



COMMISSION OF THE EUROPEAN COMMUNITIES

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CORRIGENDUM : Ajout d'un tableau à la fin de l'exposé des motifs; concerne les 20 versions linguistiques.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and amending Regulation (EC) No 1406/2002

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. GROUNDS FOR AND OBJECTIVE OF THE PROPOSAL

The European Maritime Safety Agency ("the Agency")¹ was assigned new tasks in the field of oil pollution response by means of Regulation (EC) N° 724/2004 of the European Parliament and of the Council of 31 March 2004 amending Regulation (EC) N° 1406/2002 establishing a European Maritime Safety Agency. Bearing in mind the long-term nature of the Agency's responsibility for oil pollution response, the efficient and thorough completion of the tasks involved is conditional on appropriate financial security on the basis of a multiannual commitment.

This legislative proposal therefore establishes the procedures for and defines a financial contribution of the Community for the funding of the new tasks of the Agency, on the basis of a multiannual commitment to be spread over a period of seven years.

This proposal is included in the Work Programme of the Commission for 2005.

2. GENERAL CONTEXT AND JUSTIFICATION FOR THE PROPOSED MEASURE

The large-scale maritime accident of the oil tanker ERIKA in December 1999 involving an extensive oil spill led to the creation of the Agency in 2002, whose role was to provide the Member States and the Commission with scientific and technical assistance for the purpose of ensuring a high, uniform and effective level of maritime safety and prevention of pollution by ships. The more recent oil spill caused by the accident of the oil tanker PRESTIGE proved to be a watershed event in developing specific measures for responding to ship-sourced pollution. These two maritime accidents illustrated, in fact, that there was insufficient appropriate response capacity available at the level of the individual Member States for a prompt and effective response to major spills and that additional means would need to be made available.

Against this background, Regulation (EC) N° 724/2004 entrusted the Agency with specific obligations in the field of the response to pollution caused by ships within the Community. Under the terms of that Regulation, the Agency is required to provide the Member States and the Commission with technical and scientific assistance in the field of accidental or deliberate pollution caused by ships and, in particular, to support, on request, in a cost-efficient way, the pollution response mechanisms of the Member States. In order to provide an overall framework for its action in the field of prevention and response to oil pollution, the Agency adopted an Action Plan in October 2004 for oil pollution preparedness and response ("the Action Plan")², as provided for in the Regulation.

The Action Plan identifies the activities that the Agency intends to embark on within the context of the underlying Regulation, both in terms of response to an oil spill, by way of specialised anti-pollution vessels, and in terms of preparedness as a means of mounting

¹ Established by Regulation (EC) N° 1406/2002 of the European Parliament and of the Council of 27 June 2002, JO L 208, 5.8.2002, p.1.; Regulation as last amended by Regulation (EC) No 724/2004, OJ L 129, 29.4.2004, p.1.

² The Action Plan was adopted by the Agency's Administrative Board at its 9th meeting held in Lisbon on 21 and 22 October 2004 (internet link: <http://www.emsa.eu.int>).

effective response operations. It is aimed, in particular, at ensuring the optimum use of the financial resources available to the Agency.

1. The anti-pollution activities of the Agency

The anti-pollution action of the Agency covers, in particular, the following three areas:

(a) Information

With a view to evaluating and improving the effectiveness of anti-pollution measures, the Agency intends to collect, analyse and disseminate information and best practices, techniques and innovation in the field of oil pollution response. This information will eventually be built up in the framework of a “centre of knowledge” intended for a pro-active pollution response and preparedness.

(b) Co-operation and co-ordination

The Agency will provide the relevant services of the Commission on request with technical and scientific assistance for dissemination of best practices and exchange of observers from the various regional agreements³.

(c) Operational assistance

The Agency may be requested by Member States, having to cope with a large oil spill, which goes beyond national capabilities and pollution response capacities, to supplement their anti-pollution mechanisms by adding at-sea oil recovery capacity. It may also participate in joint oil pollution response activities under the regional agreements and multinational exercises.

These additional means are to be provided by the Agency through the Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions established by Council Decision 2001/792/EC, Euratom of 23 October 2001⁴. The operations involved and means offered would fall under the responsibility of the requesting Member State.

Four regions have been determined as the primary areas of operational assistance, that is the Baltic Sea, the Western approaches to the English Channel, the Atlantic coast and the Mediterranean (particularly the area along the tanker trade route from the Black Sea), where the Agency will eventually station pollution response vessels, while any other area in need can likewise be assisted.

To provide the appropriate oil spill vessels at a competitive rate, the Agency opted for long-term chartering by concluding stand-by contracts with commercial ship operators having vessels of sufficient capacity that can be adapted for oil pollution response purposes, which would cover each of the priority regions for a minimum period of three years (stand-by vessels). Following a request for assistance from a Member State, such vessels would have to interrupt their customary commercial activities in order to deploy to the area in need. The three-year period is deemed necessary in order to cover the financial investments particularly in appropriate on-board equipment and thus represents the most cost-efficient solution. The

³ Bilateral and regional agreements, such as the Helsinki and Barcelona Convention of 1974 and 1976 respectively, concluded between coastal States to render mutual assistance in case of a maritime pollution incident.

⁴ OJ L 297, 15.11.2001, p.7.

International Tanker Owners Pollution Federation also supported this particular option in a study commissioned by the Directorate-General for Energy and Transport concerning oil pollution response capacities⁵.

