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Subject: Proposal for a Regulation of the European Parliament and of the Council on
multiannual funding for the action of the European Maritime Safety Agency in the
field of response to pollution caused by ships and to marine pollution caused by
oil and gas installations (First reading)
- *General approach*

INTRODUCTION

1. On 3 April 2013, the Commission transmitted the proposal to the European Parliament and to the Council.

Objective of the proposal

2. In 2004, the European Maritime Safety Agency (EMSA) was given tasks in the field of response to marine pollution from ships. To ensure long-term financial security for those tasks, in particular the conclusion of multiannual contracts for stand-by anti-pollution ships, the

European Parliament and the Council in 2006 established multiannual funding for EMSA's action in the field of response to pollution caused by ships for the period 2007–2013¹.

3. Furthermore, in 2013, EMSA was assigned extended tasks, enabling it to monitor and respond to pollution caused by offshore oil and gas installations².
4. The objective of the current proposal is to renew the multiannual funding of EMSA's pollution response activities for the period 2014–2020, including the new task to monitor and respond to pollution caused by offshore oil and gas installations.
5. The Commission has proposed a financial envelope of 160,5 million euro as a ceiling for the period 2014–2020. It should be noted that the amount for the period 2007–2013 was set at 154 million euro. According to the Commission, the financial envelope proposed in practice means spending approximately the same amount as during the current multiannual financing on existing tasks (154 million) and would allow for the phasing-in of certain new tasks (6,5 million).

Work within Council bodies

6. The examination of the proposal by the Shipping Working Party started on 4 July 2013, under the Lithuanian Presidency. On that occasion, the working party examined the *ex ante*-evaluation accompanying the Commission proposal³.
7. The Committee of Permanent Representatives (COREPER) examined the draft general approach on 25 September 2013. COREPER solved all the outstanding issues and only one substantive reservation remains (see below).

¹ Regulation (EC) No 2038/2006 of the European Parliament and of the Council of 18 December 2006 on multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships (OJ L 394, 30.12.2006, p. 1).

² Regulation (EU) No 100/2013 of the European Parliament and of the Council of 15 January 2013 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (OJ L 39, 9.2.2013, p. 30).

³ Doc. 8219/13 ADD 1.

8. It is the intention of the Presidency to initiate negotiations with the Parliament for a first reading agreement in October, taking into account the need for a legislative framework to be in place preferably before the expiration of the current Regulation at the end of this year.

Work within the European Parliament

9. The parliamentary committee responsible, the Transport and Tourism Committee (TRAN) has nominated Mr Keith Taylor (Greens-UK) as rapporteur. The Budget Committee (BUDG) voted its opinion on the proposal on 5 September. The TRAN Committee voted amendments to the proposal on 17 September. It should be noted that both parliamentary committees voted in favour of increasing the financial envelope to 185,5 million euro.

Reservation by Poland on the financial envelope

10. Poland considers that the financial envelope should not be increased, as proposed by the Commission, to 160,5 million euro as a ceiling for the period 2014–2020. According to Poland, it should be kept at the same nominal amount as in the current multiannual financing, i.e. 154 million euro. Poland has always maintained the position, in the Council and its preparatory bodies, that the fact that EMSA has been given extended tasks should not serve as an excuse for increasing the agency's budget. Those tasks should and could be carried out without additional financial and human resources.

Other reservations

11. Malta maintains a parliamentary scrutiny reservation on the proposal.

Commission general reservation

12. The Commission has a general reservation on the changes made to its proposal pending the first reading vote in the European Parliament, and in particular relating to the deletion of the obligation for Member States to provide information to EMSA on their pollution response capabilities (cf. Article 5).

CONCLUSION

13. The Council is invited to examine the text, as set out in the Annex to this report, and adopt a general approach at the Council session on 10 October 2013.
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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on multiannual funding for the action of the European Maritime Safety Agency in the field of
response to marine pollution caused by ships and offshore oil and gas installations**

(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 Committee⁴,

Having regard to the opinion of the Committee of the Regions⁵,

Acting in accordance with the ordinary legislative procedure⁶,

Whereas:

⁴ OJ C , , p. .

⁵ OJ C , , p. .

⁶ OJ C , , p. .

