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THE EUROPEAN UNION**

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**NOTE**

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from: General Secretariat of the Council  
to: delegations

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No. Cion prop.: 15717/10 MAR 111 CODEC 1210  
No. prev. doc.: 17101/10 MAR 124 CODEC 1402

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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

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In view of the Shipping Working Party on 17 January 2011, delegations will find attached a partly modified proposal on the above-mentioned subject.

In comparison to the Commission proposal, substantial changes are indicated in **bold** (new text) and in ~~strikethrough~~ (deleted text).

General and linguistic scrutiny reservation: all delegations.

Parliamentary scrutiny reservations: DK and UK.

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 draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

Whereas:

- (1) Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002<sup>4</sup> 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.

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ L 208 of 5.8.2002, p.1.

- (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 policy at Union 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 Union 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 Union 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 Union 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 Union 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 2000<sup>5</sup>, 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 a Union 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.

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<sup>5</sup> OJ L 332, 28.12.2000, p. 1.

- (10) The Agency has established itself as the authoritative provider of maritime traffic data at Union level which are of interest and relevance in other Union 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 Union level regarding certain coastguard operations. In addition, the Agency's data monitoring and collection should also gather 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 2008<sup>6</sup>, 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 Union 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.

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<sup>6</sup> 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.

- (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 Commission<sup>7</sup>.
- (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 hereby amended as follows:

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

'Article 1  
Objectives<sup>8</sup>

1. This Regulation establishes a European Maritime Safety Agency ('the Agency') **for the purpose of ensuring a high, uniform and effective level of maritime safety, maritime security, prevention of and response to marine pollution.** [The Agency shall act in the interest of the Union.]<sup>9</sup>

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<sup>7</sup> OJ L 184, 17.7.1999, p. 23.

<sup>8</sup> SE considers that this article should only deal with objectives and that §§ 2 and 3 should be moved to Article 2 on the tasks of the Agency.

<sup>9</sup> Reservation on the last sentence by EL, ES, IT, MT, NL and SE. The Presidency is considering explaining this concept in recital 5.

2. <sup>10</sup>The Agency shall provide the Member States and the Commission with ~~the~~ technical, **operational** and scientific assistance ~~needed and with a high level of expertise, in order to help them to apply the Union legislation properly~~ in the fields of maritime safety, maritime security<sup>11</sup> ; **and** 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. The Agency shall also~~ and support on request with additional means in a cost-efficient way the **marine** pollution<sup>12</sup> 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. **For this purpose, the Agency** ~~it shall~~<sup>13</sup> act in support of the EU Civil Protection Mechanism established by Council Decision 2007/779/EC, Euratom<sup>14</sup>.

## 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.~~

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<sup>10</sup> IE proposes the following text: "The Agency shall cooperate with the Member States and the Commission and shall provide them with the technical and scientific assistance needed (...)"

<sup>11</sup> DE and FR would like to reinsert the text in the current legislation "within the limits of the tasks defined in Article 2". UK would like to introduce a reference to Reg. 725/2004.

<sup>12</sup> NL and UK would like a clarification of marine pollution and its consequences on oil drilling operations. CY, supported by EL, would like to add the words "by ships and offshore drilling units".

<sup>13</sup> UK would like to introduce the word "also".

<sup>14</sup> OJ L 314, 1.12.2007, p. 9.

<sup>15</sup>2. The Agency shall assist the Commission:

- (a) in the preparatory work for updating and developing relevant legal acts of the Union, in particular in line with the development of international legislation ~~in that field~~;
- (b) in the effective implementation of relevant legal acts of the Union, in particular<sup>16</sup> by carrying-out inspections<sup>17</sup> 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 Council of 31 March 2004 on enhancing ship and port facility security<sup>18</sup>; **In this regard**, it may address suggestions to the Commission for any possible improvements of relevant legal acts of the Union<sup>19</sup>;
- [<sup>20</sup>(c) in the provision of technical assistance<sup>21</sup> 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;]

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<sup>15</sup> EL has a reservation on the whole paragraph 2. NL, PL and PT consider that the wording of the paragraph is too general.

