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**COVER NOTE**

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from:	Mr Vítor CALDEIRA, President of the Court of Auditors
date of receipt:	20 November 2012
to:	Mrs Erato KOZAKOU-MARCOULLIS, President of the Council of the European Union

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Subject:	Report on the annual accounts of the European Maritime Safety Agency for the financial year 2011 together with the Agency's replies
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Sir,

I enclose in all the official languages of the European Union a copy of the Court of Auditors' report on the annual accounts of the European Maritime Safety Agency for the financial year 2011.

This report is accompanied by the Agency's replies and will shortly be published in the Official Journal of the European Union.

(Complimentary close).

(s.) Vítor CALDEIRA

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Encl.: Report on the annual accounts of the European Maritime Safety Agency for the financial year 2011 together with the Agency's replies.

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DEN EUROPÆISKE REVISIONSRET  
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EUROOPA KONTROLLIKODA  
ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ  
EUROPEAN COURT OF AUDITORS  
COUR DES COMPTES EUROPÉENNE  
CÚIRT INIÚCHÓIRÍ NA HEORPA



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EIROPAS REVĪZIJAS PALĀTA  
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EUROPEISKA REVISIONSRÄTTEN

Report on the annual accounts  
of the European Maritime Safety Agency  
for the financial year 2011

together with the Agency's replies

## **INTRODUCTION**

1. The European Maritime Safety Agency (hereinafter "the Agency"), which is located in Lisbon, was set up by Regulation (EC) No 1406/2002 of the European Parliament and of the Council<sup>1</sup>. The Agency's tasks are to ensure a high level of maritime safety and to prevent pollution by ships, provide the Commission and the Member States with technical assistance, and monitor the implementation of Union legislation, as well as to evaluate its effectiveness<sup>2</sup>.

## **INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE**

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

## **STATEMENT OF ASSURANCE**

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts<sup>3</sup> of the Agency, which comprise the "financial statements"<sup>4</sup> and the "reports on the

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

<sup>2</sup> The ***Annex*** summarises the Agency's competences and activities. It is presented for information purposes.

<sup>3</sup> These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

<sup>4</sup> The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

implementation of the budget”<sup>5</sup> for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

#### The Management’s responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Agency, under his own responsibility and within the limits of the authorised appropriations<sup>6</sup>. The Director is responsible for putting in place<sup>7</sup> the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts<sup>8</sup> that are free from material misstatement, whether due to fraud or error, and for ensuring that the transactions underlying those accounts are legal and regular.

#### The Auditor’s responsibility

5. The Court’s responsibility is to provide, on the basis of its audit, the European Parliament and the Council<sup>9</sup> with a statement of assurance as to the reliability of the annual accounts of the Agency and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International

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<sup>5</sup> The budget implementation reports comprise the budget outturn account and its annex.

<sup>6</sup> Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

<sup>7</sup> Article 38 of Regulation (EC, Euratom) No 2343/2002.

<sup>8</sup> The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

<sup>9</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002.

Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

8. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for the opinions set out below.

***Opinion on the reliability of the accounts***

9. In the Court's opinion, the Agency's Annual Accounts<sup>10</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with

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<sup>10</sup> The Final Annual Accounts were drawn up on 20 June 2012 and received by the Court on 29 June 2012. The Final Annual Accounts, consolidated with those of the Commission, are published in the Official Journal of the European Union by 15 November of the following year. These can be found on the following website <http://eca.europa.eu> or [www.emsa.europa.eu](http://www.emsa.europa.eu).

the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer<sup>11</sup>.

***Opinion on the legality and the regularity of the transactions underlying the accounts***

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

11. The comments which follow do not call the Court's opinions into question.

**COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

12. The Agency's 2011 budget<sup>12</sup> amounted to 56 million euro compared with 51 million euro the previous year. Budget commitments amounting to 0,9 million euro were not related to existing legal commitments and the Agency should have decommitted and paid back the amount to the Commission at the beginning of 2012. However, the Agency initiated the process too late. As a consequence, due to restrictions imposed by the IT system, the funds will be blocked for one year and will only be decommitted and paid back at the end of 2012.

**COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS**

13. The Court identified the need to improve the Agency's asset management. There are unexplained differences between the recorded annual and cumulated

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<sup>11</sup> The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>12</sup> According to third budget amendment dated 3.12.2011, not yet published in the Official Journal; current year appropriations only.

depreciation. For internally created intangible assets, accounting procedures and information on costs are not reliable. Evidence of a physical inventory of administrative equipment within the required period is lacking.

14. In December 2011, the Agency sold two sets of sweeping arms systems for at-sea oil recovery services. It aimed to obtain at least the equipment's net book value amounting to 319 050 euro. However, since the minimum price was wrongly set below net book value, the equipment was sold realising a loss of 93 950 euro.

### **OTHER COMMENTS**

15. There is room to improve the transparency of recruitment procedures. The thresholds candidates had to meet in order to be invited to interview, the questions for written tests and interviews and the corresponding weightings for the evaluation of candidates were not set before the applications were examined.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

*For the Court of Auditors*

Vítor Manuel da SILVA CALDEIRA  
*President*

Annex**European Maritime Safety Agency (Lisbon)****Competences and activities**

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p><i>(Article 100 of the Treaty on the Functioning of the European Union)</i></p>	<p><b>Common transport policy</b></p> <p>“The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport”.</p>
<p><b>Competences of the Agency</b></p> <p><i>(Regulation (EC) No 1406/2002 of the European Parliament and of the Council as amended by Regulations (EC) No 1644/2003 and (EC) No 724/2004)</i></p>	<p><b>Objectives</b></p> <p>The European Maritime Safety Agency has been established for the purpose of ensuring a high, uniform and effective level of maritime safety, maritime security and prevention and response of pollution by ships within the Union.</p> <p>The Agency provides the Member States and the Commission with the technical and scientific assistance needed with a high level of expertise, in order to assist them:</p> <ul style="list-style-type: none"> <li>- To verify that Union legislation is properly applied in the field of maritime safety, security and prevention of pollution by ships;</li> <li>- To monitor its implementation;</li> <li>- To evaluate the effectiveness of the measures in place.</li> </ul> <p>Operational services have been developed and offered to the Member States and the Commission in order to address ship-sourced pollution within the Union and in the field of traffic monitoring and maritime surveillance. Systems have been developed to support the implementation of relevant legislation (THETIS in the field of Port State Control, EMCIP in the field of Accident Investigation, STCW-IS in the field of training and certification of seafarers, etc.).</p> <p><b>Tasks</b></p> <p>The Agency’s tasks are broadly divided into four key areas in line with its founding regulation and relevant EU legislation. Firstly, the Agency <b>assists the Commission in monitoring the implementation of EU legislation</b> relating, among others, to ship survey and certification, certification of marine equipment, ship security, the training of seafarers and Port State Control.</p> <p>Secondly, the Agency develops and operates <b>maritime information capabilities at EU level</b>. Significant examples are the SafeSeaNet (SSN) vessel tracking system, to enable the EU-wide tracking of vessels and their cargoes, and incidents on-board; and the EU LRIT Data Centre, to ensure the identification and tracking of EU flagged ships worldwide.</p> <p>In parallel, a <b>marine pollution preparedness, detection and response capability</b>, which includes a European Network of Stand-by Oil Spill Response Vessels as well as a European satellite oil spill monitoring and vessel detection service (CleanSeaNet), contributes to an effective chain for protecting EU coasts and waters from pollution by ships.</p> <p>Finally, the Agency provides <b>technical and scientific advice</b> to the Commission in the field of maritime safety and prevention of pollution by ships in the continuous process of evaluating the effectiveness of the measures in place, and in the updating and development of new legislation. It also provides support to, and facilitates co-operation between, the Member States and disseminates best practices.</p>
<p><b>Governance</b></p>	<p><b>Administrative Board</b></p> <p><i>Composition</i></p> <p>One representative per Member State, four representatives of the Commission and four representatives, without the right to vote from the professional sectors concerned.</p> <p><i>Tasks</i></p> <ul style="list-style-type: none"> <li>- To adopt the multi-annual staff policy plan, the annual budget, the work programme, the annual report and a detailed plan for the Agency’s pollution preparedness and response activities.</li> </ul>