2. The means for financing the anti-pollution activities

Availability of financial resources will determine the nature and extent of the implementation of the Agency's anti-pollution activities. An amount of € 17.8 million has been allocated by the Budgetary Authority for 2005. The budgetary appropriation for 2006 will have to include provisions for an additional amount of € 9 million (on top of the € 20 million already earmarked for anti-pollution activities in the APS for 2006), of which € 6 million to cover a four-year stand-by contract for a vessel intended for accidents involving hazardous and noxious substances (HNS- see below under section 3, paragraph a) plus a further € 3 million for the establishment of a Satellite Imagery Service Centre. This appropriation will be decided in accordance with the current budgetary procedure.

Given the long-lasting damage that may be caused by large oil spills, it is of the utmost importance to further enhance oil pollution response capabilities in Europe by mitigating and combating oil pollution in a swift, effective and comprehensive manner. In order to mount an operative oil pollution response, the Agency would need, before long, to build on the current anti-pollution activities illustrated in the Action Plan and be provided with additional means to maximise and improve the overall at-sea oil recovery performance in European waters:

According to recent estimations, the **response capacity** should be further strengthened in certain regions, where long distances may prevent prompt intervention, by additional oil recovery vessels and equipment. However, mechanical at-sea recovery is not the only way for furthering response capabilities. Improvement of **aerial surveillance** means and equipment as an aid to detecting and combating pollution and preventing the violation of antipollution regulations is another area for development. Besides, **satellite imagery** can be used to complement surveillance and monitoring activities currently undertaken by aircraft. It is thus worthwhile that the Agency explores the possibilities for providing satellite imagery to the Member States and the Commission by setting up a Satellite Imagery Service Centre, to help in detecting, monitoring and managing illegal discharges and accidental oil spills. Last but not least, response to incidents involving **hazardous and noxious substances** would need to be developed on the basis of an evaluation of seaborne trade in these substances and an assessment of the inherent risks of such cargoes.

Moreover, considering the enduring nature of the Agency's responsibility for oil pollution response, it is necessary to embark on long-term investments to provide adequate financial means for pollution response and allow for sufficient financial security, which would scale down expenditure in the negotiation of longer-term contracts.

The European Parliament concurred with this approach. In its Resolution of 21 April 2004 on improving safety at sea, the Parliament welcomed the fact that the Agency had been assigned an operational remit in the field of anti-pollution and stressed the importance of making available the funding needed to carry out this remit.

Hence, in order to ensure at European level the viability of an efficient and sustainable effort against oil pollution, it is necessary to provide for appropriate financial security for funding

⁵ Study on response to pollution by ships, April 2004.

the anti-pollution tasks of the Agency and ensure cost-effectiveness by way of a multiannual programme for expenditure relating to such tasks.

The Commission, therefore, believes that it is necessary to provide for a multiannual financial envelope to be imputed on the Community budget during the period from 1 January 2007 to 31 December 2013, to match the new financial perspective. It thus proposes earmarking an amount of € 154 million for the reference period (see annex). The annual amounts should be authorised by the Budgetary Authority in accordance with the budgetary procedure.

3. Multiannual financing for anti-pollution activities.

This amount is expected to cover the three areas of activity of the Agency, mentioned above under point 1. The indicative amounts for each area are based on the following estimates:

(a) Operational assistance

Stand-by vessels

The Agency would need the period from 2005 to 2007 to build up its minimum capability to offer operational assistance 'with additional means' to the Member States, as required by Regulation (EC) N° 724/2004. The emphasis in this area will be on setting up a system of stand-by oil recovery vessels, as well as a Satellite Imagery Service Centre, as previously mentioned. To improve the overall response chain, the Agency will also have to address other difficult issues, such as the discharging of recovered oil and aerial surveillance.

Figures used for estimating the budget of the multiannual programme for oil pollution response are based on the activities deployed in 2005 and 2006. Although the multiannual programme is due to begin as of 2007, the activities for 2005 and 2006 are directly relevant because contracts will still be valid and will need to be renewed during the period covered by the multiannual programme.

Contracting of stand-by oil recovery vessels will be carried out for the first time in 2005 via a Restricted Call following a Call for Expressions of Interest⁶. The Agency intends to conclude contracts by the end of 2005, thus committing the amounts indicated in the Action Plan. By the end of 2005, the actual amounts required will be known and this might lead to an adjustment of the figures in the Action Plan. Since these contracts will be valid for three years, contracts will have to be renegotiated after that period.

As regards 2006, a second phase for stand-by contracts will be developed. The amounts used for signing three-year contracts and for renewing contracts after three years are similar to the figures for 2005. To complete the coverage, in 2007 the Agency would have to negotiate an arrangement for the Black Sea as well, once Romania and Bulgaria become full members of the European Union.

Substantial investments will again be needed in 2008 (at the end of the term of the contracts, and every three years thereafter), owing to a combination of the following reasons:

- Signing of new contracts to establish follow-up coverage of the same area that might lead to a new vessel (new contracting party), which may need another system of pre-fitting and equipment that is suited to its type (for example length of sweeping arms will vary according to the length of the ship),

⁶ The associated Pre Information Notice was published in the OJ N°2005/S16 – 014442 on 22.1.2005.

- Equipment can be outdated and may have to be replaced by up-to-date (innovative) equipment,
- Equipment may be damaged during exercises or oil spill clean-up operations and/or rendered suboptimal following deployment in an oil spill clean-up operation (pumps for example).