<sup>16</sup> UK suggests deleting "in particular".

<sup>17</sup> PL questions the capacity, within the budget proposed, of EMSA to take on more inspection tasks.

<sup>18</sup> OJ L 129, 29.4.2004, p. 6.

<sup>19</sup> BE, DE and EL ask for a specification of what legislation is referred to. MT suggests, instead of "relevant EU legislation", "legislation in the field of maritime safety, maritime security, prevention and response to marine pollution".

<sup>20</sup> The Presidency is considering moving this point to § 4 (assistance to both the Member States and the Commission). CY, DE, EL, FR, IT, SE and SI question the role of EMSA especially in relation to those organisations where the Commission has an observer status only. Furthermore, they find the reference to other relevant international or regional organisations too vague.

<sup>21</sup> MT wants to clarify that the technical assistance should be given to Member States.

<sup>22</sup> <sup>23</sup>(d) in the development and implementation of Union policies **activities** related to the Agency's tasks **where the Agency has already established expertise** 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;~~

<sup>24</sup>(f) in the analysis of ongoing and completed research projects relevant to the tasks 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 Union level;

<sup>25</sup>(g) in the performance of any **other** task assigned to ~~#~~ **the Commission** by existing and future legal acts of the Union in the ~~relevant~~ **fields of maritime safety, maritime security, prevention of and response to marine pollution.**

3. The Agency shall work with the Member States to<sup>26</sup>:

(a) organise, where appropriate, relevant training activities in fields which are the responsibility of the port State, flag State and coastal State<sup>27</sup>;

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<sup>22</sup> The Presidency is considering to mention the deleted examples in points (d) and (e) in a recital instead.

<sup>23</sup> AT, CY, DE, DK, ES, FR, IT, MT, SE and UK have a reservation on this point, as they consider that this is too far away from the core business and role of the Agency.

<sup>24</sup> DE and EL question the role of EMSA in relation to research.

<sup>25</sup> Reservation by AT, CY, ES, IT and MT on this point.

<sup>26</sup> FR, supported by IT, suggests "In accordance with a decision taken by the administrative board, the Agency shall work with the Member States to:" and the consequent deletion of "where appropriate" in point (a).

<sup>27</sup> Reservation on the addition of the words "coastal State" by CY, DE, EL, FR, MT and UK.

- (b) develop technical solutions, including the provision of relevant services<sup>28</sup>, and provide technical assistance related to the implementation of legal acts of the Union;
- (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<sup>29</sup>, 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<sup>30</sup>.

4. <sup>31</sup>The Agency shall assist<sup>32</sup> the Member States and the Commission ~~in the following~~:

- (a) <sup>33</sup>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 Council of 27 June 2002 establishing a Community vessel traffic monitoring system<sup>34</sup>, **as well as** develop and operate ~~any the~~ information system ~~necessary for attaining the objectives of referred to in Article 22a of that Directive. Additionally, it shall contribute to the development of the Common Information Sharing Environment for the Union maritime domain~~<sup>35</sup>;

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<sup>28</sup> Reservation on the "provision of relevant services" by IE.

<sup>29</sup> EL, MT and NL are asking for a definition of "marine pollution".

<sup>30</sup> UK asks for a reference to pollution from offshore mobile drilling units and to Regulation 724/2004.

<sup>31</sup> Reservation by DK, ES, FR, IT, LV and UK on the budgetary consequences of the proposal.

<sup>32</sup> DE proposes "facilitate cooperation between".

<sup>33</sup> BE, supported by DE, expresses concern on the confidentiality of data. BE suggests the addition of the word "taking into account the confidentiality of information sent to or from Member States".

<sup>34</sup> OJ L 208 of 5.8.2002, p.10.

<sup>35</sup> The Presidency is considering mentioning the CISE in a recital instead.

