



European Maritime Safety Agency

Conditions of Use for receiving the EMSA Satellite Based Oil Spill and Vessel Detection Service CleanSeaNet

The European Maritime Safety Agency (EMSA), represented by
hereinafter referred to as "EMSA", of the one part,

Executive Director,

and

Deputy Head of the State Maritime Administration

Azerbaijan Republic,

Republic of Azerbaijan, which is represented by
Administration,

Deputy Head of the State Maritime

hereinafter referred to as "the Participating State", of the other part

CONSIDERING that the project entitled "TRACECA II Maritime safety and security" (hereinafter referred to as "TRACECA II project") is financed by the European Commission through a DG Development and Cooperation – EUROPEAID grant and the European Maritime Safety Agency (EMSA) was entrusted with the implementation of TRACECA II project

ACKNOWLEDGING that in line with the provisions of Directive 2005/35/EC of the European Parliament and of the Council on ship-source pollution and on the introduction of penalties for infringements, EMSA has developed and maintains a satellite-based oil spill and vessel detection service - the CleanSeaNet service – with the purpose to support EU Member States' actions to combat deliberate or accidental pollution in the marine environment

HAVING REGARD TO the fact that TRACECA II project envisages to promote surveillance of illegal oil spills from ships, accidental oil spills and other emergency situations, by using satellite images (i.e. Synthetic Aperture Radar - SAR) under its task 5.3 "Pilot project on the provision of the CleanSeaNet service"

HAVING REGARD ALSO TO the fact that the CleanSeaNet service of EMSA is only of mutual benefit if appropriate follow-up activities are performed by national authorities in order to verify and confirm the existence of identified spills and if proper prosecution measures are taken against the alleged polluters

have agreed:

- giving access via the User Portal to CleanSeaNet images, licence conditions permitting, and possible spill information;
 - providing additional information supporting the identification of potential polluters which includes overlaying satellite images with available vessel position information such as Satellite-AIS data;
 - supporting pollution response operations;
 - organising training sessions for CleanSeaNet Users.
- 3.2 The CleanSeaNet service will be provided based upon national needs of the Participating State in terms of spatial and temporal coverage and within the budgetary limitations of the TRACECA II project. The Participating State could top up the CleanSeaNet service with images acquired through its national budget.
- 3.3 The indication of sea areas and frequency of satellite image acquisitions is the basis for planning the images acquired through the Service. The planning will be performed by EMSA whilst ensuring a cost efficient coverage of the TRACECA area of interest. The ordering of images will be exclusively done by EMSA within the contracts the Agency has concluded.
- 3.4 EMSA may invite the Participating State to attend the regular meetings of the CleanSeaNet User Group.
- 3.5 Any communication and notification to EMSA with regard to the use of the CleanSeaNet service shall be addressed to the following contact point, which is operational on a 24/7 basis:

Maritime Support Services Operations Centre

e-mail: MaritimeSupportServices@emsa.europa.eu

Tel: +351 21 1209 208

Fax: +351 21 1209 219

Article 4 Role and responsibilities of the Participating State

- 4.1 For the purposes of using the CleanSeaNet service, the Participating State nominates a unique CSN NCA pursuant to the form in Annex 1 to be the official and administrative point of contact with EMSA for any issue related to the implementation, use, or update of the CleanSeaNet service.
- 4.2 The Participating State may only use the CleanSeaNet in accordance with the purposes of the service as indicated in the preamble. The right to use CleanSeaNet may only be granted to public organisations that have been explicitly authorised by the Participating State. Use for other purposes, or by other organisations, cannot be authorised without prior written consent of EMSA.
- 4.3 The CSN NCA shall maintain an updated list of authorised public organisations in the Participating State and communicate this list to EMSA in accordance with the template set out in Annex 2.
- 4.4 The CSN NCA shall ensure that all CleanSeaNet Users comply with these Conditions of Use.
- 4.5 User credentials to access the service are personal and individual. This means that a username and password is individual and cannot be used by more than one person. The Participating State

Article 1 Definitions

Unless expressly provided otherwise:

