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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the European Maritime Safety Agency and repealing Regulation (EC) No 1406/2002

(Text with EEA relevance)

{SWD(2023) 147 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The first building blocks of the European maritime safety policy were laid at the beginning of the 1990s, following the Aegean Sea (1992) and Brear (1993) oil tanker accidents. With growing international trade, and the deepening of EU's internal market, shipping activities in Europe and in the waters surrounding Europe have increased. At the same time, the risks of shipping activities were acknowledged, underlining the need for stronger European action on maritime safety. Rules on port State control and the classification societies (ROs) were already introduced in the nineties. EU-level efforts in the field underwent significant acceleration following the Erika (1999) and the Prestige (2002) oil tanker accidents. By causing extremely high-cost damage to the environment, as well as to the fishery and tourism sectors, these accidents highlighted the need to upgrade the EU legal framework on maritime safety and the need for practical measures to prevent and respond to pollution. The *Erika* oil tanker accident led to the maritime safety package proposals *Erika I* (COM (2000) 142) and *Erika II* (COM (2000) 802). These respectively comprised a set of short-term measures and a set of more complex, long-term actions aimed at enhancing European maritime safety policy.

In particular, *Erika II* envisaged the establishment of the European Maritime Safety Agency (EMSA) ('the Agency') to support the Commission and EU Member States with the application and monitoring of EU legislation in the field of maritime safety, as well with the evaluation of its effectiveness. EMSA was then established by Regulation (EC) No 1406/2002 of 27 June 2002, with the purpose of ensuring a 'high, uniform and effective level of maritime safety and prevention of pollution by ships within the Community'.

Following the adoption of its founding Regulation, successive amendments progressively expanded the Agency's objectives and tasks to adapt its activities to EU maritime policy developments. Regulation (EC) No 1406/2002 has been modified five times since 2002, mainly due to changes to the EU's maritime legislation.

EMSA was subject to an external evaluation in 2017, which concluded that while its objectives, activities and outputs are adequate, changes to its mandate may be required to adapt it to developments in legislation, the sector and emerging political priorities.

Furthermore, the European Green Deal announced in December 2019 has emphasised the need to accelerate the transition to a zero pollution and climate-neutral economy, including through the shift to sustainable mobility with significant shifts towards cleaner fuels and a more sustainable maritime sector transport. This new strategy built upon the rules introduced in 2012 on sulphur content of the marine fuels¹ and the monitoring, reporting and verification of CO₂ emissions in 2015². To deliver on this, the Commission adopted in December 2020 its

¹ Directive 2012/33/EU of the European Parliament and of the Council of 21 November 2012 amending Council Directive 1999/32/EC as regards the sulphur content of marine fuels, replaced already by Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels

² Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC

Sustainable and Smart Mobility Strategy, which included the revision of EMSA's founding Regulation ("Action 77" of the accompanying Action Plan to the Strategy³).

The Agency's mandate needs to be revised for the following reasons: (1) it does not properly reflect EMSA's current scope of activities due to the evolving needs of the maritime sector and the new EU regulatory framework in the area; (2) the administrative and financial provisions of the mandate do not reflect the latest EU regulatory framework on agencies governance; and (3) the Agency is facing stretched resources to fulfil both its current tasks and the new tasks and activities arising from the needs of the sector, such as the green transition, or legislative developments, such as the new maritime safety package.

The proposed revision of EMSA's mandate aims to: (1) better anchor and reflect the current tasks and objectives of the Agency in its founding Regulation so that it is legally mandated to fulfil these and support the Member States and the Commission with the necessary technical, operational and scientific assistance to ensure maritime safety and security, and the green and digital transition of the sector; (2) ensure that EMSA's founding Regulation is future proof by allowing enough flexibility to incorporate new tasks that address the evolving needs of the maritime sector; and (3) ensure that the Agency has adequate human and financial resources to fulfil its role.