Besides the expenditure for equipment, part of the amounts is needed to cover recurring annual expenses, including participation in multinational exercises, training of crew, as well as availability of the vessel (remaining in the designated area of operation, covering the interruption or loss of commercial contracts in case of an oil spill operation).

Stand-by vessels for accidents involving HNS

The Action Plan indicates that whilst initial steps will address the provision of additional capacity for large-scale oil spills, those involving HNS will be dealt with at a later date. It is important to note that oil and spilt oil have a generic behaviour in the marine environment, which means that response options can be tightly defined. On the other hand, the wide range of substances that could be involved in “chemical” spills and their associated behaviour in the marine environment result in the need for additional response capacity of a different nature.

Consequently, the procurement process for HNS response vessels is scheduled for 2006. The amounts indicated in the Annex will be for the upgrading of existing vessels under contract at the time or, where required, for the contracting on a stand-by basis of appropriate specific vessels for a three-year period. However, as regards 2006, a stand-by HNS vessel is being provided under the current budgetary procedure for a four-year period. Part of these amounts is needed to cover at least the ‘first-level transformation’, which addresses crew rescue, fire fighting and leakage stopping.

In order to maintain this provision of additional response capacity for “chemical” spills, the contracts will have to be renewed in 2010 and then again in 2013.

Satellite Imagery

An additional large-scale activity for 2006 will be the setting-up of an Oil Pollution Response Satellite Imagery Service Centre, as also called for by Directive [...] of the European Parliament and of the Council on ship-source pollution and on the introduction of sanctions for infringements⁷. As mentioned before, satellite imagery should support activities of the Member States and the Commission in reacting to illegal discharges and accidental oil spills.

The Agency will have to set up an appropriate infrastructure for this purpose and will have to purchase analysed satellite imagery. An initial indication of costs shows that 1.000 pictures for the whole of the Community waters on an annual basis will require €1 million. If this service were to be used on a regular basis by the Member States, that amount would not be sufficient. After the first three-year contract has expired (in 2009), the Agency might wish to negotiate larger numbers of images, taking advantage of positive developments in the satellite industry.

The European Commission and the Member States should be able to use this centre directly for all kinds of requests for near real-time data in this field. Through a centralised approach at the European level, improvements in efficiency and direct availability of satellite data can be made, as well as significant cost-savings (economies of scale).

⁷ Draft Directive in the process of adoption by the European Parliament and the Council.

(b) Other Activities

Information, co-operation and co-ordination

This covers all the supporting activities mentioned in the Action Plan concerning the areas of information, co-ordination and co-operation that are intended to implement the obligation of the Agency to provide technical and scientific assistance to the Member States and the Commission in the field of oil pollution response.

In 2005 and 2006, activities will include in particular: (i) Setting-up of arrangements with regional agreements, (ii) Dissemination of best practices via workshops and conferences, (iii) Studies in the field of innovation of oil pollution response equipment and dedicated response techniques concerning HNS spills, and (iv) Improving contingency planning by Member States and the response chain.

As of 2008 more emphasis will be put on the development of ‘other activities’ in support of anti-pollution performance. Activities such as innovation will need to be fully on-stream and specific studies will need to be launched. To improve the response chain, the Agency will have to address difficult issues such as the discharging of recovered oil and aerial surveillance. Hence, additional budgetary resources will be necessary in order to finance these activities.

4. Conclusion

The implementation of the tasks of the Agency in the field of response to oil pollution has been initiated in 2005 in line with the Action plan and will be taken forward during the following years. Because of ongoing commitments, it will be difficult to embark on additional types of activity in the years to come without appropriate budgetary flexibility. Hence, the development and extension of anti-pollution activities will require long-term investments and adequate financial security. Consequently, a Community Regulation is needed in order to provide for an adequate Community contribution to the Agency’s budget for a seven-year period from 2007 to 2013.

Budget line: 6020203									
ANTIPOLLUTION MEASURES-MULTIANNUAL FINANCING 2007-2013,INDICATIVE AMOUNTS,TOTAL BUDGET 154 mio Euro									
	2005	2006	2007	2008	2009	2010	2011	2012	2013
Stand-by vessels: Baltic Sea	1 vessel (2008) 4.500.000			contract renewal (2011) 4.500.000			contract renewal (2014) 4.500.000		
		1 vessel (2009) 4.500.000			contract renewal (2012) 4.500.000			contract renewal (2015) 4.500.000	
			HNS Upgrade (2010) 5.000.000			HNS contract renewal (2013) 5.000.000			contract renewal (2016) 5.000.000
Stand-by vessels: Mediterranean Sea	1 vessel (2008) 4.500.000			contract renewal (2011) 4.500.000			contract renewal (2014) 4.500.000		
		2 vessels (2009) 7.000.000			contract renewal (2012) 7.000.000			contract renewal (2015) 7.000.000	
			HNS Upgrade (2010) 5.000.000			HNS contract renewal (2013) 5.000.000			HNS contract renewal (2016) 5.000.000
Stand-by vessels: Atlantic Coast (two areas)	2 vessels (2008) 8.500.000			contract renewal (2011) 8.500.000			contract renewal (2014) 8.500.000		
		1 vessel (2009) 6.000.000			contract renewal (2012) 6.000.000			contract renewal (2015) 6.000.000	
			HNS Upgrade (2010) 4.500.000			HNS contract renewal (2013) 9.000.000			HNS contract renewal (2016) 9.000.000
Stand-by vessels: Black Sea/Bosporus			1 vessel (2010) 4.500.000			contract renewal (2013) 4.500.000			contract renewal 2016 4.500.000
Satellite Service Center		purchase data (2009) setting up data center 4.500.000			contract renewal (2012) purchase data 3.500.000			contract renewal (2015) purchasa data 3.500.000	
Other activities:	300.000	1.000.000	1.000.000	1.500.000	1.500.000	1.500.000	1.500.000	2.000.000	2.000.000
Annual budget:	17.800.000	29.000.000	20.000.000	19.000.000	22.500.000	25.000.000	19.000.000	23.000.000	25.500.000

