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PROPOSAL

from: European Commission
dated: 28 October 2010

Subject: Proposal for a REGULATION (EU) [...] OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No
1406/2002 establishing a European Maritime Safety Agency

Delegations will find attached a proposal from the Commission, submitted under a covering letter to Mr Pierre de BOISSIEU, Secretary-General of the Council of the European Union.

Encl.: COM(2010) 611 final



EUROPEAN COMMISSION

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Proposal for a

**REGULATION (EU) [.../....] OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

**amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety
Agency**

SEC(2010) 1263
SEC(2010) 1264

EXPLANATORY MEMORANDUM

1. CONTEXT

Following the accident of the oil tanker "Erika" and the major oil pollution caused by this accident, the Commission proposed in late 2000 a Regulation setting up the European Maritime Safety Agency (EMSA) as a technical body with the aim to ensure a high, uniform and effective level of maritime safety and prevention of pollution by ships in the EU. The European Parliament and the Council adopted Regulation 1406/2002 on 27 June 2002. The Regulation entered into force in August of the same year, while EMSA started its activities in March 2003.

Previous modifications of the EMSA Regulation

Regulation 1406/2002 has been modified three times since 2002, mainly due to the evolution of the EU's maritime legislation.

The first modification¹ to the EMSA founding Regulation was of a horizontal nature and concerned financial and budgetary procedures as well as transparency.

In the light of the "Prestige" accident in 2002 the second modification² which entered into force in May 2004 brought considerable new tasks to the Agency in particular regarding pollution preparedness and response. This second revision took also into account the development of EU competence in the area of maritime security, requesting the Agency to provide technical assistance to the Commission inspections in the framework of Regulation 725/2004³ on enhancing ship and port facility security. Furthermore, in the field of training of seafarers, EMSA was requested to assist the Commission in assessing seafarer certification procedures and training establishments in both EU and non-EU countries in line with the International Maritime Organization's STCW Convention (Standards of Training, Certification and Watchkeeping).

The third modification⁴ provided EMSA with a multi-annual financial framework of 154 M EUR for the pollution response activities for the period 2007-2013.

However, these previous modifications have not been sufficient to address the new challenges ahead for EMSA, most of the challenges being external either to EMSA only or to EMSA and the EU as a whole.

¹ First modification by Regulation (EC) No 1644/2003 of the European Parliament and of the Council of 22 July 2003, OJ L 245 of 29.9.2003, p. 10.

² Second modification by Regulation (EC) No 724/2004 of the European Parliament and of the Council of 31 March 2004, OJ L 129 of 29.4.2004, p. 1.

³ Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security, OJ L 129 of 29.4.2004, p. 6

⁴ Third modification by Regulation (EC) No 2038/2006 of the European Parliament and of the Council of 18 December 2006, OJ L 394 of 30.12.2006, p. 1, see also the corrigendum in OJ L 30 of 3.2.2007, p. 12.

EMSA's current situation

Today, EMSA provides Member States and the Commission with technical and scientific assistance in order to help Member States to apply properly the Community legislation in the field of maritime safety, maritime security and prevention of pollution by ships, to monitor the implementation of this legislation and to evaluate the effectiveness of the measures in place and assist in the development of new measures. Some key figures from 2009 illustrate EMSA's different activities:

114 inspections in the areas of maritime safety, maritime security and prevention of pollution by ships
88 events organised with over 2.250 participants. This includes 694 people trained in 34 training sessions.
65 substantial technical reports
13 contracts covering 18 stand-by oil spill recovery vessels (of which 16 in the stand-by phase and 2 in the preparatory phase) for the different regional seas of the EU. Participation in 47 drills.
Over 3 million messages are exchanged per month in the EU vessel traffic monitoring system SafeSeaNet, with 2.000 users.
CleanSeaNet: 2107 possible oil slicks detected, 751 oil slicks verified by Member States and 194 oil slicks confirmed.
Long-Range Identification and Tracking of vessels (LRIT): Establishment and management of the EU LRIT data centre which covers more than 6.000 EU-flag ships.

Further comprehensive information on EMSA is available in the accompanying impact assessment report and on EMSA's website⁵.

2. OBJECTIVE AND JUSTIFICATION OF THE PROPOSED MEASURE

The objective of the proposed measure is to amend Regulation 1406/2002 by clarifying EMSA's existing tasks and role as well as by extending EMSA's tasks to new areas under development at international and/or EU level.

In its communication introducing the third maritime safety package in late 2005, the Commission indicated: *"Implementation of the measures contained in this package will, where appropriate, involve the EMSA set up by Regulation 1406/2002 of the European Parliament and of the Council. Some of the measures are already provided for in that Regulation. The others will be the subject of a proposal to amend the Regulation setting up the Agency which the Commission intends to submit in the coming month"*⁶.

In its Communication "Strategic goals and recommendations for the EU's maritime transport policy until 2018"⁷, the Commission stated its intention to *"revise the mandate and the functioning of the European Maritime Safety Agency, in order to*

⁵ <http://www.emsa.europa.eu/>

⁶ See COM(2005)585, 23.11.2005, p. 5

⁷ See COM(2009)8, 21.1.2009, p. 7

further enhance the technical and scientific assistance it can give to the Member States and the Commission".

In its conclusions of 30 March 2009, the Council invited the Commission to develop measures regarding *"in view of the upcoming challenges, enhancing the work of the European Maritime Safety Agency for providing technical and scientific assistance to Member States and the Commission"*⁸

Following an invitation by the European Parliament and the Council⁹, the Commission services are working on a feasibility study regarding a European Coastguard service. The Commission services have concluded so far that synergies at EU level regarding certain coastguard operations could be reinforced through EMSA's activities. This could be further supported by extending EMSA's tasks in selected areas, in particular regarding the monitoring of maritime traffic and shipping routes as well as assistance to Member States in the tracking of possible polluters.

2.1. EMSA's external evaluation

As foreseen by Article 22 of Regulation 1406/2002, EMSA's Administrative Board commissioned an independent external evaluation on the implementation of the regulation in late 2007. The study carried out by the consultancy company COWI assessed the impact of the EMSA founding Regulation, of the Agency and its working practices. The final report was presented to the Administrative Board in March 2008¹⁰. The external evaluation attributes excellent marks to the Agency summarised in the following quote:

*"It is the overall conclusion from the evaluation that the establishment of EMSA has filled a gap in the maritime safety area in the European Union. The Agency has quickly grown in terms of its tasks and importance to become a significant actor in the maritime safety area. The Agency has added value to the sector in general, and, in particular, to its two main stakeholders, the Member States and the Commission."*¹¹

However, the report also underlines the possibility for further improvements and clarifications.

⁸ See press declaration of the Council, document 8176/09, p. 28.

⁹ See Article 11 of Directive 2005/35/EC of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements, OJ L 255, 30/09/2005, p. 11.