Since 2002, when the original founding Regulation was adopted, several developments have taken place in the maritime sector. As a result, the Agency's founding Regulation has been amended five times, with the amendment in 2013 making a distinction between core and ancillary tasks which has become obsolete. Moreover, rules on the administrative and financial governance of EU Agencies have also been amended since the last substantial amendment of the Agency's founding act in 2013. This obsolete structure of the mandate combined with the need to incorporate and reflect EMSA's new tasks in the areas of maritime safety, sustainability, decarbonisation, security and cybersecurity, surveillance and assistance in crises management call for a new EMSA Regulation to replace its founding Regulation.

A new Regulation will also help to clarify the structure of the legal act (e.g. by removing the distinction between core and ancillary tasks, and introducing new tasks in each strand of the Agency's action). As a result, the new Regulation will maintain the tasks that are already reflected in the previous mandate of the Agency while reflecting the new tasks and updating the administrative and financial provisions, aligning them with the new framework.

- **Consistency with existing policy provisions in the policy area**

The Regulation mandates EMSA to assist Member States and the Commission technically and operationally in a broad range of activities emanating from various pieces of maritime legislation.

On maritime safety, the Regulation reflects EMSA's assistance to the Commission and the Member States with the implementation of Directive 2009/21/EC on compliance with flag State requirements, Directive 2009/16/EC on port State control, and Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector. The revision takes into account the Commission's new proposals to

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Sustainable and Smart Mobility Strategy – putting European transport on track for the future, COM/2020/789 final

amend these three Directives. Moreover, the Regulation also has links with EU legislation on passenger ship safety and registration, notably Directive 2009/45/EC on safety rules and standards for passenger ships and Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community. The Agency should continue to develop relevant databases and tools that support the implementation of these Directives and continue to actively assist in the overall safety of passenger ships. Furthermore, the Regulation proposes the continuation of the Agency's assistance with implementing the rules on 'recognised organisations', under Regulation (EC) No 391/2009 on common rules and standards for ship inspection and survey organisations as well as with Directive 2014/90/EU on Marine Equipment and with Directive (EU) 2022/993 on the minimum level of training of seafarers.

In the area of sustainability, the Agency should continue and expand its assistance with the implementation of the new proposed rules on ship-source pollution⁴ and on the introduction of penalties for infringements, while continuing to support the implementation of the complementary Directive (EU) 2019/883 on port reception facilities for the delivery of waste from ships. The proposal also mandates the Agency to continue to support Directive 2008/56/EC establishing a framework for Community action in the field of marine environmental policy (the Marine Strategy Framework Directive) and Directive (EU) 2016/802 on reducing the sulphur content of certain liquid fuels. Finally, the proposal reflects the Agency's current work to support the implementation of Regulation (EU) No 1257/2013 on ship recycling.

In the area of decarbonisation of shipping, the Agency is expected to support the Commission and the Member States in the implementation of new rules on the use of renewable and low-carbon fuels in maritime transport and those stemming from the extension of the EU Emissions Trading System to maritime transport⁵. Such activities will be added to the services the Agency already provides and it will continue to be required to provide to the Commission and the Member States support in relation to the implementation of Regulation (EU) 2015/757 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport.

In the area of security the Regulation proposes the continuation of the assistance that the Agency is offering to the Commission with the implementation of Regulation (EC) No 725/2004 on enhancing ship and port facility security.

In terms of ship positioning monitoring and surveillance at sea, the proposal is consistent with the tasks that the Agency already delivers in the implementation of Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system.

Finally the proposal is consistent with the tasks given to the Commission under Regulation (EU) 2019/1239 establishing a European Maritime Single Window environment (EMSWe) mandating the Agency to continue assisting the Commission in these tasks.

⁴ Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements, OJ L 255, 30.9.2005, p. 11.

