



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

██████████, Executive Director, hereinafter referred to as "EMSA", of the one part,

and

The Directorate-general Environment of the Federal Public Service Health, Food Chain Safety and Environment

Place Victor Horta, 40 Box 10 at 1060 Brussels, Belgium

For Belgium, which is represented by ██████████ Director-general of the Directorate-general Environment,

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

have agreed:

Preamble

WHEREAS the Council and the European Parliament in Directive 2005/35/EC on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences' as amended, and in particular article 10 thereof, have given a legal task to EMSA to work with the Member States in developing technical solutions and providing technical assistance in relation to the implementation of the Directive, in actions such as tracing discharges through satellite monitoring and surveillance;

REMEMBERING that the purpose of this Directive is to ensure that persons responsible for discharges of polluting substances are subject to adequate penalties, including criminal penalties, in order to improve maritime safety and to enhance protection of the marine environment from pollution by ships;

TAKING INTO ACCOUNT that the enforcement chain which involves the monitoring of seas, the detection of pollution, the identification of polluters and the detention and prosecution of those responsible is primarily the responsibility of the coastal State affected;

ACKNOWLEDGING that based on article 10.2.a) of this Directive, the Agency has set-up and since April 2007 operates CleanSeaNet, the European satellite oil spill and vessel detection service;

CONSIDERING that CleanSeaNet aims to support national and/or regional decision makers and response agencies for the monitoring of large sea areas as part of their routine and emergency operational tasks and provides analysed satellite imagery and alert messages to Coastal States (EU Member States, EU accessing countries, EFTA States) and the European Commission;

STRESSING that the EMSA satellite service for detecting and tracing illegal discharges is only of mutual benefit if appropriate follow-up activities are performed by national authorities;

CONSIDERING also that identification of possible polluters detected by CleanSeaNet can be supported through the use of vessel traffic information provided by the Community maritime information exchange system 'SafeSeaNet', developed by the Commission in cooperation with the Member States.



Article 1 Definitions

Unless expressly provided otherwise:

1. *EMSA* means the European Maritime Safety Agency established through Regulation 1406/2002/EC
2. *Participating State* means the State that has signed these conditions of use.
3. *CSN NCA* means the CleanSeaNet National Competent Authority (which was formerly called the CleanSeaNet administrative contact point).
4. *CleanSeaNet User* means any user of the CleanSeaNet system entitled by the CSN NCA to use the CleanSeaNet service.
5. *CleanSeaNet User Portal* means the unique web interface for the users in the Participating State to access and use the CleanSeaNet service and to exchange information for operational purposes.
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 CleanSeaNet 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 into CleanSeaNet by the Participating States regarding follow-up actions to CleanSeaNet detections and their results
8. *The CleanSeaNet User Group* means the group of representatives from all Participating States set-up by EMSA to foster better communication with authorities using CleanSeaNet and get feedback on the user requirements, weaknesses and strengths of the service from their perspective.
9. *SafeSeaNet* means the Community vessel traffic monitoring and information system which shall enable the receipt, storage, retrieval and exchange of information for the purpose of maritime safety, port and maritime security, marine environment protection and the efficiency of maritime traffic and maritime transport (as defined in annex III, paragraph 1 of Directive 2002/59/EC as amended by Directive 2009/17/EC).
10. *SafeSeaNet User* means any user of the SafeSeaNet system entitled to provide and/or receive SafeSeaNet information.

Terms not otherwise defined should have the same meaning as the meaning attributed to them in Directive 2005/35/EC as amended.

Article 2 Purpose

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.

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 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;
- giving access via the CleanSeaNet User Portal to all CleanSeaNet Products;
- providing additional information supporting the identification of potential polluters which includes overlaying satellite images with vessel position information provided by SafeSeaNet, subject to 6.3.2.b);
- giving access via the CleanSeaNet User portal to communication tools for providing feedback and exchanging information between the Participating States and EMSA;
- giving access to the CleanSeaNet planning interface;
- supporting pollution response operations;
- organising training sessions for authorized users.

3.2 The CleanSeaNet service will be provided based upon national needs in terms of spatial and temporal coverage. In case of exhausted financial resources a ceiling to the number of satellite images may have to be applied in a transparent and non-discriminatory manner. If such a situation occurs, the Participating State shall be informed in due time. 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 in co-operation with all Participating States and will be coordinated by EMSA to ensure a cost efficient coverage on a European scale. The Participating State will select images to be acquired via the planning interface of the CleanSeaNet User Portal. The ordering of images will be exclusively done by EMSA.

3.4 EMSA will organise regular meetings of the CleanSeaNet User Group.



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- 3.5 EMSA will monitor the technical and operational performance of the CleanSeaNet service and inform the Participating States about results at the CleanSeaNet User Group.