¹⁰ See EMSA's website at <http://www.emsa.europa.eu/end179d003d002.html>. Additionally, the executive summary of the Cowi Report can be found in Annex II of the accompanying impact assessment.

¹¹ See COWI study, p. 6.

2.2. Recommendations by EMSA's Administrative Board

Based on the external evaluation, the Administrative Board issued recommendations¹²; which can be summarised as follows:

I. Changes to Regulation 1406/2002:

- amend article 22 of the Founding Regulation to provide for regular evaluations of the implementation of the EMSA regulation (every 5 years)

II. Recommendations related to the Agency and its working practises

- Continue to focus on activities which add value for its stakeholders;
- Develop a strategic plan covering a 5 year perspective;
- Continue in the efforts towards activity based costing and budgeting;
- Structure the annual work programmes to function as operational action plans for the given year;
- Develop the annual report to reflect actual achievements met against the targets;
- Developing project management capacity.

III. Other/general recommendations

- Ensuring formal, periodic reviews of EMSA's effectiveness.

2.3. EMSA's multi-annual strategy

In March 2010, EMSA's Administrative Board approved a multi-annual strategy for the period 2010-2014, in which 14 new themes for EMSA are outlined. The Commission supports the strategy subject to the availability of the required budgetary resources. While it considers that many of the 14 themes do not require changes to the EU legislation, in particular the EMSA-Regulation, it has taken into account the following themes in this proposal:

Theme 1 Accident Investigation: The new wording of Article 2(4)(b) reflects the multi-annual strategy.

Theme 4 Inspections: The idea of a horizontal analysis of inspections reports is reflected in Article 3(3). With regard to maritime security, it is suggested in Article 2(2)(b) that EMSA can provide technical assistance for all inspections under Regulation 725/2004 (ship-side and port facility-side). The question related to the

¹² See EMSA's website at <http://www.emsa.europa.eu/end179d003d002.html>. Additionally, the recommendations can be found in Annex I of the accompanying impact assessment.

recognition of security organisations (RSO) will be dealt with if appropriate in the specific EU legislation.

Theme 6 Maritime Surveillance: A reference to EMSA's contribution to maritime surveillance was added to Article 2(4)(a).

Theme 7 Coordination of maritime satellite information (GMES): A reference to EMSA's contribution to the implementation of EU-programmes like GMES was added to Article 2(2)(d).

Theme 9 Regional centre: In line with the strategy, the Commission suggests deleting the current limitation to vessel-traffic monitoring as other forms of technical advice, in particular training and access to operational services are also important within the regional context of the Mediterranean and the Black Sea (see change to Article 5(3)).

Theme 10 research: EMSA's expanded role with regard to EU research is highlighted in Article 2(2)(e).

Theme 11 neighbourhood countries: EMSA's new role with regard to the neighbourhood countries is reflected in Article 2(5).

While theme 13 "the human element" and theme 14 "e-maritime" do not require at this stage any modifications to the EMSA Regulation, the Commission foresees additional human resources in the financial statement attached to this proposal.

2.4. EMSA's tasks

The Commission has used the external evaluation, the recommendations and the multi-annual strategy in the preparation of this proposal. Furthermore, it has considered the international and EU-wide developments which would require amendments to the EMSA Regulation (see the accompanying impact assessment).

The Commission proposes to maintain EMSA's current objectives and tasks. However, it is necessary to clarify some notions and to define more precisely EMSA's assistance to the Commission, to the Member States and to other parties.

New tasks to EMSA arise from the **implementation of the third maritime safety package**. The Community legislator agreed in December 2008 on this ambitious and comprehensive legislative package covering Port State Control, classification societies, vessel traffic monitoring, accident investigation, indemnity of passengers, Flag State requirements and liability of shipowners. The formal adoption of the eight legislative acts took place in April 2009 and the implementation of the various measures is taking place over the next years¹³.

In the area of **research**, EMSA should become closer involved in EU maritime research and - through the analysis of research projects - identify the possible follow-up from a regulatory perspective. Furthermore, EMSA could assist the Commission in identifying research actions due to its comprehensive technical experience.

¹³ OJ L 131, 28.05.2009, p. 11-135.

However, EMSA will neither manage research projects nor duplicate work with the existing EU research structures.

The amendments seek also to clarify EMSA's assistance to the Commission and to the Member States in various **international and regional organisations** in order to ensure that the Commission and the Member States receive the best possible technical advice. This concerns organisations like IMO, ILO, the Paris Memorandum of Understanding on Port State Control and other regional bodies (for example the Barcelona Convention, the Bonn Cooperation Agreement, the Bucharest Convention, the Helsinki Convention, the Lisbon agreement and the Arctic Council).

Furthermore, some of the high-value **operational services** operated by EMSA (SafeSeaNet, CleanSeaNet, LRIT, Port State Control etc.) can contribute significantly to other EU-policies, for example the integrated approach to maritime surveillance under the **integrated EU maritime policy**. The idea is to bring together and make interoperable different surveillance systems which are in place, under development or planned¹⁴. Another policy area where EMSA due to its expertise with processing satellite data can make a relevant contribution is the GMES programme ("Global Monitoring for Environment and Security"). In addition EMSA's expertise, systems, applications and data are of use when assessing and analysing the contribution of shipping related pressures such as ballast water, marine litter and underwater noise in the **marine environment** having in mind the objective of a good environmental status which is to be achieved according to the Marine Strategy Framework Directive¹⁵.

Furthermore, recently demonstrated risks of **offshore oil operations** to maritime transport and marine environment need to be taken into account. This revision clarifies that EMSA's response capabilities can also be used in case of marine pollution caused by other sources than vessels, notably by oil platforms. Indeed, in the framework of the EU Civil Protection Mechanism EMSA and many Member States of the EU have offered specific equipment and specialised pollution response vessels to the US authorities for assistance in the fight against the oil spill in the Gulf of Mexico. The Commission will further reflect to which extent EMSA might in the future contribute to the safety of offshore oil and gas exploration and production installations, having in mind that such activity is beyond the maritime transport sector and that the Commission in cooperation with the stakeholders is currently assessing the need to establish EU-rules.

The current EMSA Regulation makes technical cooperation with **neighbouring countries** very difficult. So far, only Norway and Iceland were able to participate in EMSA through the provisions of Article 17. Other third countries sharing a regional sea with the EU (Baltic Sea, Black Sea, the Mediterranean Sea and the Arctic Ocean) have expressed their interest in technical cooperation with EMSA in various fields (use of satellite images to track potential polluters, exchange of maritime traffic data, training activities, technical expertise, pollution response vessels). Cooperation

¹⁴ See the Communication "Towards the integration of maritime surveillance: A common information sharing environment for the EU maritime domain" COM(2009)538 final.

¹⁵ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive), OJ L 164, 25.6.2008, p. 19.

activities by the Agency have been so far very limited due to the restrictive legal basis.