The amounts are indicative and do not include correction for inflation. Upgrading of equipment for oil recovery vessels is included under the condition that existing contracts can be renewed. Duration of the use of equipment before it has to be replaced, will depend on actual use during exercises and real oil spills. The amounts related to vessels only cover stand-by contracts, amounts are too low to cover purchase or development of dedicated oil recovery vessels. Amounts for the purchase of satellite imagery data have been kept at the same level throughout the whole period under the assumption that a renewal of contract will allow EMSA to improve its services in this field, because data are being provided by new satellites and the number of data can be increased to cover growing demands.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and amending Regulation (EC) No 1406/2002

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission⁸,

Having regard to the opinion of the European Economic and Social Committee⁹,

Having regard to the opinion of the Committee of the Regions¹⁰,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) Regulation (EC) No 1406/2002¹¹ establishes 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 Council of 31 March 2004 amending Regulation (EC) No 1406/2002 assigns to the Agency new tasks in the field of prevention of pollution and response to pollution caused by ships, in response to recent accidents in Community waters, particularly those of the oil tankers “Erika” and “Prestige”.
- (3) For the purposes of implementing the new tasks of prevention of pollution and response to pollution, 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 (“the Action Plan”).

⁸ OJ C [], [], p. []

⁹ OJ C [], [], p. []

¹⁰ OJ C [], [], p. []

¹¹ OJ L 208, 5.8.2002, p.1. Regulation as last amended by Regulation (EC) No 724/2004, OJ L 129, 29.4.2004, p.1)

- (4) Pollution response action of the Agency, as defined in the Action Plan, relates to activities in the fields of information, co-operation and co-ordination and above all operational assistance to the Member States by providing additional anti-pollution vessels.
- (5) The additional means to be provided by the Agency to the Member States should be made available through the Community mechanism in the field of civil protection assistance interventions, including accidental marine pollution, established by Council Decision 2001/792/EC, Euratom of 23 October 2001¹².
- (6) In order to ensure thorough implementation of the Action Plan and strengthen the prevention of and response to oil pollution by expanding current anti-pollution activities, the Agency should be provided with a viable and cost-effective system for financing, in particular, its operational assistance to the Member States.
- (7) It is therefore necessary to provide for appropriate financial security for the funding of the tasks entrusted to the Agency in the field of response to pollution and other associated actions on the basis of a multiannual commitment. The annual amounts of the Community contribution should be determined in accordance with the procedures in force.
- (8) The amounts to be committed for the funding of response to pollution should cover the period 2007 to 2013 in line with the new financial perspective.
- (9) A financial reference amount covering the same period 2007 to 2013 is provided for in this Regulation for the implementation of the Action Plan.
- (10) In order to optimise allocation of commitments and take into account any changes with regard to oil pollution response activities, it is necessary to ensure continuous monitoring of the particular needs for action so as to allow for adaptation of the annual financial commitments.
- (11) The Administrative Board of the Agency should thus review the budgetary commitments, on the basis of a report produced by the Executive Director, to include any necessary adjustments to the budget of the Agency. Regulation (EC) No 1406/2002 should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

Article 1

Objective

This Regulation lays down the detailed arrangements for the financial contribution of the Community to the budget of the European Maritime Safety Agency for the implementation of

¹² OJ L 297, 15.11.2001, p. 7.

the tasks assigned to it in the field of response to pollution caused by ships and other associated actions, pursuant to Article 2 of Regulation (EC) No 1406/2002.

Article 2

Definitions

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

- (a) “the Agency” means the European Maritime Safety Agency, established by Regulation (EC) N° 1406/2002.
- (b) “Regional agreements” means the bilateral and regional agreements, such as the Helsinki and Barcelona Conventions of 1974 and 1976 respectively, concluded between coastal States to render mutual assistance in the event of a maritime pollution incident.

Article 3

Scope

The financial contribution of the Community referred to in Article 1 shall be allocated to the Agency with the aim of financing actions related in particular to:

- (a) information by assembling, analysing and disseminating best practices, techniques and innovation in the field of oil pollution response,
- (b) co-operation and co-ordination by providing the relevant services of the Commission with technical and scientific assistance in the framework of the activities of the relevant regional agreements,
- (c) operational assistance by supporting on request with additional means, such as stand-by anti-pollution ships and equipment, Member States’ pollution response actions in the event of accidental or deliberate pollution caused by ships. Assistance shall be targeted primarily at the Baltic Sea, the Western approaches to the English Channel, the Atlantic coast and the Mediterranean Sea, particularly the area along the tanker trade route from the Black Sea, while any other area in need shall also be assisted.

Article 4

Community funding

The financial reference amount for the implementation of the tasks referred to in Article 3 for the period from 1 January 2007 to 31 December 2013 shall be euros 154 million.

Annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspectives.

