COUNCIL OF
THE EUROPEAN UNION

Brussels, 30 October 2008

14940/08

POLGEN 114
AG 35
RELEX 824
ENV 751
PECHE 283
COMPET 432
SOC 650
TRANS 367

COVER NOTE

from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	28 October 2008
to:	Mr Javier SOLANA, Secretary-General/High Representative
Subject:	Commission Staff Working Document Non-paper on maritime surveillance

Delegations will find attached Commission document SEC(2008) 2737 final.

_____

Encl.: SEC(2008) 2737 final

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27/10/2008
SEC(2008) 2737 final

COMMISSION STAFF WORKING DOCUMENT

Non-paper

on maritime surveillance

EN   EN

TABLE OF CONTENTS

1. INTRODUCTION

1. The Green Paper on a future EU Maritime Policy[1] raised the question of how offshore government activities conducted by EU national authorities could be rationalised, and whether the EU should move forward towards integrating existing and future maritime surveillance, monitoring, tracking and reporting systems into an Integrated Maritime Information and Surveillance Network .

2. The broad consultation that followed the adoption of the Green Paper endorsed the option that the EU's future action in this field should be twofold: (1) the improvement of the cross-border and cross-sectoral cooperation between all actors involved in such offshore activities, including improved cooperation of Member States' coastguards, and (2) the progressive integration of existing or future sectoral surveillance systems, thus enhancing both the effectiveness and the cost-efficiency of actions carried out at sea. These objectives are considered in the 2007 Blue Paper on an EU Integrated Maritime Policy[2] as key to the achievement of an integrated policy-making both by the Commission and the Member States. Furthermore, the accompanying Action Plan foresees that the Commission should deliver a Work Plan detailing further steps towards the integration of maritime surveillance systems.

3. During their meeting in Brest on 13 July 2008, Ministers responsible for maritime affairs acknowledged the necessity to reinforce maritime governance, in particular through the coordination of European agencies, a regional approach by maritime basins, and an enhanced role for the group of high-level national focal points. The Ministers also welcomed the setting-up of a European maritime surveillance network.

4. The purpose of the present paper is to report to the High-Level Group on the work that has been carried out so far with regard to surveillance, monitoring, tracking and reporting at national, regional and Community level, to identify the main challenges ahead, and to indicate a set of next steps in view of the establishment of a Work Plan foreseen by the Action Plan.

---

[1] COM(2006) 275 final of 07.06.2006

[2] COM(2007) 575 final of 10.10.2007

2. CURRENT SITUATION

5. In February 2008, the Commission published a set of three working documents taking stock of the status of offshore surveillance, monitoring, tracking and reporting activities in the Member States[3]. The first document establishes which authority in each coastal Member State is responsible for ten offshore activities (customs, border control, pollution response, fisheries control, maritime safety, maritime security, vessel traffic management, accident and disaster response, search and rescue, law enforcement). The second describes the existing cross-border cooperation in these areas between the Member States in five sea regions (Atlantic Ocean, Baltic Sea, Black Sea, Mediterranean Sea and North Sea) on the basis of information provided by national authorities.

6. These documents show that the administrative structure of national authorities dealing with surveillance, monitoring, tracking and reporting actions is varied and particularly complex. In some countries such as e.g. Greece, France, the Netherlands or Portugal, coordination of maritime affairs has been established on the basis of specific administrative structures. Others appear to have more complex structures e.g. Germany or the UK. Cross-border cooperation also appears not to be carried out at the same level in all sea areas around EU: cooperation is standard practice in some domains of offshore activity (e.g. search and rescue operations, border control in the Mediterranean Sea), whereas for some other activities such as maritime security (as defined in that working document), vessel traffic management in the Mediterranean or fisheries control and vessel traffic management in the Black Sea, Members State have declared no ongoing cooperation[4].

7. The third working document[5] provides a description of the maritime surveillance systems currently operating at EU level. It is not an exhaustive list and, since it was published, there have been several exchanges between the Member States and the Commission on experiences gained in integrating maritime surveillance systems. Member States are currently contributing to ensuring that this

---

[3] Working Documents I on Offshore activities of Coastal EU Member States, II on maritime cross-border cooperation between littoral Member-States in five sea regions Cross-border Cooperation, Working Document III on Maritime Surveillance (as revised on 14 June 2008), http://ec.europa.eu/maritimeaffairs/subpage_mpa_en.html.