- (1) Regulation (EC) No 1406/2002 of the European Parliament and of the Council⁷ established a European Maritime Safety Agency ('the Agency') for the purpose of ensuring a high, uniform and effective level of maritime safety and prevention of pollution by ships.
- (2) Regulation (EC) No 724/2004 of the European Parliament and of the Council⁸, which amended Regulation (EC) No 1406/2002, assigned to the Agency tasks in the fields of prevention and response to pollution caused by ships, following accidents in European waters, particularly those of the oil tankers 'Erika' and 'Prestige'.
- (3) Regulation (EU) No 100/2013 of the European Parliament and of the Council⁹, amending Regulation (EC) No 1406/2002, assigned to the Agency tasks with regard to response to marine pollution caused by oil and gas installations and extended the Agency's services to the countries covered by the enlargement policy and by the European Neighbourhood Policy.
- (4) Regulation (EC) No 2038/2006 of the European Parliament and of the Council¹⁰ established a multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships which expires on 31 December 2013.

⁷ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1).

⁸ Regulation (EC) No 724/2004 of the European Parliament and of the Council of 31 March 2004 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (OJ L 129, 29.4.2004, p. 1).

⁹ Regulation (EU) No 100/2013 of the European Parliament and of the Council of 15 January 2013 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (OJ L 39, 9.2.2013, p. 30).

¹⁰ Regulation (EC) No 2038/2006 of the European Parliament and of the Council of 18 December 2006 on multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships (OJ L 394, 30.12.2006, p. 1).

- (5) For the purposes of implementing the tasks of preventing and responding to pollution by ships, the Administrative Board of the Agency adopted on 22 October 2004 an Action Plan for Oil Pollution Preparedness and Response, which determines the Agency's oil pollution response activities and is aimed at optimum use of the financial resources available to the Agency. On 12 June 2007, the Administrative Board adopted an Action Plan for Hazardous and Noxious Substances Pollution Preparedness and Response. In accordance with Article 15 of Regulation (EC) No 1406/2002, both action plans are updated yearly through the Agency's annual work programme.
- (5a) Regard should be given to the existing agreements on accidental pollution, which facilitate mutual assistance and cooperation between Member States in this field, as well as to the relevant international conventions and agreements for the protection of European maritime areas from pollution incidents requiring parties to take all appropriate measures to prepare for and respond to an oil pollution incident.
- (6) The pollution response action of the Agency, as specified in the Action Plans, relates to activities in the fields of information, cooperation and coordination, including with regard to marine pollution caused by hazardous and noxious substances. Above all, this response action relates to the provision of operational assistance to the affected Member States or third countries sharing a regional sea basin with the Union by supplying, on request, additional anti-pollution vessels to combat oil pollution caused by ships as well as marine pollution caused by oil and gas installations. The Agency should pay particular attention to those areas identified as most vulnerable without prejudice to any other area in need.
- (7) The activities of the Agency in this field should comply with existing cooperation arrangements providing for mutual assistance in the event of a maritime pollution incident. The Union has acceded to various regional organisations and is preparing accession to other regional organisations.

- (8) The Agency's action should be coordinated with the activities of the bilateral and regional agreements that the Union has acceded to. In the event of a maritime pollution incident, the Agency should assist the affected Member State(s) or third countries sharing a regional sea basin with the Union, under whose authority clean-up operations are conducted.
- (9) The Agency should play an active role in maintaining and developing further the satellite imagery service for surveillance, the early detection of pollution and identification of the responsible ships or oil and gas installations. This system should improve the availability of data and the effectiveness of the response to pollution.
- (10) The additional means to be provided by the Agency to the affected States should be made available through the Community Civil Protection Mechanism established by Council Decision 2007/779/EC, Euratom¹¹.
- (10a) The information related to public and private pollution response mechanisms and associated response capabilities in the various regions of the Union should be made available by Member States through the Common Emergency Communication and Information System (CECIS) established by Decision 2007/779/EC, Euratom, when available for that purpose.
- (11) In order to ensure thorough implementation, the Agency should be provided with a viable and cost-effective system for financing, in particular, its operational assistance to the affected States.
- (12) Financial security should therefore be provided for the funding of the tasks entrusted to the Agency in the field of pollution response and associated actions on the basis of a multiannual commitment. The annual amounts of the Union contribution should be determined by the Budgetary Authority in accordance with the annual budgetary procedure.

¹¹ Council Decision 2007/779/EC, Euratom of 8 November 2007 establishing a Community Civil Protection Mechanism (OJ L 314, 1.12.2007, p. 9).