Article 5

Protection of Community financial interests

1. The Commission and the Agency shall ensure that , when actions financed under the present Regulation are implemented, the financial interests of the Community are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and by the recovery of the amounts unduly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Council Regulations (EC, Euratom) No 2988/95 and (Euratom, EC) No 2185/96, and with Regulation (EC) No 1073/1999 of the European Parliament and of the Council.
2. For the Community actions financed under the present Regulation, the notion of irregularity referred to in Article 1, paragraph 2 of Regulation (EC, Euratom) No 2988/95 shall mean any infringement of a provision of Community 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 Communities or budgets managed by them, by an unjustified item of expenditure.

Article 6

Amendments to Regulation (EC) No 1406/2002

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

- (a) The following point is added in Article 10 (2):

“(l) review the financial execution of the detailed plan, as referred to in (k) and the budgetary commitments provided for in Regulation [...] ¹³ before the beginning of the financial year on the basis of the report provided for in Article 15 (2) (g).”

- (b) The following point is added in Article 15 (2):

“(g) he/she shall submit a report to the Commission and the Administrative Board, by 31 January each year, 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 financed under this plan.”

Article 7

Evaluation

The Commission shall submit to the European Parliament and the Council, on the basis of information provided by the Agency, a report on the implementation of this Regulation no later than four years from its entry into force. The report shall set out the results of the

¹³ Reference to the present Regulation.

utilisation of the Community contribution as referred to in Article 4 as regards commitments and expenditure covering the period between 1 January 2007 and 31 December 2009.

Article 8

Entry into force

This Regulation shall enter into force on the 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

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL

Proposal for a Regulation of the European Parliament and of the Council on a multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and amending Regulation (EC) No 1406/2002.

2. ABM / ABB FRAMEWORK

Policy Area(s) concerned and associated Activity/Activities:

06: Energy and Transport

Inland, air and maritime transport policy;

Implementation of the provisions related to pollution prevention and response activities.

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B.A lines)) including headings:

06020203: European Maritime Safety Agency- Anti-pollution measures.

3.2. Duration of the action and of the financial impact:

7 years (from 2007 to 2013).

3.3. Budgetary characteristics (*add rows if necessary*):

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
06020203	NCE ¹⁴	DA ¹⁵	NO	YES	NO	No 1a Competitiveness for Growth and Employment ¹⁶

¹⁴ Non-compulsory expenditure.

¹⁵ Differentiated appropriations.

¹⁶ This classification stems from the new financial perspectives.

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Expenditure type	Section no.		Year n 2007	n + 1 2008	n + 2 2009	n + 3 2010	n + 4 2011	n + 5 2012 and 2013 ¹⁷	Total
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Operational expenditure¹⁸

Commitment Appropriations (CA)	8.1	a	20,000	19,000	22,500	25,000	19,000	48,500	154,000
Payment Appropriations (PA)		b	18,000	18,000	23,000	25,000	21,500	48,500	154,000

Administrative expenditure within reference amount¹⁹

Technical & administrative assistance (NDA)	8.2.4	c	NA ²⁰						
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TOTAL REFERENCE AMOUNT

Commitment Appropriations		a+c	20,000	19,000	22,500	25,000	19,000	48,500	154,000
Payment Appropriations		b+c	18,000	18,000	23,000	25,000	21,500	48,500	154,000

¹⁷ Until 2013 for commitments appropriations and until 2014 for payments appropriations.

¹⁸ Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

¹⁹ Expenditure within article xx 01 04 of Title xx.

²⁰ Not applicable.

Administrative expenditure not included in reference amount²¹

man resources and associated expenditure (NDA)	8.2.5	d	NA ²²						
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e	NA ²³						

Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a+c +d+ e	20,000	19,000	22,500	25,000	19,000	48,500	154,000
TOTAL PA including cost of Human Resources		b+c +d+ e	18,000	18,000	23,000	25,000	21,500	48,500	154,000

Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

EUR million (to 3 decimal places)

Co-financing body		Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later	Total
.....	f	NA ²⁴						
TOTAL CA including co-financing	a+c +d +e+ f	NA						

4.1.2. Compatibility with Financial Programming

Proposal is compatible with existing financial programming.

Proposal will entail reprogramming of the relevant heading in the financial perspective.

Proposal may require application of the provisions of the Interinstitutional Agreement²⁵ (i.e. flexibility instrument or revision of the financial perspective).

²¹ Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

²² Not applicable.

²³ Not applicable.

²⁴ Not applicable.

²⁵ See points 19 and 24 of the Interinstitutional agreement.

4.1.3. Financial impact on Revenue

Proposal has no financial implications on revenue

Proposal has financial impact – the effect on revenue is as follows:

NB: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.

EUR million (to one decimal place)

Budget line	Revenue	Prior to action [Year n-1]	Situation following action						
			[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5] ²⁶	
	<i>a) Revenue in absolute terms</i>		NA						
	<i>b) Change in revenue</i>	Δ							

(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)

4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

Annual requirements	Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later
Total number of human resources	NA ²⁷					

5. CHARACTERISTICS AND OBJECTIVES

Details of the context of the proposal are required in the Explanatory Memorandum. This section of the Legislative Financial Statement should include the following specific complementary information:

5.1. Need to be met in the short or long term

The need to be met both in short and in a longer term is to provide the European Maritime Safety Agency (“the Agency”) with an appropriate financial security for the funding of anti-pollution tasks and ensure cost-effectiveness by way of a multi-annual programming for expenditure concerning such tasks. The overall financial envelope to be imputed on an annual

²⁶ Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years

²⁷ The Human resources are covered under the separate budgetary line 06020201.

basis on the Community budget (from 2007 to 2013) is of €154 million. The areas of activities and the specific needs, as well as the relevant amounts are illustrated in section 3 (a) and (b) of the explanatory memorandum and in the annex.