[4] Working Document II on maritime cross-border cooperation between littoral Member-States in five sea regions, http://ec.europa.eu/maritimeaffairs/subpage_mpa_en.html

[5] http://ec.europa.eu/maritimeaffairs/pdf/maritime_policy_action/maritime-surveillance_en.pdf

information is kept up to date in the follow-up to the Commission's Communication on Governance[6].

2.1. Sectoral surveillance initiatives at EU level

8. There is extensive Community legislation with regard to surveillance, monitoring, tracking and reporting activities. In part this is because the tools were first developed in the Community to monitor the compliance with EU law on a sectoral basis. An example of this is the progressive development and implementation of the Vessel Monitoring System (VMS) for fisheries control. It started in the early 1990s on a pilot project basis and, following successive applications, it is presently deployed in fishing vessels above 15m in length and it is envisaged to be extended it to all fishing vessels larger than 10m.

9. Similarly, the Vessel Detection System (VDS) started off in 2006 on a voluntary basis as an additional tool which Member States could use to supplement their surveillance picture if this proved to be cost-efficient. As from 1 January 2009, where there is clear evidence of a cost benefit in relation to traditional tools, Member States shall ensure that their Fisheries Monitoring Centres are equipped with remote sensing[7]. The geographic location to be monitored played a part in the cost-effectiveness of the system. Remote, widespread areas such as the one covered by the CAMLR (Commission for the Conversation of the Antarctic Marine Living Resources) were ideal candidates for the use of this technology. Progress has been such that it may be envisaged to render it compulsory to monitor compliance with fisheries regulations.

10. In order to establish an equivalent level of protection against safety and security threats by goods brought into or out of the customs territory of the Community, electronic pre-arrival and pre-departure declarations with EU wide harmonized data elements will become mandatory as of 1st July 2009 for all modes of transport thus including the maritime sector. Community wide IT systems, the Import Control System (ICS) and the Export Control System (ECS) will support these requirements. Following the pre-arrival declaration an arrival notification will be required for which available methods (e.g. those used in the maritime sector for notifying the arrival of a ship) shall be used; however this notification

---

[6] "Guidelines for an Integrated Approach to Maritime Policy: Towards best practice in integrated maritime governance and stakeholder consultation", COM(2008)395 of 26.6.2008

[7] Article 4 Council Regulation (EC)No 1966/2006 of 21.12.2006, on electronic recording and reporting of fishing activities by means of remote sensing, OJ L 409, 30.12.2006

must allow the identification of the pre-arrival declaration in respect of the goods carried on that ship.

11. With regard to initiatives to promote safety at sea, the Automatic Identification System (AIS) was promoted as a system for ship anti-collision, monitoring and tracking and for exchange of data with shore based facilities by the International Maritime Organisation (IMO) in 2000. In some cases, VDS, VMS and AIS data are combined to obtain a more complete picture. This was, for example, used to control compliance with the provisions protecting bluefin tuna in the Mediterranean. This was, however, a simple combination of data being collected by different systems: no interface is set up between VDS, VMS and AIS and the systems are not interoperable.

12. With regard to maritime narcotics trafficking, recognised by EU law enforcement Agencies and Europol[8] as an uprising threat for Europe and third countries[9], the European Commission welcomes and supports the recent setting up of Member States intelligence-driven anti narcotics platforms:

    (a)   The Maritime Analysis and Operations Centre-Narcotics (MAOC-N), a seven Member State[10] Lisbon based information/intelligence exchange initiative, which responds to the trans-Atlantic cocaine smuggling, by air and by sea, from the Latin American and Caribbean (LAC) countries, This law enforcement supported military mechanism has been co-financed by the Commission[11]. Since 1st of January 2008 the EC gained the status of Observer.

    (b)   The Centre de Coordination pour la Lutte Anti-Drogue en Mediterranée (CeCLAD-M) is another intelligence-led anti narcotics law enforcement supported military platform. CeCLAD is a French initiative, Toulon based, aimed at intercepting drug trafficking[12], by sea and by air, from North and West Africa in the Western Mediterranean Sea. CeCLAD-M has been launched by an International Conference organised by the French

---

[8]   2007 Europol Cocaine Report

[9]   UN ODC 2008 World Report

[10]   Spain, Portugal, France, Italy, the Netherlands, Ireland and the United Kingdom

[11]   DG JLS ISE budget line 661.000 €, JLS/2007/ISEC/426

[12]   According the 2008 UN ODC World Report cocaine originating from LAC countries is more and more diverted through West and North Africa. The bulk of cannabis resin is produced in Morocco.