1. EMSA means the European Maritime Safety Agency established under Regulation (EC) No 1406/2002 as amended.
2. Participating State means the State that has signed these Conditions of Use.
3. CSN NCA means the CleanSeaNet National Competent Authority.
4. CleanSeaNet User means any user of the EMSA systems entitled by the CSN NCA to use the CleanSeaNet service.
5. User Portal means the web interface for the CleanSeaNet Users to access and use the CleanSeaNet service.
6. CleanSeaNet Products are products produced by the CleanSeaNet service, derived or generated from CleanSeaNet Data, or provided by the CleanSeaNet users and available to the Participating State via the User Portal or via any other means. CleanSeaNet products include inter alia images, possible spill information including information on possible polluters, alert reports, and feedback. This definition does not imply any consequence regarding the ownership of products.
7. Feedback means information provided to EMSA by the Participating State regarding follow-up actions to CleanSeaNet detections and their results.
8. The CleanSeaNet User Group means the group of representatives from the EU Member States and candidate countries operationally involved in oil pollution monitoring and surveillance.
9. AIS means the automatic identification system referred to in the International Convention for the Safety of Life at Sea (SOLAS), Chapter V, Regulation 19.
10. Satellite-AIS data means the AIS data detected by satellites and made available to EMSA through its suppliers.
11. CleanSeaNet Data include CleanSeaNet Products and Satellite-AIS data.

Terms not otherwise defined should have the same meaning as the meaning attributed to them in Directive 2005/35/EC of the European Parliament and of the Council on ship-source pollution and on the introduction of penalties for infringements as amended.

Article 2 Purpose of the Conditions of Use

- 2.1 The purpose of these Conditions of Use is to agree upon the roles and responsibilities of EMSA and the Participating State for the use of the CleanSeaNet service.
- 2.2 The signature by the Participating State of these Conditions of Use is a prerequisite for having access to the CleanSeaNet service.

Article 3 Role and responsibilities of EMSA

- 3.1 EMSA will provide to the Participating State, free of charge, a satellite based oil spill and vessel detection service based on Synthetic Aperture Radar satellite images for the monitoring of large sea areas and for supporting pollution response operations by:
 - alerting the Participating State about any possible spill detected by CleanSeaNet including, when available, information on the possible source of the spill;

shall ensure that all users of the CleanSeaNet service are registered and have their own login details.

- 4.6 The Participating State will ensure follow-up on CleanSeaNet detections and verify spills as extensively as possible.
- 4.7 As feedback is essential for monitoring quality and improving service reliability, the Participating State will provide information regarding verification of possible oil spills reported by CleanSeaNet.
- 4.8 The Participating State will provide information on observed spills that, although visible on the satellite image, were not reported by CleanSeaNet.

In addition, the Participating State may provide information on other spills detected by any surveillance means.
- 4.9 The Participating State will inform EMSA on a best effort basis of any enforcement measures taken by a coastal State or a port State against potential polluters detected and identified using the CleanSeaNet service on the condition that disclosing such information does not interfere with any legal process and is permitted by the Participating State's national law.

Article 5 General Conditions governing the Access to CleanSeaNet Data

- 5.1 The Participating State may not:
 - (a) distribute, transfer or otherwise make available CleanSeaNet Data to any organisation which is not duly authorised pursuant to 4.3;
 - (b) make any commercial use of CleanSeaNet Data such as selling, leasing, renting, sub-licensing, or transferring of CleanSeaNet Data, in any other manner whatsoever;
 - (c) reverse engineer, disassemble, decompile or adapt CleanSeaNet Data;
 - (d) post CleanSeaNet Data to Internet web sites in a non-secure format that allows manipulation of the data;
 - (e) alter or remove any copyright notice or proprietary legend contained in or on CleanSeaNet Data.
- 5.2 Without prejudice to more restrictive conditions that may result from the special conditions outlined in Article 6, and provided that CleanSeaNet Data are solely used in accordance with the purposes of CleanSeaNet as indicated in the preamble, authorised organisations in the Participating State may:
 - (a) use all CleanSeaNet Data for the internal use of the organisation;
 - (b) transfer CleanSeaNet Data via either a physical delivery protocol or a secured and encrypted network protocol, to employees, and/or contractors or consultants of authorised organisations who are under a duty of confidentiality. The contractors or consultants must not retain CleanSeaNet Data after completion of tasks requested by the Participating State;
 - (c) make available CleanSeaNet Data as supporting evidence to administrative and judicial enforcement authorities;
 - (d) store, post or process CleanSeaNet Data in a system that is not accessible by an open or non-restricted network;