The main beneficiaries of the proposed intervention are the Member States, since the anti-pollution actions of the Agency are primarily intended to supplement anti-pollution and preparedness mechanisms of the Member States, in particular, by adding at sea oil recovery capacity by means of additional specific anti-pollution vessels, in case of large scale oil spills that go beyond the national operational capacities and when such intervention is requested by the Member States concerned.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

The severe oil spills provoked by the recent maritime accidents, in which were involved the oil tankers ERIKA and PRESTIGE, demonstrated the need for additional pollution response capacity, as well as prevention and preparedness measures at Community level in order to prevent oil spills, minimise their severe implications, while containing pollution. The anti-pollution action of the Agency is therefore designed, in particular, to supplement the national mechanisms in case of large oil spill that go beyond national capabilities, which cannot ensure a swift and efficient response to the pollution caused. The completion of the related tasks, namely the additional at sea recovery capability by means of stand-by vessels is dependent on financial security and the availability of resources on a longer term basis, through a multiannual programming for contribution from the Community budget.

Considering the long-term nature of the pollution response responsibility of the Agency, the inherent expenditure and investments are not feasible through a year on year scheduling of the Community financing. It is therefore necessary to embark on long-term investments for providing adequate financial means for pollution response at European level and allow sufficient financial security for the Agency that would ensure cost-effectiveness in the negotiation for longer term contracts for stand-by vessels and thus the viability of a sustainable antipollution endeavour. The involvement of the Community is, thus, vital for the mounting of a thorough pollution response.

Hence, the multiannual forecast of expenditure, for the period from 2007 to 2013 is the only way for achieving an effective Community pollution response system. An amount of € 17.8 million is allocated by the Budgetary Authority for 2005 while an amount of € 29 million is to be allocated in the 2006 Draft Community budget, subject to a decision according to the current budgetary procedure.

As stated in section 1 (c) of the Explanatory Memorandum, the additional at sea oil recovery means to be offered by the Agency to the requesting Member States will be provided through the Community framework for cooperation in the field of accidental or deliberate marine pollution established by Decision No 2850/2000/EC of the European Parliament and of the Council of 20 December 2000²⁸ and of the Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions established by Council Decision 2001/792/EC, Euratom of 23 October 2001²⁹.

²⁸ OJ L 332, 28.12.2000, p.1.

²⁹ OJ L 297, 15.11.2001, p.7.

5.2.1. *Objectives, expected results and related indicators of the proposal in the context of the ABM framework*

The objectives of the proposal will substantially contribute, on the one hand, to the protection of the environment and notably the combating of pollution caused by oil spills and, on the other hand, make possible the effective implementation of the prerequisites of Regulation (EC) N° 724/2004 of the European Parliament and of the Council of 31 March 2004 amending Regulation (EC) N° 1406/2002 establishing a European Maritime Safety Agency provisions related in particular to pollution response activities.

The multiannual scheduling of the contribution from the Community budget for financing, above all, the anti-pollution activities of the Agency will result in the making available for the Member States adequate intervention resources for at sea recovery of oil spills for the period as of 2007 to 2013 and strengthening the Agency's contribution to the Community pollution response system.

The success of the attainment of the objectives could be measured, in particular, by (i) the rapidity of reaching the area affected by the oil spill, (ii) the time needed for at sea recovery of the oil, (iii) the extent of the containment of the pollution, (iv) the functioning of satellite surveillance for detecting and combating pollution, and (v) the effective co-operation with involved Parties (Member States, regional agreements) in getting ready to respond successfully to an oil pollution.

5.3. Method of Implementation (indicative)

Show below the method(s)³⁰ chosen for the implementation of the action.

- Centralised Management**
- Directly by the Commission
- Indirectly by delegation to:
 - Executive Agencies
 - Bodies set up by the Communities as referred to in art. 185 of the Financial Regulation
 - National public-sector bodies/bodies with public-service mission
- Shared or decentralised management**
- With Member states
- With Third countries
- Joint management with international organisations (please specify)**

Relevant comments:

³⁰ If more than one method is indicated please provide additional details in the "Relevant comments" section of this point

6. MONITORING AND EVALUATION

6.1. Monitoring system

The main indicator concerning the means and resources necessary to carry out the involved actions is the risk posed by oil spills taking into consideration the oil trade patterns in European waters, the socio-economic and environmental impact that might be caused by a large scale incident, as well as the current operational capacities of the Member States and thus their needs for additional at sea recovery capacity to be provided by the Agency. Hence, European waters have been divided in areas where the Agency's additional capacity should be primarily focussed (see below under section 6.2.1). As regards outputs and results, the main indicators are the number of the Agency's interventions, as well as their impact and effects.

The data regarding current pollution response capacities of the Member States were collected in particular from the Community Information, System and provided by the Member States. These data will be regularly updated on the basis of information provided by the above sources. The prices of the anti-pollution stand-by vessels have been estimated on the basis of current market prices.