- (b) ~~regarding~~ **in the field of** the investigation of maritime accidents in accordance with Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector<sup>36</sup>; the Agency shall, **if requested by the relevant Member States**, provide support to the Member States in the conduct of investigations related to ~~serious~~ maritime accidents<sup>37</sup>, and it shall carry out analysis of accident investigation reports with a view to identify added value at Union level in terms of **any relevant** lessons to be **drawn learnt** ;
- (c) <sup>38</sup>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 Council of 23 April 2009 on port State control<sup>39</sup>. The Agency shall also assist the Commission and the Member States in their activities to improve the identification and pursuit of ships making unlawful discharges in ~~the context of~~ **accordance with** Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements<sup>40</sup>.

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<sup>36</sup> OJ L131 of 28.5.2009, p.114.

<sup>37</sup> FI and SE suggest adding the words "it shall provide secretarial and technical support to the Permanent Cooperation Framework of the Member States' investigative bodies".

<sup>38</sup> Reservation by CY, DE, FR, NL and UK on the deletion of the reference to marine pollution in the current Regulation.

<sup>39</sup> OJ L 131 of 28.5.2009, p. 57.

<sup>40</sup> OJ L 255 of 30.9.2005, p.11.

5. <sup>41</sup>The Agency ~~may shall at the request of the Commission~~ provide technical assistance as regards the implementation of relevant legal acts of the Union 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 ~~may 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<sup>42</sup>, the organisation of relevant training activities.

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<sup>41</sup> Reservation on the paragraph by DE, DK, EL, FR, NL, SE and UK as regards the budgetary consequences. IT suggests an explanation in a recital of the limits of EMSA's competencies. FR, MT and NL call for an involvement of Member States in this paragraph.

<sup>42</sup> Reservation by FR on "where appropriate", considered being too vague.

## Article 3<sup>43</sup>

### Inspections **visits**

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 **visits** in the Member States.

The national authorities of the Member States shall facilitate the work of the Agency's staff.<sup>44</sup>

In addition, the Agency shall carry out inspections **visits** on behalf of the Commission in third countries as required by legal acts of the Union, in particular regarding organisations recognised by the Union in accordance with Regulation (EC) 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations<sup>45</sup> and the training and certification of seafarers in accordance with Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (recast)<sup>46</sup>.

2. The operational working methods of the Agency for conducting the inspections **visits** referred to in paragraph 1 shall be subject to requirements to be adopted in accordance with the procedure referred to in Article 23(2)<sup>47</sup>.

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<sup>43</sup> Reservation on the article by BE, CY, DE, DK, EL, ES, MT, PL, PT, SE, SI and UK, in particular as regards the lack of any reference to the administrative board and as regards the comitology procedure.

<sup>44</sup> FR suggests an alternative wording: "The national authorities of the Member States and the Agency's staff shall cooperate to perform inspections".

<sup>45</sup> OJ L 131 of 28.5.2009, p. 11.

<sup>46</sup> OJ L 323 of 3.12.2008, p.33.

<sup>47</sup> The Presidency intends to propose a recital mentioning the existing safeguards.

3. Where appropriate, and in any case when a cycle of inspections **visits** 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 **in order to draw any relevant lessons.**'

2) In Article 5:

(a) paragraph 1, the word "Community" is replaced by the word "Union";

(b) paragraphs 3 and 4 are replaced by the following:

3. <sup>48</sup>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<sup>49</sup> in the most efficient and effective way.

4. <sup>50</sup>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<sup>51</sup> the Administrative Board.'

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<sup>48</sup> Reservation by CZ, DE, EL, ES, IT, MT, NL and SE.

<sup>49</sup> UK proposes "as set out in Article 2". Support by CY, CZ and SE.

<sup>50</sup> Reservation by CY, CZ, DE, EL, ES, FR, IT, MT, NL and PT as regards the administrative agreements (clarification needed) and the involvement of the Administrative Board in the decision-making.

<sup>51</sup> UK proposes "after being agreed by". Support by CZ, FR, PT and SE.