The Commission considers that EMSA's assistance to **maritime security** should not be extended beyond Regulation 725/2004¹⁶. It is thus not foreseen to involve EMSA in the implementation of Directive 2005/65/EC on enhancing port security¹⁷. However, it is suggested to remove the current limitation of EMSA's assistance to the Commission inspections¹⁸ in the framework of Regulation 725/2004 in the spirit of greater efficiency and flexibility. It is understood that within an inspection team, the team leader will allocate the different tasks to the experts according to their relevant experience. No additional resources for EMSA are foreseen through this modification.

2.5. Governance aspects

After more than seven years of experience, EMSA's governance structure has proven robust. It is reasonable to maintain EMSA's institutional setting up as a so-called "regulatory" agency of the Community with a large degree of autonomy. However, in a small number of areas, experience has shown that improvements and clarifications are necessary.

This concerns in particular the **organisation of inspections** by the Agency on behalf of the Commission. In this field the roles of the Agency, the Commission, the Administrative Board and the Member States need to be clarified: Member States' representatives at the Administrative Board are faced with a potential conflict of interest: on the one hand they decide on EMSA's activities and resources, in particular on the visits policy¹⁹, on the other hand they represent national administrations, which are themselves the subject of inspections by EMSA on behalf of the Commission to check the conformity of national regulations and practice with the applicable EU law. This potential conflict has led to discussions at Board meetings in particular at the time of agreeing EMSA's "visits policy".

While for the time being, major problems have fortunately been avoided, the problematic character of the underlying provisions requires corrective action by clarifying the roles of the different actors. In order to give the Member States, the Agency itself and the Commission the opportunity to provide input and to assume responsibility, the Commission proposes that- the Agency's operational working methods in the field of inspections be adopted by the Commission in comitology like in the case of EASA. The Administrative Board will continue its role, inter alia by deciding on the Agency's work programme and the budget.

¹⁶ Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security, OJ L 129, 29.4.2004, p. 6.

¹⁷ Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security, OJ L 310, 25.11.2005, p. 28.

¹⁸ Article 2(b)(iv) of Regulation 1406/2002 foresees currently the following: *"This assistance of the Agency to the Commission will be restricted to ship and relevant companies and Recognised Security Organisations authorised to undertake certain security-related activities in this context"*.

¹⁹ See Article 3(1): *"In order to perform the tasks entrusted to it, the Agency may carry out visits to the Member States in accordance with the policy defined by the Administrative Board."* The document is available at <http://www.emsa.europa.eu/end179d003d001.html> under the decisions of the Board meeting of 25 June 2004.

- Other governance issues concern the management of the Agency. As recommended by EMSA's Administrative Board, the **external evaluation of the Agency** should be repeated at regular intervals thus requiring modifications to Article 22. A second recommendation concerns the development of a **multi-annual strategy** for EMSA, which should allow for a better strategic vision while the current planning is mainly conditioned by the annual budgetary cycle (see changes to Articles 10 and 15). Furthermore, due to EMSA's increased size, the function of **Head of Departments** should be enshrined in the Regulation.
- With regard to **horizontal governance aspects** affecting all EU agencies, the EU Institutions have launched a reflection exercise following the Commission communication of 2008²⁰. Therefore, the Commission has decided not to propose any changes of horizontal nature. However, the Commission would like to draw attention to the modified balance of voting rights between Commission and Member States in the Administrative Board, which has been altered considerably by the latest enlargements. While in 2002 at the first meetings of EMSA's Administrative Board, the Commission represented around 21 % of the votes (4 representatives out of a total of 19 representatives with voting rights), this share has now been reduced to around 13 % due to the enlargement to 27 Member States and is subject of further reductions in the next enlargements. The Administrative Boards take decisions by a two-thirds majority of all members with the right to vote (see Article 14), while the appointment of the Executive Directors requires a four-fifths majority (see Article 16). The Commission considers that the initial intentions of the European legislator regarding the institutional balance within EMSA's Administrative Board should be re-established in the medium term without increasing further the membership of the Administrative Board (currently 31 members with voting rights and 6 members without the right to vote²¹).

2.6. Impact Assessment

The Impact Assessment report and the summary are attached to the proposal. The Impact Assessment Board issued its opinion on 22 June 2008 providing a number of recommendations for improvements of the draft report, which have been incorporated in the final version.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Legal basis

The legal basis for the proposal is Article 100 (2) TFEU, which has served as legal basis for Regulation 1406/2002.

²⁰ See Communication "European Agencies - The way forward" COM(2008)135.

²¹ The 27 representatives of the EU Member States and the 4 Commission representatives have the right to vote while the 4 professionals from the sectors most concerned and the 2 representatives from Norway and Iceland do not have the right to vote.

3.2. Subsidiarity and proportionality principles

The principles of subsidiarity and proportionality are fully respected. The independent external evaluation (see above under point 2.1.) has confirmed the need for an EU intervention in order to assist the Member States and the Commission to attain the required level of maritime safety, maritime security and the protection of the marine environment within the EU. Furthermore, the effectiveness of the Agency's activities has been acknowledged. The proposed measures are proportionate as they amend only those parts of the existing Regulation where clarifications or modifications are necessary.

3.3. Choice of instrument

A Regulation is the most appropriate instrument in order to amend an existing Regulation.

4. BUDGETARY IMPLICATION

The proposal has a modest budgetary implication insofar as the Agency receives a limited number of new or extended tasks, for which EMSA would need 18 posts to ensure effective and efficient operation. However, in the light of the current budgetary situation, the Commission has agreed with the Agency a considerable redeployment effort, as a result of which 6 of these posts will be provided by EMSA itself through internal redeployment. This means that the Budgetary authority would need to decide in the forthcoming annual budgetary procedures only on a total of 12 additional posts for the Agency's establishment plan to be phased in between 2012 and 2014 (5 posts in 2012, 4 posts in 2013 and 3 posts in 2014). This corresponds entirely to the Agency's Multi-Annual Staff Policy Plan for the years 2011-2013 adopted by EMSA's Administrative Board in March 2010 and transmitted to the Budgetary Authority as part of the documentation for the budgetary procedure 2011. The budgetary impact of this proposal is thus limited to a total of approximately 3.9 M EUR for the period 2012-2015 (for further details see the attached financial statement and the impact assessment).

The Commission takes the view that after the important increase of human resources for EMSA in the years 2005 to 2008 (EMSA received a total of 126 additional posts in these 4 years), the Agency is now in a consolidation phase, as demonstrated already in the establishment plans for 2009 to 2011 which foresee modest increases despite EMSA's activities and tasks growing quickly. Before suggesting any further extension of tasks requiring additional resources, the Commission with the assistance of the Agency will continue to screen EMSA's activities and resources to ensure also for the future that all possibilities for redeployment within the Agency are used.