⁵ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, OJ L 275, 25.10.2003, p. 32

- **Consistency with other Union policies**

The proposal supports the implementation of the Union’s policy and political priorities as reflected in the European Green Deal, the Sustainable and Smart Mobility Strategy and the “Fit for 55” package. It is also in line with recent actions announced on the area of maritime security and the new Communication of the European Commission and the High Representative adopted on an enhanced EU Maritime Security Strategy to ensure a peaceful use of the seas and safeguard the maritime domain against new threats⁶.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Title VI (Articles 90-100) of the Treaty on the Functioning of the Union (TFEU) establishes the EU’s prerogative to make provisions for the Common Transport Policy and therefore the EU has the right to act under the Treaty by establishing the European Maritime Safety Agency. Pursuant to Article 100(2) TFEU, the Union legislator may lay down appropriate provisions for sea transport. Article 91(1)(a) TFEU provides that the Union has competence in the field of transport to lay down common rules applicable to international transport. In view of this, the proposed Regulation would be based on Article 100(2) TFEU, which has served as legal basis for Regulation 1406/2002.

- **Subsidiarity (for non-exclusive competence)**

The principle of subsidiarity is fully respected given that there is a need for an EU intervention in order to assist the Member States and the Commission to attain the required level of maritime safety, maritime security and the protection of the marine environment within the EU.

Furthermore, the effectiveness of the Agency's activities has been acknowledged since the establishment of the Agency in 2002 and it is acknowledged that there is a need for the establishment of a decentralized EU Agency assisting the Commission and the Member States in the relevant policy areas since without EMSA many of the tasks emanating from EU legislations in the maritime domain either could not be delivered at the same level of quality or there is a risk of duplication of efforts among the Member States.

- **Proportionality**

The proposal is proportionate as it is the only way for the necessary changes in the Agency’s mandate to come about.

EU-level action does not intend to replace national actions or authorities nor to question their relevance. The proposal does not include new tasks for the Agency except the ones that the Agency already has undertaken in the previous years to assist the Commission and the Member States in the implementation of the relevant policy areas, as well as the new tasks emanating from the Fit for 55 package and the maritime package. Therefore, the proposal aims to reflect better, in legal terms, the current situation.

⁶ Joint communication to the European Parliament and the Council on the update of the EU Maritime Security Strategy and its Action Plan "An enhanced EU Maritime Security Strategy for evolving maritime threats", JOIN(2023) 8 final

- **Choice of the instrument**

Given that this proposal aims to replace an existing Regulation, a Regulation is considered to be the most appropriate instrument.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The EMSA mandate underwent two external evaluations, respectively in 2008 and in 2017. The former provided an overall positive assessment of the Agency, concluding that it had “filled a gap in the maritime safety area in the European Union”⁷. It presented a set of 11 recommendations, which the 2017 evaluation found to be fully implemented. The latter, focusing on the 2013-2016 period, re-confirmed the previous study’s overall positive assessment of the Agency, concluding that EMSA was a key contributor to “a safer and more secure maritime environment as well as to the increased ability of Member States to prevent and to respond to Marine Pollution”⁸.

Notwithstanding these overall positive assessments, the 2017 evaluation highlighted that, going forward, an enhanced mandate would likely become necessary, allowing EMSA to better support the Commission and Member States, and, indirectly, the maritime industry. Overall, the 2017 evaluation concluded that “a discontinuation or a reduction of EMSA’s mandate would have significant, negative impacts on maritime safety and security in Europe”⁹.

A specific assessment of the cost effectiveness and cost efficiency of EMSA’s oil pollution response services was also conducted in 2017¹⁰. The latter found that EMSA adequately fulfilled its mandate of providing oil pollution operational assistance and support. Specifically, the Agency’s activities in this regard were found to be cost-effective if compared to the economic consequences that would result from a lack of capacity on its part to respond to an oil spill and preventing it from reaching the shoreline. The assessment provided a set of recommendations to improve the operational response.