Article 4 Role and responsibilities of the Participating State

- 4.1 For the purposes of using the CleanSeaNet service, the Participating State nominates an unique CSN NCA 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 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 keep the list of authorised public organisations in the Participating State and make this list available to EMSA on request.
- 4.4 The CSN NCA shall ensure that:
- (a) CleanSeaNet users in the Participating State are registered;
 - (b) CleanSeaNet User Portal parameters specific to the Participating State are configured;
 - (c) coverage requirements and alerting rules are defined.
- These tasks are mandatory before EMSA can start delivering the CleanSeaNet service to the Participating State.
- 4.5 The CSN NCA ensures that all national CleanSeaNet Users comply with these conditions of use.
- 4.6 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 shall ensure that all users of the CleanSeaNet service have their own login details.
- 4.7 The Participating State will ensure follow-up on CleanSeaNet detections and verify spills as extensively as possible. Therefore, the Participating State will take the coordinated satellite monitoring schedule into account for the planning of national or regional response, monitoring and surveillance resources (e.g. aircrafts, vessels).
- 4.8 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.

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- 4.9 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 to the system on other spills detected by any surveillance means.

- 4.10 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 national law.

Article 5 General Conditions governing the Access to CleanSeaNet Products

- 5.1 The Participating State may not:

- (a) distribute, transfer or otherwise make available CleanSeaNet Products to any organisation which is not duly authorised by the Participating State, without the prior written consent of EMSA
- (b) make any commercial use of CleanSeaNet Products such as selling, leasing, renting, sub-licensing, or transferring of CleanSeaNet Products, in any other manner whatsoever;
- (c) reverse engineer, disassemble, decompile or adapt CleanSeaNet Products;
- (d) post the Products to Internet web sites in a non-secure format that allows manipulation of the Products data;
- (e) alter or remove any copyright notice or proprietary legend contained in or on CleanSeaNet Products;

- 5.2 Without prejudice to more restrictive conditions that may result from special conditions as outlined in Article 6, and provided that CleanSeaNet Products 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 products for the internal use of the organisation;
- (b) transfer CleanSeaNet Products 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 Products after completion of tasks requested by the Participating State;
- (c) make available CleanSeaNet product as supporting evidence to administrative and judicial enforcement authorities;
- (d) establish a direct connection between CleanSeaNet and other information systems used by authorised organisations of the Participating State;
- (e) store, post or process the CleanSeaNet Products in a system that is not accessible by an open or non-restricted network;
- (f) release hardcopy prints of CleanSeaNet Products, to publish CleanSeaNet Product in reports, publications, and to post CleanSeaNet Products to Internet web sites provided that:

- such Product is in a secure format that allows only printing and viewing and prohibits manipulating the Product's data;
- such release, publishing or posting is solely for non-commercial uses;
- specific property rights or confidentiality clause of the Product are not violated;
- Copyrights information attached to the different elements composing the Product is conspicuously displayed in accordance of the "End User licence conditions of individual elements.
- "EMSA CleanSeaNet" is conspicuously displayed

Article 6 Special conditions governing the access to some CleanSeaNet Products

- 6.1 Some CleanSeaNet products available via the CleanSeaNet 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 products currently available in CleanSeaNet are published on the CleanSeaNet User Portal.
- 6.3 In particular, this is the case for:
- 6.3.1 Satellite images: The Participating State shall ensure that satellite image "End User Licence" conditions, published on the CleanSeaNet User Portal and/or included in satellite image data packages downloadable from the CleanSeaNet User Portal, are respected.
- 6.3.2 SafeSeaNet data: Vessel position information to support polluter identification in CleanSeaNet is obtained from SafeSeaNet in two ways:
- (a) Vessel position information is systematically retrieved from SafeSeaNet and available for display on top of Satellite images. All CleanSeaNet users in the Participating States have unrestricted access to this image related vessel position information.
 - (b) The possibility to manually query vessel position information directly from SafeSeaNet via the CleanSeaNet User Portal is limited to registered SafeSeaNet Users and the SafeSeaNet access rights policy duly applies.
- 6.3.3 Nautical charts: The Participating State may use the nautical charts available through the CleanSeaNet User Portal as background information in CleanSeaNet products as long as these products comply with the provisions of Article 5 of these conditions of use. Any other use is prohibited.
- 6.3.4 Other third parties products: The Participating State ensures that third party data "End User Licence" conditions published on the CleanSeaNet User Portal and/or included in data packages downloadable from the CleanSeaNet User Portal, are respected.



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- 6.4 EMSA will notify the CSN NCA each time new or updated special "End User Licence" or "Access Rights" conditions are published on the CleanSeaNet User Portal.

Article 7 Disclaimers

- 7.1 EMSA does not warrant that the products available through CleanSeaNet 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 products normally available via the CleanSeaNet 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 products or 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 license" conditions of the products 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 products or data made available via the CleanSeaNet 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

- 8.1 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

The Conditions of Use will take effect from the date of signature by EMSA and the Participating State.

SIGNATURES

For FPS Health, Food Chain Safety and
Environment – DG Environment,

[Redacted]

Director-general

signature:

[Redacted signature]

For EMSA,

[Redacted]

Executive Director 4-5-2011

signature:

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