5. CONTENT OF THE PROPOSAL

The proposal contains 2 articles. The first article specifies the proposed modifications to Regulation 1406/2002, while the second Article is related to the entry into force of the Regulation. The following table gives an overview of the changes to Regulation 1406/2002, while details are given in the ensuing sections:

Article	Subject	Changes
1	Objectives	New version
2	Tasks	New version
3	Inspections	New version
4	Transparency	No change
5	Legal Status	Small changes in paragraphs 3 and 4
6	Staff	No change
7	Privileges	No change
8	Liability	No change
9	Languages	No change
10	Administrative Board	Small changes in paragraph 2: modification of point (c), points (ca) and (cb) added, deletion of point (g), changes to point (i) and simplification in point (l)
11	Composition	No change
12	Chairman	No change
13	Meetings	No change
14	Voting	No change
15	Executive Director	Changes in paragraph 2 (modification of point (a), insertion of points (aa) and (ab), modifications of point (b) and (d), deletion of point (g)) and deletion of paragraph 3.
16	Appointment	New version
17	Third countries	No change
18	Budget	Small change in paragraph 1
19	Control	No change
20	Fraud	No change
21	Financial provisions	No change
22	Evaluation	Small change in paragraph 1
23	Start	New version
24	Entry into force	No change

5.1.1. *Changes to Article 1 (Objective)*

As stated above, the objectives of the Regulation remain unchanged. Therefore, the Commission proposes only some small amendments to Article 1.

5.1.2. *Changes to Article 2 (Tasks)*

As the Article has become difficult to read in its current version, the Commission proposes a new version, which respects the previous structure. The intention is to provide greater clarity of EMSA's tasks in a user-friendly format. The proposed Article consists of 5 paragraphs. The introductory paragraph sets out the fields of activities of the Agency mirroring the clarification operated in Article 1. The Commission's ultimate responsibility for the implementation of the EU acquis is recalled in recital 4. Paragraphs 2 to 5 set out EMSA's different tasks in relation to the various addressees.

5.1.3. *Changes to Article 3 (Inspections)*

In order to correctly reflect the institutional role for EMSA in the implementation of EU legislation, the Commission proposes a new wording for Article 3. The reference to the policy defined by the Administrative Board has been deleted. Indeed, deciding on a "visits policy" which affects the home administration could create a conflict of interests for the representatives of the Member States. Instead, the Commission proposes following the example of the European Aviation Safety Authority with regard to the establishment of the Agency's operational working methods in this field²². This ensures the involvement of all interested parties (the Agency, the Member States, the Commission) while respecting the institutional roles and responsibilities.

5.1.4. *Changes to Article 5 (Legal status, administrative arrangements, regional centres)*

With the proposed change to paragraph 3, the Commission seeks to overcome a current limitation for regional centre focussing exclusively on vessel traffic monitoring issues in the context of Directive 2002/59. The proposed change does not imply that the Commission will submit a request for establishing a regional centre to EMSA's Administrative Board. The feasibility of such regional centre will first have to be clearly demonstrated.

The proposed change to paragraph 4 reflects EMSA's ever growing involvement in maritime transport issues at regional and international level – e.g. through LRIT and the development of maritime surveillance in the EU. This requires the Agency to enter into administrative cooperation with other bodies. The Executive Director represents the Agency and may therefore commit the Agency through administrative agreements, which are not international treaties. For the sake of transparency, appropriate information of the Administrative Board is required.

5.1.5. *Changes to Article 10 (Administrative Board)*

The Commission suggests the following amendments to paragraph 2 of Article 10:

- In point (c) the reference to article 2 needs to be adapted;
- The new points (ca) and (cb) refer to the adoption by the Administrative Board of EMSA's multi-annual strategy and the multi-annual staff policy plan,
- As a consequence of the change to article 3, point (g) has to be deleted;
- In point (i), the new posts of Heads of Department have to be reflected ;
- In point (l), the simplification operated in Article 15(2)(g) below regarding the separate report on anti-pollution measures allows a consequential simplification.

²² See Regulation (EC) No 216/2008 of 20/02/2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, OJ L79, 19.03.2008, p. 1 and the implementing Commission Regulation (EC) No 736/2006 of 16 May 2006 on working methods of the European Aviation Safety Agency for conducting standardisation inspections, OJ L 129, 17.05.2006 p. 10.

5.1.6. *Changes to Article 15 (Executive Director)*

The Commission suggests some changes to Article 15, paragraph 2 regarding the Executive Director. Many of them are simply an editorial consequence of changes to other articles. Finally, paragraph 3 can be deleted as the content has been moved to Article 16.

5.1.7. *Changes to Article 16 (Appointment of the Executive Director and the Heads of Department)*

Due to the increased size of the Agency (up to 242 people employed in 2010), the Executive Director needs support at management level. EMSA's organisation chart foresees since June 2008 three Heads of Department as intermediate management level which corresponds with the situation in other EU agencies of comparable size. The new wording does therefore not require any new posts in EMSA's establishment plan. The title of the Article is changed and the appointment of the Heads of Department by the Executive Director following the favourable opinion of the Administrative Board is established.

5.1.8. *Changes to Article 18 (Budget)*

Due to the global nature of the LRIT network, EMSA will exchange maritime data with other data centres including a detailed billing system. While the current EMSA Regulation foresees already charges for different services as one source of the Agency's revenue (see Article 18(1)(c)), the technical term of 'fees' should be added. Unlike other EU agencies, it is neither expected nor intended to finance a considerable part of EMSA's revenue through charges. The EU contribution will remain the main source of EMSA's funding.

5.1.9. *Changes to Article 22 (Evaluation)*

As recommended by EMSA's Administrative Board, the provisions on the Agency's external evaluation should not remain a unique exercise but should be repeated at regular intervals.

5.1.10. *Changes to Article 23*

The provisions of this article regarding the start of EMSA's activities are outdated and can be deleted. The article can therefore become the standard committee article. In the maritime safety area, a single Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) was created in 2002 by Regulation (EC) No 2099/2002, which should assist the Commission also with regard to this Regulation. It is recalled that the Agency's operational working methods in the field of inspections (Article 3) are subject to comitology procedures.

Proposal for a

REGULATION (EU) [.../....] OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the proposal to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee²³,

Having regard to the opinion of the Committee of the Regions²⁴,

Acting in accordance with the ordinary legislative procedure²⁵,

Whereas:

- (1) Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002²⁶ established a European Maritime Safety Agency (hereinafter the Agency) for the purpose of ensuring a high, uniform and effective level of maritime safety and prevention of pollution by ships.
- (2) In accordance with Article 22 of Regulation (EC) No 1406/2002, the Administrative Board of the Agency commissioned an independent external evaluation on the implementation of that Regulation in 2007. Based on this evaluation, it issued recommendations regarding changes to Regulation (EC) No 1406/2002, to the Agency and its working practices in June 2008.
- (3) Based on the findings of the external evaluation, the recommendations by the Administrative Board and the multi-annual strategy, some provisions of Regulation (EC) No 1406/2002 should be clarified and updated. Furthermore, the Agency should receive a number of additional tasks reflecting the development of the maritime safety

²³ OJ C [...], [...], p. [...].

