIME SAFETY AGENCY

Date and place: 1st August 2014

BY: 
Signature:

Director

Executive Director