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## **POSITION OF THE EUROPEAN PARLIAMENT**

adopted at first reading on 15 December 2011 with a view to the adoption of Regulation (EU) No .../2012 of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (EP-PE\_TC1-COD(2010)0303)

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**EN**

*United in diversity*

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## **POSITION OF THE EUROPEAN PARLIAMENT**

**adopted at first reading on 15 December 2011**

**with a view to the adoption of Regulation (EU) No .../2012 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>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure<sup>2</sup>,

Whereas:

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<sup>1</sup> OJ C 107, 6.4.2011, p. 68.

<sup>2</sup> Position of the European Parliament of 15 December 2011.

- (1) Regulation (EC) No 1406/2002 of the European Parliament and of the Council<sup>1</sup>, **which was adopted after the ‘Erika’ oil tanker disaster and the devastating oil pollution it caused**, 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. [Am. 1]
- (1a) **After the ‘Prestige’ oil tanker disaster in 2002, Regulation (EC) No 1406/2002 was amended to give the Agency more power with regard to combating pollution.** [Am. 2]
- (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, **its areas of competence** and its working practices in June 2008. [Am. 3]
- (3) Based on the findings of the external evaluation, the recommendations by the Administrative Board and the multi-annual strategy **it adopted in March 2010**, some provisions of Regulation (EC) No 1406/2002 should be clarified and updated. ~~Furthermore~~ **While focusing on its priority tasks in the area of maritime safety**, the Agency should receive a number of additional tasks reflecting the development of maritime safety policy at Union and international level. **Given the budget constraints facing the Union**, considerable screening and redeployment efforts are necessary to guarantee cost and budget efficiency. ~~This should allow one third of additional~~ **and to avoid any overlapping**. Staffing needs for **the** new tasks ~~to~~ **should** be covered **as far as possible** through internal redeployment by the Agency. [Am. 4]

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

- (3a) *This redeployment needs to be coordinated with agencies in the Member States. [Am. 5]*
- (3b) *The Agency has already demonstrated that certain tasks, such as satellite monitoring systems, can be more efficiently undertaken at the European level. Where these systems can be applied to support other policy objectives, this offers Member States savings on their national budgets and represents genuine European added value. [Am. 6]*
- (3c) *In order to fulfil properly the new tasks entrusted to the Agency under this Regulation, an increase – albeit a limited one – in its resources is needed. This will require special attention during the budgetary procedure. [Am. 7]*
- (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 in the Treaty on Functioning of the European Union (hereinafter TFEU), 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.
- (4a) *Appointments to the Administrative Board should take full account of the importance of ensuring balanced gender representation. The election of the Chair and Vice Chair should also pursue this objective as should the choice of representatives from third countries. [Am. 8]*

- (5) The Agency should act in the interest of the Union **and follow Commission guidelines**. This should include that the Agency may act outside the territory of the Union in its fields of competence, **promoting the Union's maritime safety policy by means of scientific and technical cooperation with third countries**. [Am. 9]
- (5a) **The Agency should bring additional, cost-effective measures to support the response to marine pollution, including any pollution from offshore oil and gas installations, at the request of a Member State. In the event of marine pollution in a non-member State, the request should be made by the Commission.** [Am. 10]
- (6) The Agency should enhance its assistance to the Commission **and the Member States** 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. **In extending the Agency's tasks, attention should be paid to ensuring that the tasks are described clearly and precisely, and that there is no duplication and that any confusion is avoided.** [Am. 11]
- (6a) **In the light of the development of new innovative applications and services and the improvement of the existing applications and services and with a view to implementing a barrier-free European maritime area, the Agency should make full use of the potential offered by the EGNOS, Galileo and GMES programmes.** [Am. 12]

- (7) After the expiry of the Union framework for cooperation in the field of accidental or deliberate marine pollution set up by Decision No 2850/2000/EC of the European Parliament and of the Council<sup>1</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.
- (7a) ***The Agency provides Member States with detailed information about cases of pollution by ships to enable them to fulfil their responsibilities under 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, including criminal penalties, for pollution offences<sup>2</sup>. However the effectiveness of enforcement and the penalties vary greatly despite such pollution having the potential to end up in other national waters. [Am. 13]***
- (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. ***This additional role, which offers European added value by making use of the Agency's existing knowledge and expertise, should be accompanied by appropriate financial and staff resources. [Am. 14]***