²⁴ OJ C [...], [...], p. [...].

²⁵ OJ C [...], [...], p. [...].

²⁶ OJ L 208 of 5.8.2002, p.1.

policy at EU and international level. Considerable screening and redeployment efforts are necessary to guarantee cost and budget efficiency. This should allow one third of additional staffing needs for new tasks to be covered through internal redeployment by the Agency.

- (4) Some provisions regarding the specific governance of the Agency should be clarified. Taking into account the special responsibility of the Commission for the implementation of EU policies enshrined by the Treaty, the Commission should provide policy guidance to the Agency in the performance of its tasks while fully respecting the legal status of the Agency and the independence of its Executive Director as established by Regulation (EC) No 1406/2002.
- (5) The Agency should act in the interest of the Union. This should include that the Agency may act outside the territory of the EU in its fields of competence.
- (6) The Agency should enhance its assistance to the Commission regarding research activities related to its field of competences. However, double work with the existing EU research framework should be avoided. In particular, the Agency should not be in charge of the management of research projects.
- (7) After the expiry of the EU framework for cooperation in the field of accidental or deliberate marine pollution set up by Decision 2850/2000/EC of the European Parliament and of the Council of 20 December 2000²⁷, the Agency should continue some of the activities previously carried out under the expired framework by drawing in particular on the expertise within the Consultative Technical Group for marine pollution preparedness and response.
- (8) Recent events highlighted the risks of offshore oil and gas exploration and production activities to maritime transport and the marine environment. The use of the Agency's response capabilities should be explicitly extended to cover response to pollution originating from such activities. In addition, the Agency should assist the Commission in analysing the safety of mobile offshore gas and oil installations, in order to identify possible weaknesses, basing its contribution on the expertise it has developed with regard to maritime safety, maritime security, the prevention of pollution caused by ships and response to marine pollution.
- (9) The Union has established a comprehensive maritime transport strategy up to 2018, which includes the e-maritime concept. Furthermore, it is developing an EU maritime surveillance network. The Agency has maritime systems and applications available which are of interest for the realisation of these policies. Therefore the Agency should make the systems and the data available to interested partners.
- (10) The Agency has established itself as the authoritative provider of maritime traffic data at EU level which are of interest and relevance in other EU activities. Through its activities, in particular regarding port state control, the monitoring of maritime traffic and shipping routes as well as assistance for tracking possible polluters, the Agency should contribute to reinforce synergies at EU level regarding certain coastguard operations. In addition, the Agency's data monitoring and collection should also gather

²⁷ OJ L 332, 28.12.2000, p. 1.

basic information on potential threats to maritime transport and the marine environment from offshore oil and gas exploration and production.

- (11) The Agency's systems, applications, expertise and data are also of relevance of contributing to the objective of achieving good environmental status of marine waters in accordance with Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008²⁸, especially with its shipping related elements such as ballast water, marine litter and underwater noise.
- (12) The Agency carries out inspections in order to assist the Commission in the assessment of the effective implementation of EU law. The roles of the Agency, the Commission, the Member States and the Administrative Board should be clearly defined.
- (13) The Commission and the Agency should cooperate closely in the preparation of the operational working methods of the Agency regarding inspections. As long as the measures concerning those working methods have not entered into force, the Agency should follow the existing practise for the conduct of the inspections.
- (14) The requirements for the operational working methods of the Agency for conducting inspections should be adopted by in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission²⁹.
- (15) Regulation (EC) No 1406/2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 1406/2002

Regulation (EC) 1406/2002 is amended as follows:

- 1) Articles 1 to 3 are replaced by the following:

'Article 1

Objectives

1. This Regulation establishes a European Maritime Safety Agency ('the Agency'). The Agency shall act in the interest of the Union.

²⁸ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive), OJ L 164, 25.6.2008, p. 19.

²⁹ OJ L 184, 17.7.1999, p. 23.

2. The Agency shall provide the Member States and the Commission with the technical and scientific assistance needed and with a high level of expertise, in order to help them to apply the Union legislation properly in the field of maritime safety, maritime security, prevention of pollution caused by ships, to monitor its implementation and to evaluate the effectiveness of the measures in place.

3. The Agency shall provide Member States and the Commission with technical and scientific assistance in the field of accidental or deliberate marine pollution and support on request with additional means in a cost-efficient way the pollution response mechanisms of Member States, without prejudice to the responsibility of coastal States to have appropriate pollution response mechanisms in place and respecting existing cooperation between Member States in this field. It shall act in support of the EU Civil Protection Mechanism established by Council Decision 2007/779/EC, Euratom³⁰.

Article 2

Tasks of the Agency

1. In order to ensure that the objectives set out in Article 1 are met in the appropriate manner, the Agency shall perform the tasks listed in paragraph 2 of this Article in the fields of maritime safety and maritime security, the prevention of pollution caused by ships and response to marine pollution.

2. The Agency shall assist the Commission:

(a) in the preparatory work for updating and developing relevant EU legislation, in particular in line with the development of international legislation in that field;

(b) in the effective implementation of relevant EU legislation, in particular by carrying-out inspections as referred to in Article 3 of this Regulation and by providing technical assistance to the Commission in the performance of the inspection tasks assigned to it pursuant to Article 9(4) of Regulation (EC) No 725/2004 of the European Parliament and of the Council³¹; it may address suggestions to the Commission for any possible improvements of relevant EU legislation;

(c) in the provision of technical assistance necessary to take part in the work of the technical bodies of IMO, ILO, the Paris Memorandum of Understanding on Port State Control and other relevant international or regional organisations;

(d) in the development and implementation of EU policies related to the Agency's tasks such as Motorways of the Sea, the European maritime space without barriers, e-maritime, inland waterways, the Marine Strategy Framework Directive, climate change and in the analysis of the safety of mobile offshore gas and oil installations;

(e) in the implementation of EU programmes related to the Agency's tasks such as the "Global Monitoring for Environment and Security" (GMES) and cooperation programmes with European Neighbourhood countries;

³⁰ OJ L 314, 1.12.2007, p. 9.

³¹ OJ L 129, 29.4.2004, p. 6.

(f) in the analysis of ongoing and completed research projects relevant to the fields of activity of the Agency; this shall include the identification of possible regulatory follow-up measures resulting from specific research projects and the identification of key themes and priorities for further research at EU level;

(g) in the performance of any task assigned to it by existing and future EU legislation in the relevant field.