Presidency of the EU in Toulon, on the 24-26 September 2008, and co-financed by the EC[13].In that forum the countries belonging to of the Inter-ministerial Conference of the Western Mediterranean[14] (CIMO) have been requested to join CeCLAD, which should start interdiction operations before the end of 2008. In a second phase all interested littoral EM MS will have the possibility to provide their operational contribution into CeCLAD. CeCLAD is committed at strengthening intelligence exchange as well as dismantling criminal organization.

13. The Commission carefully follows the recent developments of the Baltic Sea Task Force[15] (BSTF), set up in 1996. This law enforcement cooperation initiative, (a coordination of Police forces, Customs Agencies, Border Guards and Coast Guards, and also prosecution Authorities) has recently adopted a new Strategy against organised crime (December 2007) aimed at improving information exchange among the participating Agencies and receiving strategic advice from the European Police Office. Maritime drug trafficking, including drug precursors, is one of the targets of the BSTF.

14. With regard to surveillance of the southern maritime borders of the EU, since 2006 the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU (FRONTEX) carries out a series of joint operations in the area. In 2008, FRONTEX is coordinating the following joint operations at the southern maritime borders:

- HERA is tackling illegal migration flows coming from West Africa countries heading to Canary Islands.
- MINERVA is combating illegal immigration coming from Morocco to Spain in the ports of Ceuta, Algeciras, Almeria, Tarifa.
- The main objective of NAUTILUS is to reinforce border control activities in Central Mediterranean and control illegal migration flows coming from North Africa countries heading to Malta and in Italy.
- POSEIDON is focusing on illegal immigration via the EU south-eastern maritime and land borders of the EU.

---

[13] 195.000 €, JLS/2007/ISEC436

[14] 5+5 Conference composed by: France, Spain, Italy, Portugal, Malta + Algeria, Tunesia, Morocco, Lybia, Mauretania,

[15] Contracting parties: DK, EST, FIN, D, LATVIA, LITH, NO, PL, RUSSIA and SWE.

15. FRONTEX and the eight Member States located at the southern and south-eastern maritime external borders[16] cooperate also in the framework of the European Patrol Network (EPN). The objective of the EPN is to establish a permanent regional border security concept at these borders, enabling the synchronization of national measures of the Member States and their integration into joint European activities. This is being achieved in 2 phases: In the first phase, which started in May 2007, patrolling activities of Member States covering defined coastal areas of the Mediterranean Sea and the Atlantic Ocean are planned, coordinated and implemented through a system of a national contact points in the Member States together with FRONTEX. In the 2nd phase, the EPN is being further developed by establishing National Coordination Centres. The following joint operations are integrated into the framework of the EPN in 2008:

- EPN-HERMES in the sea area south of Sardinia;
- EPN-EUXINE in the Black sea region and the delta of Danube river;
- EPN-INDALO in the sea area south of the Spanish coast of Levante.

16. Generally speaking each offshore activity is monitored by a system built or being developed to meet its specific sectoral needs. This being said, some cross-sectoral synergies are possible. For example, the rules applying to the Commission's fisheries control policy allow for expenditure incurred for the purchase of equipment (vessels and aircraft) by the Member States to be eligible for reimbursement. This equipment can be used for several purposes, including border surveillance or customs, provided it is dedicated to the monitoring and control of fisheries activities for at least 25% of the time[17].

2.2. *Integrated surveillance initiatives at EU level*

17. Several surveillance initiatives at EU level have already been set up (or are being planned) in a more integrated manner, bringing together more than one sectoral activity. Data on ships' movements and cargoes are collected and exchanged between Member States within the framework of Directive 2002/59/EC establishing a Community Vessel Traffic Monitoring and Information System

---

[16] Portugal, Spain, France, Italy, Slovenia, Malta, Greece, Cyprus, Bulgaria and Romania.