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

<sup>2</sup> ***OJ L 255, 30.9.2005, p. 11.***

- (8a) *In particular, the Agency's CleanSeaNet system, which is currently used to provide photographic evidence of oil spills from ships, should also be used to detect and report oil spills from coastal and offshore installations. [Am. 15]*
- (8b) *With a view to achieving the internal market, short-distance maritime transport should be used as much as possible and the administrative burden on shipping should be reduced. The 'Blue Belt' project will help to reduce the reporting formalities required from commercial shipping on entering or leaving ports in Member States. [Am. 16]*
- (9) The Union has established a comprehensive maritime transport strategy up to 2018, which includes the e-maritime concept. Furthermore, it is developing an Union's maritime surveillance network. The Agency has maritime systems and applications available which are of interest for the realisation of these policies *and, in particular, for the 'Blue Belt' project*. Therefore the Agency should make the systems and the data available to interested partners. [Am. 17]
- (9a) *In order to contribute to the establishment of a 'Single European Sea' and to help prevent and combat marine pollution, synergies should be created between authorities, including coastguard services. [Am. 18]*
- (9b) *The Agency should assist the Commission and Member States in developing and implementing the Union's 'e-maritime' initiative, which is designed to improve the efficiency of the maritime sector through better use of information technologies, without prejudice to the areas of responsibility of the competent authorities. [Am. 19]*

- (9c) ***In view of the importance of Europe continuing to attract new seafarers of high quality to replace the generation that is retiring, the Agency should support Member States and the Commission in promoting maritime training. In particular it should work to share best practice and facilitate exchanges between maritime training institutions based on the Erasmus model. [Am. 20]***
- (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's 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 ***designed to prevent and combat marine pollution, thus encouraging the exchange of information and best practice among the various coastguard services.*** In addition, the Agency's data monitoring and collection should also gather basic information ***for example on piracy and*** on potential threats to maritime transport and the marine environment from offshore oil and gas exploration ~~and~~, production ***and transport.*** [Am. 21]
- (10a) ***In order to counter the growing risk of piracy in the Gulf of Aden and the Western Indian Ocean, the Agency must forward to the EU Naval Force operation Atalanta detailed information about the position of EU-flag vessels transiting through these areas, which are classified as very dangerous. Hitherto, not all Member States have given permission for such activity. This Regulation should compel them to do so, in order to enhance the role of the Agency in combating piracy. [Am. 22]***

- (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 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)<sup>1</sup>, especially with its shipping related elements such as ballast water, marine litter and underwater noise.
- (11a) In the area of port state control, the Union is working closely with the Paris Memorandum of Understanding on Port State Control. In order to maximise efficiency, the Agency and the Secretariat of the Paris Memorandum of Understanding on Port State Control should cooperate as closely as possible, while the Commission and Member States should examine all options for further efficiency gains. [Am. 23]***
- (11b) The Agency's expertise in the areas of pollution and accident response in the marine environment would also be valuable in the development of guidance on the licensing of oil and gas exploration and production. The Agency should therefore assist the Commission and Member States in this task. [Am. 24]***
- (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.

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<sup>1</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.

- (13) The Commission and the Agency should cooperate closely ~~in~~ ***to prepare as urgently as possible*** 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 *practice* for the conduct of the inspections. [Am. 25]
- (14) ***In order to adopt*** 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>1</sup>~~ ***the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission.*** [Am. 26]
- (14a) ***All these measures, and the Agency's contribution to coordination between the Member States and the Commission, should be directed towards the development of a genuine European Maritime Area.*** [Am. 27]
- (14b) ***Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup> (Financial Regulation), and in particular Article 185 thereof, and the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management<sup>3</sup>, and in particular point 47 thereof, should be taken into account.*** [Am. 28]
- (15) Regulation (EC) No 1406/2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

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<sup>1</sup> OJ L 184, 17.7.1999, p. 23.