- (e) release hardcopy prints of CleanSeaNet Data, to publish CleanSeaNet Data in reports, publications, and to post CleanSeaNet Data to Internet web sites provided that:
- such data are in a secure format that allows only printing and viewing and prohibits manipulating the data;
 - such release, publishing or posting is solely for non-commercial use;
 - specific property rights or confidentiality clause of the data are not violated;
 - copyrights information attached to the different elements composing the data is conspicuously displayed in accordance of the "End User Licence" conditions of the individual elements described in Article 6 below;
 - an inscription "EMSA CleanSeaNet" is conspicuously displayed to indicate the source of the data.

Article 6 Special conditions governing the access to some CleanSeaNet Data

- 6.1 Some CleanSeaNet Data available via the User Portal are subject to special "End User Licence" conditions and/or restricted "Access Rights" which have to be followed by the Participating State.
- 6.2 Special end users licence conditions and access rights policy for CleanSeaNet Data currently available in CleanSeaNet are published on the User Portal and/or sent via e-mail to the CSN NCA contact point.
- 6.3 In particular, this is the case for:
- (a) Satellite images: The Participating State shall ensure that satellite image "End User Licence" conditions, published on the User Portal and/or sent via e-mail to the CSN NCA contact point, are respected.
 - (b) Satellite-AIS data: the Participating State shall ensure that the Satellite-AIS data "End User Licence" conditions, published on the User Portal and/or sent via e-mail to the CSN NCA contact point are adhered to.
 - (c) Nautical charts: The Participating State may use the nautical charts available through the User Portal as background information in CleanSeaNet Data as long as these products comply with the provisions of Article 5 of these Conditions of Use. Any other use is prohibited.
 - (d) Other third parties products: The Participating State ensures that third party data "End User Licence" conditions published on the User Portal and/or sent via e-mail to the CSN NCA contact point are respected.
- 6.4 EMSA will notify the CSN NCA each time new or updated special "End User Licence" or "Access Rights" conditions are issued.

Article 7 Disclaimers/Liability

- 7.1 EMSA does not warrant that the CleanSeaNet Data will be free from errors or omissions, or that such errors can be rectified or that the Participating State and the CleanSeaNet users will have uninterrupted access to all data normally available via the User Portal.

- 7.2 EMSA shall not be liable for any damage, direct or indirect, resulting from the use of the CleanSeaNet service, the use of data provided through the service or caused by a temporary or partial failure or malfunction of the system, or a termination of service caused by factors outside the control of EMSA.
- 7.3 EMSA and the CSN NCA shall cooperate to minimise potential negative consequences of such failure, malfunction or termination. EMSA and the CSN NCA shall cooperate with a view to helping each other against potential claims brought by third parties in relation to the operation of the system.
- 7.4 The Participating State shall be held responsible for any copyright infringement or unauthorised use or disclosure caused or encouraged by Participating State's failure to abide by these Conditions of Use and by the "End User Licence" conditions of the data available through CleanSeaNet. EMSA reserves the right to cease the provision of the CleanSeaNet service in case the Participating State fails to comply with these Conditions of Use.
- 7.5 The Participating State shall take all reasonable steps to protect the data made available via the User Portal from misappropriation or misuse, unauthorised duplication or distribution and shall notify EMSA immediately if the Participating State learns of any disclosure or use of a product in any manner not authorised.

Article 8 Amendments

Any amendment to these Conditions of Use shall be subject to a written agreement concluded by the parties. An oral agreement shall not be binding.

Article 9 Entry into force, duration and termination

- 9.1 The Conditions of Use will enter into force between EMSA and the Participating State on the date on which the last Party has signed and shall last within the validity of the TRACECA II project. Further extension under the scope of upcoming TRACECA projects may be done through exchange of letters at least three months before the expiration of the present Conditions of Use.
- 9.2 If organisational priorities are no longer compatible with the continuation of the working relationship under the present Conditions of Use, either party may terminate it at any time, giving three (3) months prior written notice to the other Party.

SIGNATURES

*for the State Maritime Administration
of the Republic of Azerbaijan.*

Deputy Head of Administration

signature: _____

for EMSA,

Executive Director

signature: _____