6.2. Evaluation

6.2.1. Ex-ante evaluation

In order to fulfil the prerequisites of Regulation (EC) N° 724/2004 (see above under section 5.3) as regards anti-pollution response activities of the Agency and in particular to evaluate the status of European response preparedness, the Commission (DG TREN) commissioned a study in 2003 that was conducted by the International Tanker Owners Pollution Federation. This study, which was finalised in April 2004, presented the preparedness of Member States regarding response to pollution caused by oil spills at sea and the nature and scale of the risk posed by oil spills in European waters.

Besides, the Agency organised a specific workshop on the "Oil Pollution Response in the European Union", in June 2004, in order to address the best ways for mounting an effective oil pollution response at European level and set the priorities for action.

The findings and results of both proceedings have been used as a basis for drafting the Action Plan for oil pollution preparedness and response, which was adopted by the Agency's Administrative Board in October 2004 (see also section 2 of the Explanatory Memorandum). The Action Plan identifies the activities that the Agency intends to embark on within the context of the above Regulation, both in terms of response to an oil spill, by way of specialised anti-pollution vessels, and preparedness as a means to mounting effective response operations and is aimed also to ensure the optimum use of the financial means available to the Agency.

On the basis of the current response capacity of the Member States and the current and future plans for additional response capacity, as gathered following the above consultations, the Agency conducted an extensive evaluation of the estimated cost of the different anti-pollution actions and especially of the ones related to the operational assistance (stand-by vessels) on account of:

- A benchmarking for the cost of the stand-by contracts (see also section 1 (c) of the Explanatory Memorandum) that was conducted on the basis of information included in the

existing contracts concluded between the Member States and shipowners for the provision of similar services and the contracts concluded for the ships involved in recent maritime accidents (ERIKA and PRESTIGE), as well as input provided by the competent authorities of a number of Member States.

- Information obtained from shipyards regarding the prices of oil pollution response specialised equipment (such as pumps, booms, skimmers, grabs and “specialist” response vessels).

It is worth noting, however that the prices vary considerably as a function of the types of ships, the specific equipment used for each case, the need in crew etc.

The key findings of the ex-ante evaluation were as follows (see also section 1 (c) of the Explanatory Memorandum):

The present pollution response capacity of the Member States should be supplemented in order to allow a prompt and effective intervention in the event of large scale oil contamination incidents and to contain and mitigate their impact. A number of areas, where the risk of major pollution is highest, were identified by reason of the most busy tanker routes and the prospects for future oil trade patterns, the socio-economic and environmental impact of a potential oil spill and the historical incidence of oil spills and their locations around Europe. These areas are: the Baltic sea, the Western approaches to the Channel, the Atlantic coast and the Mediterranean Sea (Western part and Bosphorus/Black Sea). The specific needs for each region, especially in terms of the type and number of the stand-by vessels that are needed, depends on the types of traffic and the size of each area.

6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

Not relevant.

6.2.3. Terms and frequency of future evaluation

Ex-post evaluation is particularly crucial for the efficient allocation of commitments and for the potential adaptation of the annual financial commitments, bearing in mind that oil pollution response activities may require revision following an alteration in the needs for anti-pollution action. The Administrative Board of the Agency will be requested, thus, to review annually the budgetary commitments, on the basis of a report produced by the Executive Director, to include any necessary adjustments to the budget of the Agency. In addition, the Commission shall submit to the European Parliament and the Council, on the basis of information provided by the Agency, a report on the implementation of this proposed Regulation no later than 4 years from its entry into force. This report shall set out the results of the utilisation of the Community contribution as regards commitments and expenditure covering the period between 1 January 2007 and 31 December 2009.

7. ANTI-FRAUD MEASURES

The anti-pollution activities of the Agency will be subject to the normal audit procedures foreseen by the Agency’s financial Regulation and the control of the Court of Auditors.

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost

Commitment appropriations in EUR million (to 3 decimal places)

Headings of Objectives, actions and outputs should be provided	Type of output	Av. cost	Year n2007		Year n+12008		Year n+2 2009		Year n+32010		Year n+4 2011		Year +5 and later 2012-2013		TOTAL	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE N°1 Operational assistance																
Action 1 Baltic Sea ³¹																
Stand-by 1 vessel						4,500							4,500			9,000
Stand-by 2 Vessels								4,500						4,500		9,000
Stand-by 1 HNS vessel				5,000						5,000				5,000		15,000
TOTAL				5,000		4,500		4,500		5,000			4,500		9,500	33,000

³¹ Add to pollution recovery capability of the requesting Member States.

Action 2																
Mediterranean Sea³²																
Stand-by 1 vessel						4,500							4,500			9,000
Stand-by 2 vessels								7,000						7,000		19,000
Stand-by 1 HNS vessel				5,000						5,000				5,000		10,000
TOTAL				5,000		4,500		7,000		5,000			4,500		12,000	38,000
Action 3																
Atlantic Coast³³																
Channel + Atlan. Coast Stand-by 2 vessels						8,500							8,500			17,000
Bay of Biscay Stand-by 1 vessel								6,000						6,000		12,000
Stand-by1 HNS vessel				4,500						9,000 ³⁴				9,000		22,500

³² Add to pollution recovery capability of the requesting Member States.

³³ Add to pollution recovery capability of the requesting Member States.