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<sup>3</sup> OJ C 139, 14.6.2006, p. 1.

Article 1  
Amendments to Regulation (EC) No 1406/2002

Regulation (EC) No 1406/2002 shall be amended as follows:

- (1) Articles 1 to 3 shall be 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.
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 Union legislation properly ~~in the field of maritime safety, maritime security, prevention of~~ ***with a view to ensuring a high, uniform and efficient level of maritime safety and security, using their existing capabilities for assistance, preventing and tackling marine*** pollution ~~caused by ships,~~ ***including from offshore oil and gas installations, developing a European maritime space without barriers,*** to monitor its implementation and to evaluate the effectiveness of the measures in place. [Am. 29]

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, Euratom of 8 November 2007 establishing a Community Civil Protection Mechanism<sup>1\*</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~~ ***represent the primary responsibilities of the Agency and must be met as a priority. The attribution to the Agency of*** the tasks listed in paragraph 2 of this Article ~~in the fields of~~ ***shall ensure that there is no duplication of efforts and shall be subject to the proper performance of the tasks relating to*** maritime safety and maritime security, the prevention of ~~pollution caused by ships~~ and response to marine pollution ***at the request of the Member States or the Commission.*** [Am. 30]

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<sup>1</sup> OJL 314, 1.12.2007, p. 9.

2. The Agency shall assist the Commission:
- (a) in the preparatory work for updating and developing relevant Union law, in particular in line with the development of international legislation in the field of maritime safety and maritime security;
  - (b) in the effective implementation of relevant Union law, 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 Council of 31 March 2004 on enhancing ship and port facility security<sup>†\*\*</sup>; it may address suggestions to the Commission for any possible improvements of relevant Union law;
- (ba) in the provision of technical assistance to the Commission in the performance of the monitoring tasks assigned to it pursuant to Article 13(2) of Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security<sup>\*\*\*</sup>; [Am. 31]*
- (c) in the ~~provision~~ **updating and development** of ~~technical assistance~~ **provisions** necessary to take part in the work of the technical bodies of the IMO, the ILO, the Paris Memorandum of Understanding on Port State Control and other relevant international or regional organisations; **[Am. 32]**

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

- (d) in the development and implementation of Union's policies related to the Agency's tasks ~~such~~, ***particularly those in the field of maritime safety as well*** as Motorways of the Sea, the European maritime space without barriers, ***the 'Blue Belt' project***, e-maritime, ~~inland waterways~~, the Marine Strategy Framework Directive, climate change and in the analysis of the safety of ~~mobile offshore gas and oil~~ ***oil and gas installations and combating pollution***; [Am. 33]
- (da) in the exchange of information concerning any other policy which may be appropriate given its areas of competence and its expertise***; [Am. 34]
- (e) in the implementation of Union's programmes related to the Agency's tasks such as the "Global Monitoring for Environment and Security" (GMES) and cooperation programmes with European Neighbourhood countries;
- (ea) in the development and implementation of a policy to enhance the quality of the training of European seafarers, and in promoting maritime careers, taking account of the demand for highly qualified labour in the EU maritime cluster***; [Am. 35]
- (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~~; [Am. 36]

- (fa) in the development of requirements or any guidance relating to the licensing of oil and gas exploration and production in the marine environment and, in particular, the environmental and civil protection aspects thereof; [Am. 37]*
  - (g) in the performance of any task assigned to it by existing and future Union law 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 Union law;
- (ba) support the monitoring of the recognised organisations that carry out certification tasks on behalf of the Member States in accordance with Article 9 of Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations\*\*\*\* without prejudice to the rights and obligations of the flag State; [Am. 38]*

- (bb) assist the Commission in completing the tasks described in Articles 3, 5, 6, 7 and 8 of Regulation (EC) No 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\*\*\*\*, and advise on the application and implementation of Article 10 of that Regulation; [Am. 39]***
- (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, **by providing the appropriate technical resources**; [Am. 40]***
- (ca) gather and analyse data on the qualifications and employment of seafarers so as to share best practice in the training of seafarers across Europe; [Am. 41]***
- (cb) coordinate the training schools' programmes to ensure consistency; [Am. 42]***
- (cc) facilitate the establishment of Erasmus type exchanges between maritime training institutions; [Am. 43]***