Finally, the Commission undertook a Fitness Check of the 2009 EU Maritime Transport Strategy (2018)¹¹. This review underlined EMSA’s contribution to the EU’s involvement in maritime transport, stemming from providing training, capacity-building, technical assistance and common databases. In particular, the report highlighted EMSA’s added value in terms of

⁷ COWI, Evaluation of the European Maritime Safety Agency, April 2008, p. 60 pdf

⁸ Ramboll Management Consulting, Evaluation on the Implementation of the Regulation (EC) No 1406/2002 Establishing EMSA, May 2017, p. 156 <http://www.emsa.europa.eu/publications/item/3092-emsa-guidance-on-the-inventory-of-hazardous-materials-3092.html>

⁹ Ramboll Management Consulting, Evaluation on the Implementation of the Regulation (EC) No 1406/2002 Establishing EMSA, May 2017, p. 155 <http://www.emsa.europa.eu/publications/item/3092-emsa-guidance-on-the-inventory-of-hazardous-materials-3092.html>

¹⁰ Ramboll Management Consulting, Study on the Cost Effectiveness and Efficiency of EMSA’s Oil Pollution Response Services, April 2017, <https://ec.europa.eu/transport/sites/default/files/2018-cost-effectiveness-and-efficiency-of-emsa-oil-pollution-response-services.pdf>

¹¹ Maritime Transport Fitness Check of the legislation on flag State responsibilities, accident investigation, port State control, the vessel traffic monitoring and information system and, the reporting formalities for ships arriving in and/or departing from ports of Member States, Commission Staff Working Document, May 2018, <https://ec.europa.eu/transport/sites/default/files/3rd-mobility-pack/swd20180228-fitness-check.pdf>

its role in hosting and promoting the development of EU-level systems, such as SafeSeaNet, THETIS and, though to a lesser extent, the European Maritime Casualty Information Platform (EMCIP) database for accident investigation. Against this background, the Fitness Check recommended to continue building on EMSA's capacities, with a focus on promoting and investing in EMSA's digital systems, applications and databases.

- **Stakeholder consultations**

The main consultation activities for supporting the current proposal were as follows:

- An Open Public Consultation, organised by the Commission, which ran from 28 March 2022 to 20 June 2022. However, there was low stakeholder input with answers submitted by only 15 respondents.
- Two targeted stakeholder surveys to gather specific information, one on the list of possible tasks to be included in the new mandate, with 122 replies mainly from Member States authorities, and the other on the cost estimations about savings from conducting tasks at EU level instead of individual Member States. The first online survey ran from March 2022 to April 2022 and the second was conducted from November 2022 to December 2022.
- A total of 26 targeted interviews were conducted with EU level representatives of key stakeholders organised by the consultant in charge of the external support study, running intermittently from January 2022 to July 2022, to fill specific information requests.
- The contractor of the support study conducted also two workshops with experts of the maritime sector on 13 December 2021 and 4 March 2022 to consult on various aspects of the revision.
- Additional targeted consultation activities organised by the Commission in order to consult the Member States on the policy measures and to validate the progress of the revision. These activities took place in the context of two meetings of the EU Committee on Safe Seas and the Prevention of Pollution from Ships (2 June 2022 and 29 November 2022) and a workshop with the Maritime Directors from Member States on 17 May 2022.
- The opinions of stakeholders were coherent with the need to reflect better the current tasks of the Agency in its mandate, which was found by the majority to be outdated, especially in the areas of sustainability, decarbonisation and digitalization of the maritime sector.

- **Collection and use of expertise**

The proposal builds on an external support study which looked into the problems of the current mandate of the Agency and the tasks which have to be reflected properly while a bigger part was dedicated on the tasks which would need to be further expanded so that the Agency supports better the Member States and the sector with the future challenges, especially the green and digital transitions of the sector.

- **Impact assessment**

The proposal envisages changes to EMSA's founding Regulation stemming solely from obligations that have either already been introduced or have been proposed by other pieces of legislation and therefore need to be better reflected in legal terms. It also reflects EMSA's current tasks that are not specifically mentioned in its mandate, despite now constituting a bigger part of its deliverables.

Although the revision was initially planned to be covered by an impact assessment, it eventually became clear that the preferred policy objective, also by stakeholders, was not to fundamentally change the role of the Agency by turning it into a regulatory-type of Agency, but rather to better reflect its current role and the tasks that it has undertaken on the basis of the flexibility mechanisms that are already included in its mandate.