- (13) The amounts to be committed for the funding of pollution response should cover the period from 1 January 2014 to 31 December 2020, in line with the new multiannual financial framework. A financial envelope covering the same period should therefore be provided.
- (14) The Agency's support to countries covered by the enlargement policy and by the European Neighbourhood Policy should be financed through existing Union programmes for these countries and should therefore not be part of this multiannual financial framework.
- (15) In order to optimise the allocation of commitments and take into account any changes with regard to activities in response to pollution caused by ships, it is necessary to ensure continuous monitoring of the particular needs for action so as to allow for adaptation of the annual financial commitments.
- (16) In accordance with Regulation (EU) No 1406/2002, the Agency should report on the financial execution of the multiannual framework in its annual report,

HAVE ADOPTED THIS REGULATION:

Article 1
Subject matter

This Regulation lays down the detailed arrangements for the financial contribution of the Union to the budget of the European Maritime Safety Agency for the implementation of the tasks assigned to it in the field of responding to marine pollution caused by ships and offshore oil and gas installations, pursuant to Articles 1 and 2 of Regulation (EC) No 1406/2002.

The activities of the Agency in this field shall not relieve coastal states of their responsibility to have appropriate pollution response mechanisms in place.

Article 2
Definitions

For the purposes of this Regulation the following definitions shall apply:

- (a) 'oil' means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products as established by the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990;
- (b) 'hazardous and noxious substances' means any substance other than oil which, if introduced into the marine environment, is likely to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, as established by the Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances, 2000.

Article 3

Scope

The financial contribution of the Union referred to in Article 1 shall be allocated to the Agency with the aim of financing actions in the field of response to marine pollution caused by ships and offshore oil and gas installations as mentioned in the detailed plan established in accordance with Article 10(2)(k) of Regulation (EC) No 1406/2002, in particular those relating to:

- (a) operational assistance and supporting with additional means, such as stand-by anti-pollution ships, satellite images and equipment, pollution response actions upon request of the affected Member States or third countries sharing a regional sea basin with the Union in accordance with Articles 2(3)(d) and 2(5) of Regulation No (EC) 1406/2002 in the event of accidental or deliberate marine pollution caused by ships or offshore oil and gas installations;
- (b) cooperation and coordination and the provision to the Member States and the Commission of technical and scientific assistance in the framework of the relevant activities of the EU Civil Protection Mechanism, the International Maritime Organization and the relevant regional organisations;
- (c) information, in particular the collecting, analysis and dissemination of best practices, techniques and innovations in the field of responding to marine pollution caused by ships and offshore oil and gas installations.

Article 4
Union funding

The financial envelope for the implementation of the tasks referred to in Article 3 for the period from 1 January 2014 to 31 December 2020 shall be EUR 160.500.000¹² expressed in current prices.

Annual appropriations shall be determined by the budgetary authority within the limits of the financial framework. In this connection the necessary funding of operational assistance to the Member States pursuant to Article 3(a) shall be guaranteed.

Article 5
Monitoring existing capabilities

In order to define the requirements for and to improve the efficiency of the provision of operational assistance by the Agency, the Agency shall, in cooperation with Member States, maintain a list of the public and, where available, private pollution response mechanisms and associated response capabilities in the various regions of the Union.

[...]

The Agency's Administrative Board shall take this list and other appropriate information, such as risk assessments, into account before deciding on the Agency's pollution response activities in the framework of the annual work programmes.

¹² Reservation on the amount: PL.

Article 6

Protection of Union financial interests

1. The Commission and the Agency shall ensure that, when actions funded under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by means of effective checks and the recovery of any amounts unduly paid and, where irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Council Regulations (EC, Euratom) No 2988/95¹³ and (Euratom, EC) No 2185/96¹⁴ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹⁵.
2. For the Union actions funded under this Regulation, the notion of irregularity referred to in Article 1(2) of Regulation (EC, Euratom) No 2988/95 shall mean any infringement of a provision of Union law or any breach of a contractual obligation resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by it, by an unjustified item of expenditure.
3. The Commission and the Agency shall, each within its respective sphere of competence, ensure that best value for money is achieved in the funding of Union actions under this Regulation.

¹³ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

¹⁴ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

¹⁵ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

Article 7
Mid-term evaluation

The Commission shall submit to the European Parliament and to the Council, on the basis of information provided by the Agency, a report on the implementation of this Regulation no later than 31 December 2017. The report, which shall be established without prejudice to the role of the Administrative Board of the Agency, shall set out the results of the utilisation of the Union contribution referred to in Article 4 as regards commitments and expenditure covering the period between 1 January 2014 and 31 December 2016.

On the basis of that report, the Commission may, if appropriate, propose amendments to this Regulation in particular in order to take account of scientific progress in the field of combating marine pollution caused by ships and offshore oil and gas installations.

Article 8
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.

Done at Brussels,

For the European Parliament

The President

[...]

For the Council

The President

[...]