TOTAL				4,500		8,500		6,000		9,000		8,500		15,000		51,500
Action 4 Black Sea/Bosporus³⁵																
Stand-by 1 vessel				4,500						4,500				4,500		13,500
Action 5 Satellite Imagery³⁶																
Satellite Service enterice Centre								3,500						3,500		7,000
OPERATIONAL OBJECTIVES N°s 2 + 3³⁷ Informatrion, Co-operation and Co-ordination																

³⁴ This amount covers the renewal of the contract for 1 HNS vessel financed under the 2006 draft budget and the renewal of the contract for another HNS vessel to be financed under the 2007 budgetary provisions.

³⁵ Add to pollution recovery capability of the requesting Member States.

³⁶ Monitoring/imagery for spills and illegal discharges.

³⁷ These activities are based upon the activities approved in the Action Plan Oil Pollution Preparedness and Response under the headings “information” and “cooperation and co-ordination”.

Action Dissemination of knowledge/best practices, co- ordination/co- operation:Member States, Regional Agreement,Commis- sion, Innovation, etc.																
				1,000		1,500		1,500		1,500		1,500		4,000		11,000
TOTAL COST				20,000		19,000		22,500		25,000		19,000		48,500		154,000

³⁸ **EN** The estimated amounts under this section are intended to cover, in particular, studies and consultations with different bodies, meetings and conferences in relation to anti-pollution actions, missions and information systems

8.2. Administrative Expenditure

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)					
		Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5
Officials or temporary staff ³⁹ (XX 01 01)	A*/AD	NA ⁴⁰					
	B*, C*/AST	NA					
Staff financed ⁴¹ by art. XX 01 02		NA					
Other staff ⁴² financed by art. XX 01 04/05		NA					
TOTAL							

8.2.2. Description of tasks deriving from the action⁴³

8.2.3. Sources of human resources (statutory): ⁴⁴NA

(When more than one source is stated, please indicate the number of posts originating from each of the sources)

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts pre-allocated within the APS/PDB exercise for year n
- Posts to be requested in the next APS/PDB procedure
- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

³⁹ Cost of which is NOT covered by the reference amount

⁴⁰ The Human resources are covered under the separate budgetary line 06020201.

⁴¹ Cost of which is NOT covered by the reference amount

⁴² Cost of which is included within the reference amount

⁴³ Not applicable.

⁴⁴ The Human resources are covered under the separate budgetary line 06020201.

8.2.4. *Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)*

EUR million (to 3 decimal places)

Budget line (number and heading)	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
1 Technical and administrative assistance (including related staff costs)							
Executive agencies ⁴⁵	NA ⁴⁶						
Other technical and administrative assistance	NA						
<i>intra muros</i>							
<i>extra muros</i>							
Total Technical and administrative assistance							

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later
Officials and temporary staff (XX 01 01)	NA ⁴⁷					
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)	NA					
Total cost of Human Resources and associated costs (NOT in reference amount)						

⁴⁵ Reference should be made to the specific legislative financial statement for the Executive Agency(es) concerned.

⁴⁶ Administrative expenditure within the reference amount is covered under a separate budgetary line.

⁴⁷ Administrative expenditure within the reference amount is covered under a separate budgetary line.

Calculation– *Officials and Temporary agents*

Reference should be made to Point 8.2.1, if applicable

Calculation– *Staff financed under art. XX 01 02*

Reference should be made to Point 8.2.1, if applicable

8.2.6 Other administrative expenditure not included in reference amount

EUR million (to 3 decimal places)

	Year n 2007	Year n+1 2008	Year n+2 2009	Year n+3 2010	Year n+4 2011	Year n+5 and later	TOTAL
XX 01 02 11 01 – Missions	NA ⁴⁸						
XX 01 02 11 02 – Meetings & Conferences	NA						
XX 01 02 11 03 – Committees ⁴⁹	NA						
XX 01 02 11 04 – Studies & consultations	NA						
XX 01 02 11 05 - Information systems	NA						
2 Total Other Management Expenditure (XX 01 02 11)							
3 Other expenditure of an administrative nature (specify including reference to budget line)							
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)							

Calculation - *Other administrative expenditure not included in reference amount*

⁴⁸ Not applicable.

⁴⁹ Specify the type of committee and the group to which it belongs.

IMPACT ASSESSMENT FORM

THE IMPACT OF THE PROPOSAL ON BUSINESS WITH SPECIAL REFERENCE TO SMALL AND MEDIUM-SIZED ENTERPRISES (SMEs)

TITLE OF PROPOSAL

Proposal for a Regulation of the European Parliament and of the Council on a multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and amending Regulation (EC) No 1406/2002.

DOCUMENT REFERENCE NUMBER

COM(2005) yyy Final

THE PROPOSAL

1. Taking account of the principle of subsidiarity, why is Community legislation necessary in this area and what are its main aims?

The main aim of the proposal is to establish the procedures for and define a financial contribution of the Community for the funding of the new anti-pollution tasks of the European Maritime Safety Agency (the Agency) following maritime accidents, on the basis of a multiannual commitment that would be spread over a period of seven years (2007-2013).

Community legislation is necessary in order to foresee the overall financial contribution from the Community budget to the budget of the Agency. This matter falls therefore within the exclusive competence of the Community.

THE IMPACT ON BUSINESS

2. Who will be affected by the proposal?

- Which sectors of business?

Shipping companies operating at-sea oil pollution recovery vessels that may be used for anti-pollution purposes on the basis of stand-by contracts.

Which sizes of business (what is the concentration of small and medium-sized firms)?

All sizes of companies that are active in this sector.

- Are there particular geographical areas of the Community where these businesses are found?

In all Member States, apart from those which are landlocked. However, in principle all Member States are affected in their role as flag states.