	<p>- To supervise the work undertaken by the Executive Director.</p> <p><b>Executive Director</b></p> <p>Appointed by the Administrative Board. The Commission may propose one or more candidates.</p> <p><b>External audit</b></p> <p>Court of Auditors.</p> <p><b>Internal Audit</b></p> <p>- Internal Audit Services of the European Commission. - Internal Audit Capability of the Agency.</p> <p><b>Discharge Authority</b></p> <p>Parliament, acting on a recommendation from the Council.</p>
<b>Resources made available to the Agency in 2011 (2010)</b>	<p><b>Final Budget</b></p> <p><i>Commitment Appropriations (C1)</i></p> <p>56,4 (54,4) million euro</p> <p><i>Payment Appropriations (C1)</i></p> <p>56,4 (50,6) million euro</p> <p>Amending budgets published in the Official Journal of the European Union cover a variety of fund sources, with C1 being almost the exclusive fund source. For the sake of clarity and transparency, only predominant and therefore relevant C1 budget appropriations are quoted.</p> <p><b>Staff as at 31 December 2011</b></p> <p><i>Statutory Staff</i></p> <p>208 (200) authorised in the establishment plan, of which occupied: 197 (196).</p> <p><i>Contract Agents</i></p> <p>29 (27) planned in the budget, of which occupied: 25 (23).</p> <p><i>Seconded National Experts</i></p> <p>15 (15) planned in the budget, of which occupied: 15 (10).</p>
<b>Products and services 2011</b>	<ul style="list-style-type: none"> <li>- 51 Workshops and other events (with 1 442 participants in workshops)</li> <li>- 27 different training sessions which resulted in 713 national experts trained</li> <li>- 90 inspections and visits</li> <li>- SSN was 99,28 % available throughout the year</li> <li>- 2481 satellite images ordered and analysed through CleanSeaNet</li> <li>- EU LRIT Data Centre 99,36 % available throughout the year</li> <li>- 16 anti-pollution vessels contracted</li> <li>- 64 drills and 26 exercises with the anti-pollution vessels (13 operational exercises and 13 notification exercises)</li> <li>- EMSA Maritime Support Services operating on a 24/7 basis</li> <li>- THETIS 99,07 % available throughout the year</li> </ul>

Source: Information supplied by the Agency.

## THE AGENCY'S REPLY

12. The Agency will review its year end procedures in order to ensure outstanding balances on commitments not related to existing legal obligations are decommitted before the closing of the year. Authorising Officers are instructed to initiate the decommitment procedure as soon as there is certainty that a measure is not or will not be fully implemented.

13. Differences between recorded annual and cumulated depreciation have been mainly triggered by impairment procedures and inclusion of assets transferred from third parties and already partly depreciated. Guidelines for internally generated intangible assets are being updated along with a proper cost allocation based on "formally accepted milestones" and their related percentage of completion. The Agency is performing a physical inventory of its assets including physical verification. It plans to conclude this in the third quarter of 2012.

14. Public sale of used APM equipment is a new concept for EMSA. The Agency indicated as target value the net book value (purchase cost minus depreciation) but the final price was to be determined by the market. Only one offer was received leading to a suboptimal sale. A procedure has been developed to calculate and verify the depreciated book value, based on this first sale experience.

15. EMSA endorses the Court's recommendations and has already updated its recruitment procedures accordingly.