3. The Agency shall work with the Member States to:

(a) organise, where appropriate, relevant training activities in fields which are the responsibility of the port State, flag State and coastal State;

(b) develop technical solutions, including the provision of relevant services, and provide technical assistance related to the implementation of EU legislation;

(c) support with additional means in a cost efficient way, through the EU Civil Protection Mechanism established by Decision 2007/779/EC, Euratom, their pollution response actions in case of accidental or deliberate marine pollution, when such a request has been presented; in this respect, the Agency shall assist the affected Member State under which the cleaning operations are conducted.

4. The Agency shall assist the Member States and the Commission in the following:

(a) in the field of traffic monitoring, the Agency shall in particular promote cooperation between riparian States in the shipping areas concerned in the fields covered by Directive 2002/59/EC of the European Parliament and of the Council³², develop and operate any information system necessary for attaining the objectives of that Directive. Additionally, it shall contribute to the development of the Common Information Sharing Environment for the EU maritime domain;

(b) regarding the investigation of maritime accidents in accordance with Directive 2009/18/EC of the European Parliament and of the Council³³; the Agency shall provide support to the Member States in the conduct of investigations related to serious maritime accidents, and it shall carry out analysis of accident investigation reports with a view to identify added value at EU level in terms of lessons to be learnt;

(c) in providing objective, reliable and comparable statistics, information and data, the Agency shall enable the Commission and the Member States to take the necessary steps to improve their actions and to evaluate the effectiveness of existing measures. Such tasks shall include the collection, recording and evaluation of technical data, the systematic exploitation of existing databases, including their cross-fertilisation, and, where appropriate, the development of additional databases. On the basis of the data collected, the Agency shall assist the Commission in the publication of information relating to ships pursuant to Directive 2009/16/EC of the European Parliament and of the Council³⁴. The Agency shall also assist the Commission and the Member States in their activities to improve the identification

³² OJ L 208 of 5.8.2002, p.10.

³³ OJ L131 of 28.5.2009, p.114.

³⁴ OJ L 131 of 28.5.2009, p. 57.

and pursuit of ships making unlawful discharges in the context of Directive 2005/35/EC of the European Parliament and of the Council³⁵.

5. The Agency shall at the request of the Commission provide technical assistance as regards the implementation of relevant EU legislation to States applying for accession to the Union, to all European Neighbourhood partner countries and to countries taking part in the Paris Memorandum of Understanding on Port State Control.

The Agency shall also at the request of the Commission provide assistance in case of accidental or deliberate marine pollution affecting these States, via the EU Civil Protection Mechanism established by Council Decision 2007/779/EC, Euratom in analogy with the conditions applicable to Member States as referred to in paragraph (3)(c) of this Article.

These tasks shall be coordinated with the existing regional cooperation programmes and shall include, where appropriate, the organisation of relevant training activities.

Article 3

Inspections

1. In order to perform the tasks entrusted to it and to assist the Commission in fulfilling its duties under the Treaty in particular the assessment of the effective implementation of Union law, the Agency shall carry out inspections in the Member States.

The national authorities of the Member States shall facilitate the work of the Agency's staff.

In addition, the Agency shall carry out inspections on behalf of the Commission in third countries as required by EU legislation, in particular regarding organisations recognised by the Union in accordance with Regulation (EC) 391/2009 of the European Parliament and of the Council³⁶ and the training and certification of seafarers in accordance with Directive 2008/106/EC of the European Parliament and of the Council³⁷.

2. The operational working methods of the Agency for conducting the inspections referred to in paragraph 1 shall be subject to requirements to be adopted in accordance with the procedure referred to in Article 23(2).

3. Where appropriate, and in any case when a cycle of inspections is concluded, the Agency shall analyse reports from that cycle with a view to identifying horizontal findings and general conclusions on the effectiveness of the measures in place. The Agency shall present this analysis to the Commission for further discussion with Member States.'

2) In Article 5, paragraphs 3 and 4 are replaced by the following:

'3. At the request of the Commission, the Administrative Board may decide, with the agreement of the Member States concerned, to establish the regional centres necessary in order to carry out the Agency's tasks in the most efficient and effective way.

³⁵ OJ L 255 of 30.9.2005, p.11.

³⁶ OJ L 131 of 28.5.2009, p. 11.

³⁷ OJ L 323 of 3.12.2008, p.33.

4. The Agency shall be represented by its Executive Director. On behalf of the Agency, the Executive Director may conclude administrative agreements with other bodies working in the Agency's fields of activities after having informed the Administrative Board.'

3) In Article 10, paragraph 2 is amended as follows:

(a) the point (c) is replaced by the following:

'(c) examine, in the framework of the preparation of the work programme, requests from Member States for technical assistance, as referred to in Article 2(3);

(ca) adopt a multi-annual strategy for the Agency covering a period of five years ahead taking the opinion of the Commission into account;

(cb) adopt the multi-annual staff policy plan of the Agency;'

(b) point (g) is deleted.

(c) point (i) is replaced by the following:

'(i) exercise disciplinary authority over the Executive Director and the Heads of Department referred to in Article 16;'

(d) point (l) is replaced by the following:

'review the financial execution of the detailed plan referred to in point (k) and the budgetary commitments provided for in Regulation (EC) No 2038/2006 of the European Parliament and of the Council³⁸.'

4) Article 15 is amended as follows:

(a) in paragraph 2, the points (a) and (b) are replaced by the following:

'(a) he shall prepare the multi-annual strategy of the Agency and submit it to the Administrative Board after consultation of the Commission at least 8 weeks before the relevant Board meeting;

(aa) he shall prepare the multi-annual staff policy plan of the Agency and submit it to the Administrative Board after consultation of the Commission;

(ab) he shall prepare the annual work programme and the detailed plan for the Agency's pollution preparedness and response activities, and submit them to the Administrative Board after consultation of the Commission at least 8 weeks before the relevant Board meeting. He shall take the necessary steps for their implementation. He shall respond to any requests for assistance from a Member State in accordance with Article 10(2)(c);

(b) he shall decide to carry out the inspections provided for in Article 3, after consultation of the Commission and in line with the requirements referred to in the same Article 3. He shall cooperate closely with the Commission in the preparation of the measures referred to in Article 3(2);'

³⁸ OJ L 394, 30.12.2006, p. 1.

(b) in paragraph 2, the point (d) is replaced by the following:

'(d) he shall organise an effective monitoring system in order to be able to compare the Agency's achievements with its objectives and tasks as laid down in this Regulation. He shall ensure that the Agency's organisational structure will be regularly adapted to the evolving needs within the available financial and human resources. On this basis the Executive Director shall prepare a draft general report each year and submit it to the Administrative Board. The report shall include a dedicated section concerning the financial execution of the detailed plan for the Agency's pollution preparedness and response activities and give an update of the status of all actions funded under that plan. He shall establish regular evaluation procedures that meet recognised professional standards;'

(c) in paragraph 2, the point (g) is deleted.