[17] Article 6 of Commission Regulation (EC) N°391 of 11.4.2007, laying down detailed rules for the implementation of Council Regulation (EC) N°821/2006 as regards the expenditure incurred by Member States in implementing the monitoring and control systems applicable to the Common Fisheries Policy, OJ L 97of 12.4.2007, p.30

(VTMIS). In this context, the Commission has developed SafeSeaNet, a European network for the exchange of maritime data between Member States' maritime authorities which aims to prevent accidents, marine pollution as well as to increase the efficiency of the response in case of incidents/accidents at sea. The central part of SafeSeaNet, the European Index Server(EIS) is operated by the European Maritime Safety Agency (EMSA). The national systems are due to be fully implemented by EU Member States by the end of 2008. A new module is under development (STIRES, SafeSeaNet Traffic Information Relay and Exchange System) which will allow it to become a vessel tracking system based on AIS data provided by EU national and regional AIS networks. In order to render surveillance, monitoring, tracking and reporting systems more efficient and interoperable, SafeSeaNet, as set up by European legislation[18,] has been proposed by Commission to the Member States as the system to be used to exchange maritime related information on Port State Control, Waste and Maritime Security between the Commission, its Agencies, national administrations and port authorities involved in these maritime activities.

18. Short range maritime traffic data is currently collected and long range data will in the future be available on demand from the EU Long Range Identification and Tracking Data Centre (EU LRIT DC), to be managed by the Commission, in cooperation with Member States, through EMSA. In accordance with the SOLAS Convention of the International Maritime Organization (IMO), the remit of the EU LRIT DC will include maritime safety and security, Search and Rescue (SAR) and protection of the marine environment.

19. The development of the European Border Surveillance System (EUROSUR)[19] also deserves special attention as it constitutes the first proposal adopted by the Commission after the Blue Paper that envisages a fully integrated solution for the EU. This "system of systems" aims at reducing unauthorised border crossings into the EU. It is meant therefore to be used for one sectoral purpose only. The European Commission's Directorate-General for Justice, Freedom and Security (JLS) is responsible for the development of this project. The implementation is foreseen in three stages as explained below in paragraph 36. This system can be seen as the precursor of the network pursued in the context of the EU Integrated Maritime Policy because it aims at integrating national land and maritime border

---

[18] Article 1 of Directive No 2002/59/EC of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC

[19] COM(2008) 68 final of 13.2.2008

surveillance systems with systems originally set up for purposes other than border control. In the third and last phase of its implementation, EUROSUR will be incorporated in the Maritime Policy's broader network, thus becoming an essential component of it.

20. Space is an additional important element to the envisaged integrated network. Satellite-based systems have already been developed and successfully operated for sectoral purposes (e.g. Vessel Monitoring System (VMS) for fisheries control, CleanSeaNet for oil spill detection etc.). The EU is investing heavily in the development of the Global Monitoring for Environment and Security initiative (KOPERNIKUS, former GMES). This programme is intended to serve a number of EU policies and actions such as maritime security, environment, border control and fisheries, both inside and outside the European continent. It will consist of an observation infrastructure (both from satellites and in situ data) as well as service components.

21. KOPERNIKUS Space builds on existing capacities in the Member States in addition to a dedicated infrastructure funded by the program. The coordination of the space sector, and respective ground segment, is entrusted to the European Space Agency (ESA). In the same way the European Environmental Agency (EEA) has been entrusted with the coordination of the non-spatial observing capacities in Member States. At present, development of services is channelled through test-projects funded by the ESA-GSE element and within the EC 6th and 7th Research Framework Programmes (FP6 and FP7) for Space and Security. Several of these projects aim at developing tools for a pan-European Maritime Surveillance. This surveillance data integrated over the relevant temporal and spatial scales can also help in improving knowledge of environmental pressures on the marine environment, an area for which the European Environment Agency has a role to play.

22. In the context of KOPERNIKUS, a marine environmental service is being developed to provide a concerted and integrated pan-European capacity for ocean monitoring and forecasting[20]. This service will support several applications including fight against oil spill and search and rescue activities. In addition, the three initial security-related applications supported by KOPERNIKUS (border surveillance, maritime surveillance and support to European external actions)

---

[20]   Current project MERSEA http://w3.mersea.eu.org/html/ocean_modelling/welcome.html , further development will be undertaken through the FP7 project MYOCEAN

render potentially this space-based tool a significant contributor to the integrated maritime surveillance network. In order to achieve this, collaboration between all stakeholders is being strengthened at EU level though inter-pillar meetings. The 5th Space Council of 26 September 2008 affirmed: "The need to set up a structured dialogue with the competent bodies of the Member States and within the EU Second and Third Pillars and the European Defence Agency for optimizing synergies between all aspects of the European Space Policy within the framework of the existing attribution of competences". In addition, a working group has been set-up by the KOPERNIKUS bureau to work on tools for border surveillance. Cooperation should not only promote sectoral aims but also pursue cross-border and cross-sectoral technological solutions in support of the goals of the Integrated Maritime Policy. The feasibility of a system to pick up from space VHF signals emitted from ships' AIS, it is being explored in close collaboration with the European Space Agency (ESA) to establish whether and how such a system could become operational, in which case it would considerably increase the added value of AIS data.