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

(a) 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<sup>52</sup> a multi-annual strategy for the Agency covering a period of five years ahead taking the opinion of the Commission into account<sup>53</sup>;

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

(b) point (g) is deleted<sup>54</sup>;

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

'(i) exercise disciplinary authority over the Executive Director and the Heads of Department<sup>55</sup> referred to in Article 16;';

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

'(l) 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 Council<sup>56</sup>.'

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<sup>52</sup> Reservation by DE and NL on the use of the word "adopt" throughout the text; they consider that it should be clarified that the Administrative Board has the right to examine any document to be adopted.

<sup>53</sup> FR reservation on the taking account of the Commission's opinion in particular since it is already represented in the Administrative Board.

<sup>54</sup> Reservation by BE, CY, DE, DK, EL, ES, FR, IT, MT, NL, PL and UK.

<sup>55</sup> ES suggests putting "Heads of Department" between square brackets.

<sup>56</sup> OJ L 394, 30.12.2006, p. 1.

4) Article 15 is amended as follows:

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

<sup>57</sup>(a) <sup>58</sup>he/she shall prepare the multi-annual strategy of the Agency and submit it to the Administrative Board after consultation of the Commission<sup>59</sup> at least 8 weeks before the relevant Board meeting;

(aa) he/she shall prepare the multi-annual staff policy plan of the Agency and submit it to the Administrative Board after consultation of the Commission<sup>60</sup>;

(ab) he/she 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/she shall take the necessary steps for their implementation. He/she shall respond to any requests for assistance from a Member State in accordance with Article 10(2)(c);

(b)<sup>61</sup> he/she 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/she shall cooperate closely with the Commission in the preparation of the measures referred to in Article 3(2)<sup>62</sup>;

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<sup>57</sup> DE reservation on points (a), (aa) and (ab), which need to be clarified. CY suggests merging the three points in question.

<sup>58</sup> SE suggests deleting "he/she shall" throughout the text.

<sup>59</sup> FI questions the consultation of the Commission throughout the text.

<sup>60</sup> UK suggests adding the words "at least 8 weeks before the relevant Board meeting" to align the point with other provisions.

<sup>61</sup> Reservation by CY, DK, EL, NL, PT and UK.

<sup>62</sup> FR proposes to delete the last sentence.

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

'(d) he/she 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/she 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/she shall establish regular evaluation procedures that meet recognised professional standards;'

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

(d) paragraph 3 is deleted.<sup>63</sup>

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<sup>63</sup> Reservation by EL.

- 5) Article 16 is replaced by the following:

'Article 16

Appointment of the Executive Director and the Heads of Department

1. <sup>64</sup>The Executive Director shall be appointed and dismissed<sup>65</sup> 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<sup>66</sup> 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.

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<sup>64</sup> Reservation by AT, CY, DE, DK, EL, ES, FR, IT and PT, regarding in particular the fact that the Commission proposes a list of candidates. FI and SE can accept a list drawn up by the Commission, but suggest that a minimum number of candidates (e.g. 3) should be mentioned.

<sup>65</sup> Reservation by AT, EL and FR on the dismissal procedure, which needs to be clarified.

<sup>66</sup> AT and DE suggests limiting the extension to "once".

3. <sup>67</sup>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/her 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<sup>68</sup> 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.'

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<sup>67</sup> Reservation by ES regarding the introduction of Heads of Department. PT suggests putting a cap on the number of HoDep to be appointed.

<sup>68</sup> DE reservation on the use of the word "fees".

8) Article 23 is replaced by the following:

<sup>69</sup>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 Council<sup>70</sup>.
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*

*For the Council*

*The President*

*The President*

[...]

[...]

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<sup>69</sup> Reservation on the comitology article by BE, CY, DK, EL, ES, MT, NL, PL, PT and SI. ES suggests putting the article between square brackets.

<sup>70</sup> OJ L 324 of 29.11.2002, p 1.