***(cd) provide technical expertise in the field of shipbuilding or any other relevant activity related to maritime traffic, so as to develop the use of environment-friendly technologies and ensure a high level of security.***  
**[Am. 44]**

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 Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system<sup>†\*\*\*\*\*</sup>, 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;

***(aa) in supporting the actions they take to combat illegal traffic and acts of piracy, by providing data and information which may facilitate operations and, in particular, by using its Automatic Identification Systems and satellite images; [Am. 45]***

***(ab) in developing and implementing a macro-regional Union policy relating to the fields of activity of the Agency; [Am. 46]***

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

- (b) regarding 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>†\*\*\*\*\*</sup>; the Agency shall, ***if requested by the competent Member States***, 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 identifying added value at EU level in terms of lessons to be learnt. ***In this connection, the Agency shall be invited to assist the Member States during accident investigations involving (costal and offshore) maritime installations including accidents affecting oil and gas installations while the Member States shall be invited to cooperate in a full and timely manner with the Agency;*** [Am. 47]
- (ba) ***regarding oil spills from offshore installations, the Agency shall assist the Member States and the Commission by using its CleanSeaNet service to monitor the extent and environmental impact of such spills;*** [Am. 48]
- (bb) ***with respect to offshore oil and gas installations, in assessing Member States' arrangements concerning emergency response plans and emergency preparedness, and in coordinating the oil pollution response in the event of an accident;*** [Am. 49]

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

***(bc) with respect to offshore installations, in ensuring independent third party oversight of the maritime aspects related to safety, prevention, protection of the environment, and contingency planning; [Am. 50]***

(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 ***and cost-efficiency*** 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>1\*\*\*\*\*</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 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, including criminal penalties, for pollution offences<sup>2\*\*\*\*\*</sup>. **[Am. 51]**

***4a. The Agency shall compile a yearly overview of 'marine incidents', which shall include 'hazardous incidents' and 'near misses', based on data submitted by the relevant national bodies of Member States. This overview shall be made available annually to the European Parliament and to the Council. [Am. 91]***

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<sup>1</sup>——— OJ L 131 of 28.5.2009, p. 57.

<sup>2</sup>——— OJ L 255 of 30.9.2005, p.11.

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, *as* and *when applicable, and* to countries taking part in the Paris Memorandum of Understanding on Port State Control. **[Am. 53]**

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 Decision 2007/779/EC, Euratom by 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 Treaties and in particular the assessment of the effective implementation of Union law, the Agency shall ***assist the Commission in reviewing environmental impact assessments and*** carry out inspections in the Member States, ***at the request of the Commission.*** [Am. 54]

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 Union law, in particular regarding organisations recognised by the Union in accordance with Regulation (EC) No 391/2009 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<sup>†\*\*\*\*\*</sup>.

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)~~ ***Article 23.*** [Am. 55]

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

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 **and cost-efficiency** of the measures in place. The Agency shall present this analysis to the Commission for further discussion with Member States, **and shall make it available to the public in an easily accessible format, including in electronic form.** [Am. 56]

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\* OJ L 314, 1.12.2007, p. 9.  
\*\* OJ L 129, 29.4.2004, p. 6.  
\*\*\* **OJ L 310, 25.11.2005, p. 28.**  
\*\*\*\* **OJ L 131, 28.5.2009, p. 47.**  
\*\*\*\*\* **OJ L 131, 28.5.2009, p. 11.**  
\*\*\*\*\* OJ L 208, 5.8.2002, p. 10.  
\*\*\*\*\* OJ L 131, 28.5.2009, p. 114.  
\*\*\*\*\* OJ L 131, 28.5.2009, p. 57.  
\*\*\*\*\* OJ L 255, 30.9.2005, p. 11.  
\*\*\*\*\* OJ L 323, 3.12.2008, p. 33.'