23. The goal of the integrated maritime policy is not to create an additional surveillance system.

To the contrary, its aim is to set up interfaces and subsequently integrate existing systems across sectors and borders, in order to develop a secure cross-sectoral network that can meet the ever increasing requirements for the provision of a common and recognised picture. In this process, access rights and security provisions will have to be carefully planned.

ACTIONS FORESEEN

- Commission's services to report on progress made in developing EUROSUR in accordance to the Council's request

- Commission's services to report by mid-2009 on relevant EMSA initiatives.

- Cooperation with the European Space Agency to be stepped up in the context of the Framework Agreement signed in 2003 between ESA and the European Commission.

- Commission services to report by end-2009 on progress of feasibility project of picking up AIS signals from space.

11

2.3. Integrated surveillance initiatives at regional and national level

24. Many regional initiatives at Member States' level relate to AIS data[21] sharing systems. EMSA has been working with EU Member States towards the development of regional AIS systems taking into account the experience gained in the framework of already existing mechanisms e.g. the Helsinki Commission's AIS network, the Gulf of Finland Reporting System (GOFREP) etc. The aim of these regional AIS servers is to collect AIS data in real time, store them and provide information in response to a specific demand. Apart from the already operating Baltic AIS, the North Sea AIS and the Mediterranean AIS network is now under development. The later is expected to be ready in November 2008. Additionally, AIS signals showing ship movements is commercially available:

25. The military sector is also very active in this field. For example, the Virtual Regional Maritime Traffic Centre (run by the Italian Navy) is a virtual network connecting naval operational centres located in the Mediterranean and the Black Sea. It is based on a specific Operational Agreement and provides EU and non-EU Navies with unclassified information about vessel movement in the area. Another example is NATO's Maritime Safety and Security Information System (MSSIS) which is based around the acquisition and analysis of AIS data.

    While NATO is aiming for global coverage, it is most advanced in the Mediterranean Sea. From the MSSIS the data is fed into NATO's Maritime Command and Control Information System (MCCIS), which is classified and includes also intelligence and classified surveillance data. NATO has two Maritime Component Commands (MCC): The MCC Naples (Italy) is responsible for the Mediterranean Sea, while the MCC Northwood (UK) covers the North Atlantic. In addition, a single Shipping Centre is located at Northwood to maintain a global commercial shipping picture. Each MCC also has an MSSIS.

26. A successful example of bilateral cross-border cooperation is the SUCFIS scheme between Sweden and Finland. It is based on a Memorandum of Understanding signed by the respective Ministries of Defence and provides for the connection of their national military surveillance systems and the dissemination of the information they collect to some civil national authorities. The development of a common system would improve the degree of maritime surveillance data exchanged in the entire sea basin, thus increasing the effectiveness of participating

---

[21] AIS is a system used by ships and Vessel Traffic Services (VTS) principally for identification and locating vessels. It provides means for ships to electronically exchange ship data including: identification, position, course, and speed, with other nearby ships and VTS stations.

Member States in addressing maritime threats and risks. A proposal for the development of a common information-sharing environment for maritime surveillance is part of ongoing preparations for a Baltic Sea Regional Strategy to be adopted in June 2009.

27. Cross-sectoral maritime surveillance data sharing can also be found in some national initiatives. France, for example, has developed over the years two surveillance systems. SPATIONAV, operated by the French Navy for the surveillance of the French coastline, uses mainly radar sensors and AIS base stations with the aim to improve maritime safety and security. TRAFIC 2000 is operated by the SAR and Navigation Survey Office of the Maritime Safety Division of the Maritime Affairs Department for the purpose of implementing the requirements of the VTMIS Directive 2002/59/EC. It receives information on ship movements from the Maritime Rescue Coordination Centre, coastal VTS, port VTS and AIS. French work in integrating these two systems is of much interest.

28. Another example of good cross-sectoral practice can be found in Finland, which coordinates its maritime authorities through the Maritime Environment Tri-Authority Operation (METO). The METO compiles the data collected by the Navy, the Finnish Maritime Administration and the Border Guard. This data is sent electronically to the Naval Headquarters for the creation of a real time maritime picture. The Navy then distributes the picture (without defence-related classified information) to the other two administrations for their specific needs.