(d) paragraph (3) is deleted.

5) Article 16 is replaced by the following:

'Article 16

Appointment of the Executive Director and the Heads of Department

1. The Executive Director shall be appointed and dismissed by the Administrative Board. The appointment shall be made from a list of candidates proposed by the Commission for a period of five years on grounds of merit and documented administrative and managerial skills, as well as competence and experience relevant for maritime safety, maritime security, prevention of pollution caused by ships and response to marine pollution. Before appointment, the candidate selected by the Administrative Board may be invited to make a statement before the competent committee of the European Parliament and answer questions put by its members. The Administrative Board shall take its decision by a four-fifths majority of all members with the right to vote.

2. The Administrative Board, acting on a proposal from the Commission, taking into account the evaluation report may extend the term of office of the Executive Director for not more than three years. The Administrative Board shall take its decision by a four-fifths majority of all members with the right to vote. The Administrative Board shall inform the European Parliament about its intention to extend the Executive Director's term of office. Within a month before the extension of his/her term of office, the Executive Director may be invited to make a statement before the competent committee of the European Parliament and answer questions put by its members. If the term of office is not extended, the Executive Director shall remain in office until the appointment of his/her successor.

3. The Executive Director may be assisted by one or more Heads of Department. If the Executive Director is absent or indisposed, one of the Heads of Department shall take his place.

4. The Heads of Department shall be appointed on grounds of merit and documented administrative and managerial skills, as well as professional competence and experience relevant for maritime safety, maritime security, prevention of pollution caused by ships and response to marine pollution. The Heads of Department shall be appointed or dismissed by the Executive Director after having received a positive opinion of the Administrative Board.'

6) In Article 18 (1), point (c) is replaced by the following:

'(c) fees and charges for publications, training and/or any other services provided by the Agency.'

7) In Article 22, paragraph 1 is replaced by the following:

'1. At regular intervals and at least every five years, the Administrative Board shall commission an independent external evaluation on the implementation of this Regulation. The Commission shall make available to the Agency any information the latter considers relevant to that evaluation.'

8) Article 23 is replaced by the following:

Article 23

Committee

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) set up under Article 3 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council³⁹.

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.'

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States in accordance with the Treaties.

Done at Brussels, [...]

For the European Parliament
The President
[...]

For the Council
The President
[...]

³⁹ OJ L 324 of 29.11.2002, p 1.

LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation (EU) of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency

1.2. Policy area(s) concerned in the ABM/ABB structure⁴⁰

06: Energy and Transport

0602: Inland, air and maritime transport policy

060202: European Maritime Safety Agency

Implementation of provisions related to maritime safety, maritime security, pollution prevention and pollution response

1.3. Nature of the proposal/initiative

The proposal/initiative relates to a **new action**

The proposal/initiative relates to a **new action following a pilot project/preparatory action**⁴¹

The proposal/initiative relates to **the extension of an existing action**

The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objectives

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

Objectives/EU added value in line with Europe 2020:

The Agency contributes to safe, secure and sustainable maritime transport for the EU economy and for the EU citizens. This is fully in line with the three priorities of Europe 2020:

– Smart growth: developing an economy based on knowledge and innovation. The Agency contributes to the development of the highest possible technical standards for vessels, thus promoting knowledge and innovation.

– Sustainable growth: promoting a more resource efficient, greener and more competitive economy. The Agency contributes to the prevention of pollution by vessels and the response to marine pollution in different areas. Shipping will contribute to the "20/20/20" climate/energy targets and the flagship initiative "Resource efficient Europe". The Agency will play its role in the sector implementation.

⁴⁰ ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

⁴¹ As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

– Inclusive growth: fostering a high-employment economy delivering social and territorial cohesion. With regard to islands and ultra peripheral regions, maritime transport is an essential element for ensuring territorial cohesion and integration into the EU. The Agency contributes to make maritime transport safe, secure and sustainable for the EU.

Contribution from DG MOVE to Annual Policy Strategy 2010:

Development, management and coordination of agencies (this includes EMSA) is part of DG MOVE's core business activities

Implementation of the third maritime safety package to which EMSA contributes is likewise part of DG MOVE's core business activities

In its Communication "Strategic goals and recommendations for the EU's maritime transport policy until 2018", the Commission stated its intention to "*revise the mandate and the functioning of the European Maritime Safety Agency, in order to further enhance the technical and scientific assistance it can give to the Member States and the Commission*" (COM(2009)8, 21.01.2009, p. 7).

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Budget area 06 02 Specific objective No. 3

Improve transport safety

ABM/ABB activity(ies) concerned 060202 European Maritime Safety Agency

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

Enhanced technical assistance by EMSA to the Member States and the Commission

Technical Assistance by EMSA to neighbouring countries to promote the EU maritime safety policy

1.4.4. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

EMSA defines performance indicators in its annual work programmes. These are monitored constantly by the Administrative Board. The annual report is the main monitoring tool.

1.5. Grounds for the proposal/initiative

1.5.1. *Requirement(s) to be met in the short or long term*

limited expansion of EMSA's mandate to new tasks

1.5.2. *Added value of EU involvement*

EMSA was created as an EU Agency to assist in the implementation of the EU maritime safety policy.

1.5.3. *Lessons learned from similar experiences in the past*

EMSA's specific evaluation in 2008 as well as the general evaluation of the EU Agencies in 2009 have both shown the added value provided by the Agency to the Commission and the Member States.

1.5.4. *Coherence and possible synergy with other relevant instruments*

The proposal is coherent with the EU maritime safety policy and legislation and is a follow up to the adoption of the third maritime safety package in 2009.

1.6. Duration and financial impact

Proposal/initiative of **limited duration**

– Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY

– Financial impact from YYYY to YYYY

Proposal/initiative of **unlimited duration**

– Implementation with a start-up period from 2012 to 2014,

– followed by full-scale operation.

1.7. Management mode(s) envisaged⁴²

Centralised direct management by the Commission

Centralised indirect management with the delegation of implementation tasks to:

– executive agencies

– bodies set up by the Communities⁴³

– national public-sector bodies/bodies with public-service mission

– persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

Shared management with the Member States

Decentralised management with third countries

Joint management with international organisations (*to be specified*)

⁴² Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html
⁴³ As referred to in Article 185 of the Financial Regulation.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

All EU agencies are working under a strict monitoring system involving internal audit capability, the Internal Audit Service of the Commission, the Administrative Board, the Commission, the Court of Auditors and the Budgetary Authority. This system will continue.