(2) In Article 5, paragraphs 3 and 4 shall be replaced by the following:

'3. At the request of the Commission, the Administrative Board may decide, with the agreement **and cooperation** 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, **enhancing cooperation with existing regional and national networks already engaged in prevention measures, and by defining the precise scope of activities of the regional centre while avoiding unnecessary financial costs.** [Am. 57]

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 shall be amended as follows:

*(-a) point b shall be replaced by the following:*

*'(b) adopt the annual report on the Agency's activities and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States.*

*The Agency shall forward annually to the budgetary authority all information regarding the outcome of the evaluation procedures.'*; [Am. 58]

(a) point (c) shall be 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~~ *opinions* of the **European Parliament and the** Commission into account; [Am. 59]

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

(b) point (g) shall be deleted;

*(ba) point h shall be replaced by the following:*

*'(h) perform its duties in relation to the Agency's budget pursuant to Articles 18, 19 and 21 and monitor and ensure adequate follow up to the findings and recommendations stemming from various audit reports and evaluations, whether internal or external;'*  
[Am. 60]

(c) point (i) shall be 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) shall be 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 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<sup>†</sup>.'

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\* OJ L 394, 30.12.2006, p. 1.

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

(3a) *Article 11 shall be amended as follows:*

(a) *in paragraph 1, subparagraph 2 shall be replaced by the following:*

*'Board members shall be appointed on the basis of their degree of relevant experience and expertise in the field of maritime safety, security and response to marine pollution. They shall also have experience and expertise in general financial management, administration and personnel management. [Am. 61]*

*Members of the Administrative Board shall make a written declaration of commitments and a written declaration indicating any direct or indirect interest which might be considered prejudicial to their independence. They shall declare at each meeting any interest which might be considered prejudicial to their independence in relation to the items on the agenda and abstain from participating in the discussions and voting on those items.'; [Am. 62]*

*(b) paragraphs 3 and 4 shall be replaced by the following:*

*'3. The duration of the term of office shall be four years. The term of office may be renewed once. [Am. 63]*

*4. When appropriate, the participation of representatives of third countries and the conditions thereof shall be established in the arrangements referred to in Article 17(2). Such participation shall not affect the Commission representatives' share of votes on the Administrative Board.' . [Am. 64]*

*(3b) In Article 12, paragraph 1a shall be inserted:*

*'1a. Gender equality shall also be maintained in the election of the Chairperson and Deputy Chairperson.' . [Am. 88]*

*(3c) Article 14, paragraph 2, subparagraph 1 shall be replaced by the following:*

*'2. 75 per cent of the total votes shall be divided equally amongst the Member States' representatives. The remaining 25 per cent of the total vote shall be divided equally amongst the Commission's representatives. The Executive Director of the Agency shall not vote.' . [Am. 65]*

- (4) Article 15 shall be amended as follows:
- (a) in paragraph 2, points (a) and (b) shall be replaced by the following:
- (a) ~~he~~ *he/she* shall prepare the multi-annual strategy of the Agency and submit it to the Administrative Board after consultation of the Commission ***and the competent committee of the European Parliament***, at least 8 weeks before the relevant Board meeting; [Am. 66]
- (aa) ~~he~~ *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 ***and the competent committee of the European Parliament***; [Am. 67]
- (ab) ~~he~~ *he/she* shall prepare the annual work programme, ***with an indication of the expected human and financial resources allocated to each activity***, 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 reply positively to any invitation by the competent committee of the European Parliament to present and hold an exchange of views on the annual work programme.*** ~~He~~ *He/she* shall take the necessary steps for their implementation. ~~He~~ *and* shall respond to any requests for assistance from a Member State in accordance with Article 10(2)(c); [Am. 68]

- (b) ~~he~~ *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 Article 3. ~~He~~ *He/she* shall cooperate closely with the Commission in the preparation of the measures referred to in Article 3(2);' [Am. 69]
- (b) in paragraph 2, point (d) shall be replaced by the following:
- (d) ~~he~~ *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. ***To this end, he/she shall establish, in agreement with the Commission, tailored performance indicators allowing for an effective assessment of the results achieved.*** ~~He~~ *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~~ *He/she* shall establish regular evaluation procedures that meet recognised professional standards;'; [Am. 70]
- (c) in paragraph 2, point (g) shall be deleted;
- (d) paragraph 3 shall be deleted.