3. **CHALLENGES TO THE WAY FORWARD**

29. A preliminary conclusion that can be drawn from the above is that there is already substantive sectoral cooperation taking place at Community and Member State level on matters relating to border control, maritime safety and security, fisheries, etc. But unless further work is carried out in a concerted fashion amongst all participants, the EU and its Member States will not be able to achieve appropriate maritime domain awareness for the benefit of users from different sectors. Conversely, progress in this area will render surveillance more efficient and offshore government functions more effective both in operational and economic terms. Achieving this goal makes it necessary to define a common path towards appropriate domain awareness, building on the exchanges currently taking place between the different authorities, both across borders and across sectors.

30. To be able to deliver the Work Plan foreseen in the Action Plan to the Blue Paper, the creation of the integrated network delivering maritime domain awareness data from surveillance, monitoring, tracking, identification and reporting must answer some basic questions:

31. For what purposes is it necessary to exchange data? Based on these purposes, what data sets is it necessary to exchange? Is the data currently being exchanged at sectoral level sufficient or is there a need to exchange additional data to achieve effective domain awareness across sectors? Who are to be the recipients of the data at Community and national level?

32. What legal framework is necessary at Community level for the establishment of an integrated maritime surveillance network?

33. What provisions are in place, or need to be put in place, to allow Member States and Agencies to build-up the necessary technical tools and administrative practices to ensure that work in this area progresses systematically and tangible progress can be achieved?

34. How can the contribution of the expert and the political levels be made most efficient towards the establishment of a common work programme?

35. To make progress on the challenges identified above, taking into account operational requirements, work needs to be carried out involving three major areas: legal, technical, and administrative. All three should be considered in parallel so as to secure smooth progress towards the ultimate aim.

3.1. Technical aspects

36. The European Border Surveillance System (EUROSUR)[22] is an important initiative to test the technical aspects of integrated maritime surveillance. The Commission has proposed that EUROSUR will be built as a "system of existing systems" in three phases: the first phase aims at upgrading and extending national border surveillance systems and interlinking national infrastructures in a communication network for border control authorities; the second will look into the improvement of performance of other surveillance tools such as satellites and the creation of a pre-frontier intelligence picture. Whereas the first 2 phases have

---

[22]   Communication on examining the creation of a European Border Surveillance System (EUROSUR) COM(2008) 68 final of 13.2.2008

a clearly sectoral approach by dealing with the surveillance of land and maritime borders only; the third phase envisages a cross-sectoral approach by aiming at the creation of a common information sharing environment for the EU maritime domain, which is the network envisaged in the framework of the EU Integrated Maritime Policy. In this context, the support action OPERAMAR[23] funded by the Security Research theme under FP7, might be of interest which is currently analyzing the insufficient interoperability of European and national systems with a view to developing generic models for seamless data exchange in the EU maritime domain.

37. One will also need to consider the outcome of research projects which aim to demonstrate how new technologies can improve the efficiency of maritime operations. For example, MARNIS[24], financed under the 6th Framework Programme, is focused on improving exchanges of information and aims to develop Maritime Navigation and Information Services on a pan–European basis. It involves port authorities, ship owners, harbour masters, pilots and search and rescue authorities. In the context of the KOPERNIKUS initiative, LIMES[25] and MARISS[26] focus on the use of technology for detection and deterrence of illegal activities - drug smuggling, illegal fishing etc. Their primary objective is to show the added value of earth observation (both optical and radar) from space, combined with other technologies, for monitoring vessels. Information from cooperative on-board systems (e.g. AIS, VMS) is merged with information from satellite images in order to identify suspicious behaviour. These projects develop applications making information available to operational maritime authorities. The technological focus of TANGO[27] is on improving the timeliness and responsiveness of the communication chain rather than on producing a picture. These projects are not yet fully completed, but they have carried out successful trials. Additional support will be provided from Security Research that started to fund activities in support of maritime surveillance.

38. Another issue to consider is the restrictions imposed by software architecture and licensing. Existing surveillance systems have been developed independently of

---

[23]   www.operamar.eu/

[24]   http://www.marnis.org/

[25]   www.fp6-limes.eu

[26]   http://www.gmes-mariss.com/

[27]   http://www.teladnetgo.eu/

each other by several service providers. Each system carries with it commercially confidential data relating to its architecture and operation. In some cases, a difficulty in integrating maritime surveillance systems is to set up an effective interface between the systems while respecting software licensing agreements.