2.2. Management and control system

2.2.1. Risk(s) identified

None

2.2.2. Control method(s) envisaged

Not applicable

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

The anti-fraud measures under Article 20 of this Regulation continue to apply.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing expenditure budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Description.....]	DA/NDA ⁽⁴⁴⁾	from EFTA ⁴⁵ countries	from candidate countries ⁴⁶	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
1a	06.02.02.01 [Contribution to EMSA Titles I and II]	DA	YES	NO	NO	NO
1a	06.02.02.02 [Contribution to EMSA Title III]	DA	YES	NO	NO	NO

⁴⁴ DA= Differentiated appropriations / DNA= Non-Differentiated Appropriations

⁴⁵ EFTA: European Free Trade Association.

⁴⁶ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

Heading of multiannual financial framework:		1a	Growth and Competitiveness							
DG: MOVE			2012	2013	2014	2015	... enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
• Operational appropriations										
Number of budget line 06.02.02	Commitments	(1)	0.490	0.900	1.224	1.249				3.863
	Payments	(2)	0.490	0.900	1.224	1.249				3.863
Appropriations of an administrative nature financed from the envelop of specific programs ⁴⁷										
Number of budget line		(3)	0	0	0	0				
TOTAL appropriations for DG MOVE	Commitments	=1+1a +3	0.490	0.900	1.224	1.249				3.863
	Payments	=2+2a +3	0.490	0.900	1.224	1.249				3.863
• TOTAL operational appropriations	Commitments	(4)	0.490	0.900	1.224	1.249				3.863
	Payments	(5)	0.490	0.900	1.224	1.249				3.863
• TOTAL appropriations of an administrative nature financed from the envelop of specific programs		(6)	0	0	0	0				
TOTAL appropriations under HEADING 1a of the multiannual financial framework	Commitments	=4+ 6	0.490	0.900	1.224	1.249				3.863
	Payments	=5+ 6	0.490	0.900	1.224	1.249				3.863

⁴⁷ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

Heading of multiannual financial framework:	5	" Administrative expenditure "						
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EUR million (to 3 decimal places)

		2012	2013	2014	2015	... enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
DG: MOVE									
• Human resources		0.122	0.124	0.126	0.129				0.501
• Other administrative expenditure		0	0	0	0				
TOTAL DG MOVE		0.122	0.124	0.126	0.129				0.501
Appropriations									

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	0.122	0.124	0.126	0.129				0.501
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EUR million (to 3 decimal places)

		2012	2013	2014	2015	... enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework		Commitments	0.612	1.024	1.350	1.468			4.454
		Payments	0.612	1.024	1.350	1.468			4.454

3.2.2. Estimated impact on operational appropriations

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to 3 decimal places)

Indicate objectives and outputs ↓			2012		2013		2014		2015		... enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL		
	OUTPUTS																		
	Type of output ⁴⁸	Average cost of the output	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Total number of outputs	Total cost							
SPECIFIC OBJECTIVE No 1 ⁴⁹ Improve Transport Safety...																			
- Output	TA 1 ⁵⁰	98.050	4 ⁵²	0.392	7	0.700	9	0.918	9	0.936								2.946	
- Output	TA 2 ⁵³		1 ⁵⁴	0.098	2	0.200	3	0.306	3	0.313								0.917	
TOTAL COST			5	0.490	9	0.900	12	1.224	12	1.249								3.863	

⁴⁸ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

⁴⁹ As described in Section 1.4.2. "Specific objective(s)..."

⁵⁰ The different forms of output can be best described as Technical Assistance (TA) to Commission and Member States

⁵¹ The average cost per EMSA employee is estimated at 98.050 EUR (EMSA calculates annual cost per staff member at 91.550 EUR for 2011 + 5 % for overheads, infrastructure and travel costs + 2 % inflation for 2012). Amounts are indexed by 2% as from 2013 (= n+1).

⁵² The "number of outputs" is calculated as number of new posts required. The additional human resources required by EMSA under this output are estimated at a total of + 15 FTE out of which 6 will be provided by EMSA through internal redeployment following an internal screening of its activities and resources. The 9 new posts should be phased in the following way: 4 new posts in 2012, 3 in 2013 and 2 in 2014.

⁵³ This output concerns Technical Assistance to neighbouring third countries

⁵⁴ The "number of outputs" is calculated as number of new posts required. The additional human resources required by EMSA under this output are estimated at + 3 FTE (to be phased in over three years by 1 additional post per year).

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

- The proposal/initiative does not require the use of administrative appropriations
- The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to 3 decimal places)

	2012	2013	2014	2015	... enter as many years as necessary to show the duration of the impact (see point 1.6)				TOTAL
--	------	------	------	------	---	--	--	--	--------------

HEADING 5 of the multiannual financial framework									
Human resources	0.122	0.124	0.126	0.129					0.501
Other administrative expenditure	0	0	0	0					
Subtotal HEADING 5 of the multiannual financial framework	0.122	0.124	0.126	0.129					0.501

TOTAL	0.122	0.124	0.126	0.129					0.501
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3.2.3.2. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources
- The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

	2012	2013	2014	2015	... enter as many years as necessary to show the duration of the impact (see point 1.6)		
• Establishment plan posts (officials and temporary agents)							
XX 01 01 01 (Headquarters and Commission's Representation Offices)	1	1	1	1			
XX 01 01 02 (Delegations)							
XX 01 05 01 (Indirect research)							
10 01 05 01 (Direct research)							
• External personnel (in Full Time Equivalent unit: FTE)⁵⁵							
XX 01 02 01 (CA, INT, SNE from the "global envelope")							
XX 01 02 02 (CA, INT, JED, LA and SNE in the delegations)							
XX 01 04 <i>yy</i>⁵⁶	- at Headquarters ⁵⁷						
	- in delegations						
XX 01 05 02 (CA, INT, SNE - Indirect research)							
10 01 05 02 (CA, INT, SNE - Direct research)							
Other budget lines (specify)							
TOTAL	1	1	1	1			

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

⁵⁵ CA= Contract Agent; INT= agency staff ("*Intérimaire*"); JED= "*Jeune Expert en Délégation*" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

⁵⁶ Under the ceiling for external personnel from operational appropriations (former "BA" lines).

⁵⁷ Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

Description of tasks to be carried out:

Officials and temporary agents	Coordinate relations between the Commission and the Agency, Monitoring of the Agency's activities, Preparation of the Commission input to the Agency's work
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3.2.4. Compatibility with the current multiannual financial framework

- Proposal/initiative is compatible with the current multiannual financial framework.
- Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

[...]

- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework⁵⁸.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

[...]

3.2.5. Third-party contributions

- The proposal/initiative does not provide for co-financing by third parties
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to 3 decimal places)

	2012	2013	2014	2015	... enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
<i>EFTA Contribution from Norway and Iceland calculated at 2% of the additional budget</i>	0.012	0.020	0.027	0.028				0.087
TOTAL appropriations cofinanced	0.012	0.020	0.027	0.028				0.087

3.3. Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.
- Proposal/initiative has the following financial impact:
 - on own resources
 - on miscellaneous revenue

⁵⁸ See points 19 and 24 of the Interinstitutional Agreement.