- (5) Article 16 shall be 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. ***Its opinion, if any, shall be considered before formal appointment.*** The Administrative Board shall take its decision by a four-fifths majority of all members with the right to vote. [Am. 71]

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~~ ***five 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. ***Its opinion, if any, shall be considered before formal reappointment.*** If the term of office is not extended, the Executive Director shall remain in office until the appointment of his/her successor. [Am. 72]

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/her place.

4. The Heads of Department shall be appointed, ***upholding gender balance***, 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.'. [Ams 73 and 90]

(6) Article 18 shall be amended as follows:

(a) In paragraph 1, point (c) shall be replaced by the following:

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

(b) *paragraph 3 shall be replaced by the following:*

***'3. The Executive Director shall draw up a draft statement of estimates of the Agency's revenues and expenditure for the following financial year, on the basis of activity-based budgeting, and shall forward it to the Administrative Board, together with a draft establishment plan.'; [Am. 74]***

(c) *paragraphs 7 and 8 shall be replaced by the following:*

*'7. The statement of estimates shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the budgetary authority) together with the draft general budget of the European Union.*

*8. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 314 of the TFEU, together with a description of and justification for any difference between the Agency's statement of estimates and the subsidy to be charged to the general budget.'*; [Am. 75]

(d) *paragraph 10 shall be replaced by the following:*

*'10. The budget shall be adopted by the Administrative Board. It shall become final following final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly, together with the annual work programme.'* [Am. 76]

(7) In Article 22, paragraphs 1 and 2 shall be 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, ***assessing its relevance, effectiveness and cost-efficiency***. The Commission shall make available to the Agency any information the latter considers relevant to that evaluation. [Am. 77]

***2. That evaluation shall assess the utility, relevance, achieved added value and effectiveness of the Agency and its working practices. The evaluation shall take into account the views of stakeholders, at both European and national level. It shall, in particular, address the possible need to modify or extend the Agency's tasks or to put an end to its activities in the event of its role having become superfluous.*** [Am. 78]

(7a) *The following articles shall be inserted:*

***'Article 22a  
Feasibility Study***

***Within ...<sup>+</sup> the Commission shall submit a feasibility study on a national coastguard coordination system, making clear the costs and the benefits, to the European Parliament and the Council.***

***The report shall, if appropriate, be accompanied by a legislative proposal.***  
[Am. 79]

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<sup>+</sup> OJ: please insert date - *one year of the date of entry into force of this Regulation.*

**Article 22b**  
**Progress Report**

***Within ...<sup>++</sup> the Commission shall submit a report to the European Parliament and the Council setting out how the Agency has undertaken the additional responsibilities assigned by this Regulation and the case for further extending its objectives or tasks. In particular, this report shall include:***

- (a) an analysis of the gains in effectiveness that have been realised through greater integration of the Agency and the Paris Memorandum of Understanding on Port State Control;***
- (b) 'information about the effectiveness and consistency of Member States' enforcement of Directive 2005/35/EC and detailed statistical information about the penalties that have been applied.***

***The report shall, if appropriate, be accompanied by a legislative proposal.'***  
**[Am. 80]**

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<sup>++</sup> OJ: please insert date - *three years of the date of entry into force of this Regulation.*

(8) Article 23 shall be 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 Council<sup>†</sup> empowered to adopt delegated acts in accordance with Article 23a concerning the operational working methods of the Agency for conducting the inspections referred to it pursuant to Article 3(1).'~~ [Am. 81]

~~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.~~ [Am. 82].

(8a) *The following article shall be inserted:*

'Article 23a  
*Exercise of the delegation*

*1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*

*2. The power to adopt the delegated acts referred to in Article 23 shall be conferred on the Commission for a period of 5 years from date of entry into force. The Commission shall draw up a report in respect of the delegation of powers no later than 6 months before the end of the 5-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*

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

3. *The delegation of power referred to in Article 23 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*

4. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*

5. *A delegated act adopted pursuant to Article 23 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.' .*  
[Am. 83]

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

*For the European Parliament*  
*The President*

*For the Council*  
*The President*