ACTIONS FORESEEN

- Commission services to report by mid-2009 on progress of the different research projects.

3.2. Legal constraints

39. Interlinking maritime surveillance systems presupposes thorough consideration of diverse legal issues related to the exchange of information collected for different purposes and from different sources. For example, some of the provisions relating to data collection are based on international instruments and there will be a need to take into account work carried out in other fora (e.g. IMO). Particular attention is to be paid to the obligations that Member States have already entered into and are in the process of implementing regarding the establishment of the integrated maritime surveillance network.

40. One particular issue to consider is data confidentiality. In general, confidentiality means that data may not be passed on to third parties that are not bound by, or have not undertaken to abide by, the same confidentiality rules as the lawful recipient. There is a number of such clauses in the provisions governing data used for surveillance purposes e.g. in the VMS Regulation[28], the VTMIS Directive[29], the Safety of Life at Sea Convention (SOLAS)[30] and in IMO provisions regarding the LRIT data.

---

[28]   Art. 14 (2) Commission Regulation (EC) No 2244/2003 of 18 December 003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems states that '*data received in the framework of this Regulation shall be treated in a confidential manner*'.

[29]   Art 24 Directive 2002/59/EC of the European Parliament and of The Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system states that *"Member States shall, in accordance with their national legislation, take the necessary measures to ensure the confidentiality of information sent to them pursuant to this Directive"*.

[30]   Section 10, Chapter V of SOLAS Regulation 19-1 provides that the Contracting Governments of the IMO shall *"recognize and respect the commercial confidentiality and sensitivity of any long-range identification and tracking information they may receive"*.

41. The protection of personal data also plays a part. EU data protection laws, notably the Data Protection Directive[31] and the Data Protection Regulation[32,] aim at ensuring that personal data is processed for a legitimate purpose. Work towards an integrated maritime surveillance network needs to identify the extent to which personal data is processed and, in the affirmative, explore ways in which compliance with data protection laws can be ensured.

42. To shed some light on the issue, DG MARE commissioned a study from an external consultant on the legal and regulatory obstacles for the setting up of the integrated network. The study identified three additional issues that have to be considered in the process: the data-sharing policy of public authorities, the re-use of public sector information and the access to public sector documents[33.]

43. The exact scope of the legal limitations which an exchange of data for the purposes of surveillance is subject to will only be known when there is clarity as to the scope of the project itself. For this reason, it is important that both Member States and the Commission move towards defining exactly the data that is necessary to be exchanged, its origins and recipients, and the purpose of exchanges.

ACTIONS FORESEEN

- Commission services to identify which Community law provisions require revision in order to ensure progress towards a common information sharing environment for the EU maritime domain.

- Commission services to work towards ensuring that any new proposal for legislation contains the appropriate provisions to allow data to be exchanged within an integrated system.

3.3. *Administrative implications*

44. As already stated in paragraph 5 above, the administrative set-up at national level is diverse. To give an example, the BORTEC study commissioned by FRONTEX

---

[31] Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

[32] Regulation 45/2001/EC 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.

[33] Draft presently under consideration by Member States.

indicated that there are over fifty authorities dealing with border control in the seven EU Mediterranean Member States.

45. Some Member States put strong emphasis on coordination (e.g. in Finland with METO, France with the General Secretariat of the Sea, Greece with one dedicated Ministry for almost all maritime policies and operations, the Netherlands with a well developed inter-ministerial coordinating scheme, Germany with the common crisis centre). As mentioned in the Commission's "Guidelines for an Integrated Approach to Maritime Policy: Towards best practice in integrated maritime governance and stakeholder consultation"[34], the objective of the Integrated Maritime Policy is not to introduce the same administrative model but to encourage Member States to foster coordination and cooperation between all existing structures for the purpose of developing an integrated maritime surveillance network.

46. There is also a need to improve cooperation between EU Agencies. Agencies have a strategic role to support the MS in the development and operation of maritime surveillance systems in the EU. Their work programmes need to be coherently set out with a view to avoiding overlaps and duplication whilst ensuring a maximum of synergies from cooperation. Attention should also be paid to the statutes and mandates of the Agencies so as to ensure that the necessary provisions are in place to allow them to contribute to setting up an integrated surveillance network through orderly cooperation and exchanges of data.

ACTIONS FORESEEN

- Member States to reflect on the extent to which their internal administrative cooperation across sectors is apt at promoting an integrated maritime surveillance network.

- Commission services to promote cooperation between the Agencies handling surveillance data to maximise synergies and avoid duplications.

---

4. **GAINING PRACTICAL EXPERIENCE ON SURVEILLANCE COOPERATION**

47. In the 2008 Commission Legislative and Work Programme, €3.7 million were allocated to a surveillance pilot project in the Western Mediterranean and its Atlantic Approaches. This particular area was chosen because it typifies important

---

[34]   See footnote 6.

risks necessitating surveillance by national authorities: unacceptable loss of life at sea by migrants travelling aboard unseaworthy vessels; the risk of pollution resulting from high-density maritime traffic carrying potentially dangerous cargoes through the Gibraltar straits and along the environmentally sensitive coasts of the region's littoral; overfishing of blue fin tuna; trafficking of cocaine via the Caribbean-West-Africa-Europe triangle and of cannabis resin from Morocco. Such uncontrolled maritime activities are a danger not only for the region itself but for the EU as a whole.

48. This project has not been launched as there is, for the time being, no consensus on which Member States should participate in such a surveillance operation. It has therefore been decided that the Commission will soon launch a call for proposals addressed to all national authorities processing surveillance data. The geographical scope of the project would be the whole Mediterranean basin, thus allowing for different groups of authorities to come forward with a specific proposal and benefit from the grant.

49. In addition, in the 2009 preliminary draft budget, €1.9 million are earmarked for surveillance actions (budget line 11.09.02) to be implemented by a pilot project in a sea basin (or part thereof) other than the Mediterranean. The project should involve at least 4 out of 7 offshore activities (border control, customs, fisheries control, prevention and suppression of criminal activities, maritime safety, marine pollution response, maritime security of ships and ports) and should be carried out by authorities of at least three coastal Member States (or only two if in the Black Sea).Where cooperation between the Member States already exists, the design of the project should focus also on including Member States not yet cooperating on these issues.

50. The outcome of these practical trials will allow the Commission and Member States to gain further insight as to the complexities and the challenges related to integrating surveillance data both at a cross-border and cross-sectoral level. They will thus provide valuable additional input for future work.

ACTIONS FORESEEN

- By end 2008, the Commission will publish calls for proposals for projects to benefit from grants for the purposes of setting up cross-border and cross-sector surveillance actions in the Mediterranean and in other sea basins.

---

5. CONCLUSIONS

51. The overall objective of integrating surveillance systems at EU level is to improve the effectiveness of the authorities responsible for maritime activities by making available more tools and more information necessary for the performance of their duties. This should result in more efficient operations and reduced operating costs. The potential savings at EU level are significant given the growing need to detect, identify, track, intercept and indict individuals engaging in smuggling, trafficking of human beings, illegal fishing, clandestine immigration, as well as to prevent accidents at sea and the safeguard of the environment. The benefits to flow from this process will positively affect national security, maritime security and safety, the protection of the marine environment, border control and, in general, law enforcement.

52. This being said, the core of surveillance initiatives are based on Community law and any modification will have to abide by the procedures set out in the Treaty. Although important initiatives have already been put in place, many operations at national and Community level remains sector-specific and will continue to develop that way unless action is taken. On the basis of the present provisions, however, there is scope to increase cross-sector exchanges, for example by a more focused use of the funds available to finance the purchase of surveillance equipment by Member States. These funds are administered by the Commission and, in compliance with the budgetary specialisation principle, may contribute significantly to modernising control equipment.

53. Work towards this and the other actions envisaged in this paper requires concerted action on the part of national authorities, the Commission, and EU agencies.

    There needs to be a structured platform where the different actors can contribute with information, expertise and experience. Towards this end, it is proposed that the Member States' Experts group on Maritime Policy chaired by the Commission meets regularly on issues of surveillance, monitoring, tracking, identification, reporting and trade facilitation in order to bring together all the different participants at Member State and Commission level. The objective of the meetings should be to exchange information so as to ensure that all involved are aware of the initiatives taken and are able to share in the practical experiences acquired. The group has no decision taking powers and its work does not in any way replace that which must be carried out in the appropriate Council formations.

This work will feed into the establishment of a work plan for further integration of all maritime systems as foreseen by the Blue Book's Action Plan.

54. There is ample corroboration that more integrated maritime surveillance among Member States holds enormous potential for all parties involved. It is up to the European Union to face the multiple challenges posed by Europe's vast maritime spaces.