The above considerations led to the conclusion that there were no policy options, with materially different solutions, to be considered in an impact assessment and the alignment with the baseline of the tasks either emanating from other pieces of legislation or already undertaken by the Agency, thanks to the flexibility provided in its mandate, was considered more appropriate. Therefore, in line with the Commission's better regulation guidelines, a fully-fledged impact assessment has not been carried out.

Nonetheless, the proposal is accompanied by a Commission staff working document providing background information on the Agency and explaining the reasons behind the need to amend its founding Regulation and expand its tasks, and setting out the proposed resources to be allocated to each of them.

The staff working document describes the clear need to update and upgrade the mandate to better reflect what the agency is doing now and what it should do in the coming years in line with EU priorities and the needs of both Member States and the sector.

- **Fundamental rights**

The revision as such does not have any direct impacts on fundamental rights. The data collected by and for the Agency are statistical data, while any data collected for seafarers are anonymised. Therefore, Article 8 of the Charter of Fundamental Rights ("protection of personal data") is not affected. Other fundamental rights are not impacted either by the proposal.

4. BUDGETARY IMPLICATIONS

This legislative proposal would have an impact on the budget and staff needs of the Agency as currently provided for in the Multiannual Financial Framework (MFF) and which are insufficient for the tasks the Agency should carry out. It is estimated that an additional budget of EUR 50.997 million and 33 additional posts would be needed for the remainder of the period of the Multiannual Financial Framework (MFF) to ensure that the Agency has the necessary resources to enforce its revised mandate. The tasks for the Agency reflected in this legislative proposal therefore require additional financial and human reinforcements compared to the resources earmarked in the adopted Multiannual Financial Framework 2021-2027, which provides for a 2% yearly increase of the EU contribution to the Agency.

The budgetary impact of the additional financial resources for the Agency will be offset through a compensatory reduction from programmed spending under Heading 1 and should also stabilise the resource needs of the Agency over the period 2021-2027. The Agency has

also committed on a plan for internal redeployment covering some of the needs to reinforce the tasks proposed by this proposal through internal reshuffling of 7 posts. Before suggesting any further extension of tasks requiring additional resources, the Commission, with the assistance of the Agency, will continue to screen EMSA's activities and resources to ensure also for the future that all possibilities for redeployment within the Agency are used.

The detailed calculations related to the budgetary implications and the human and administrative resources required for this proposal are integrated in the legislative financial statement.

The budget impact described in this section and in the annexed legislative financial statement includes the complete budget impact of the new Regulation establishing EMSA repealing Regulation (EC) no 1406/2002, and also the budget impact of (i) revision of Directive 2009/21/EC on Flag State requirements; (ii) the revision of Directive 2009/16/EC on port State control; (iii) the revision of Directive 2009/18/EC on accident investigation; and (iv) revision of Directive 2005/35/EC on ship-source pollution. The budget impact of the latter four proposals is described in more detail in each of the respective legislative financial statements.

The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

The monitoring and evaluation of the Agency's mandate would largely be performed by the applicable mechanisms under this Regulation. Article 41 provides for an evaluation which will assess, in particular, the impact, effectiveness and efficiency of the Agency and of its working practices and may address the possible need to modify the structure, operation, field of action and tasks of the Agency, and the financial implications of any such modification. Further to this evaluation, the Commission will draw data through its representation in the Agency's Management Board meetings and its supervision, along with the Member States, of the Agency's work.

• Detailed explanation of the specific provisions of the proposal

This section comments on and explains the main provisions of the new EMSA Regulation, when necessary in relation to amendments to the original text of Regulation (EC) No 1406/2002.

CHAPTER I SUBJECT MATTER, SCOPE AND OBJECTIVES:

Article 1 to 2: An article on subject matter and scope has been introduced together with a separate article on the objectives of the Agency. These two Articles are reflecting the previous Article 1 on objectives which have been revised to reflect new tasks of the Agency in the areas of sustainability, decarbonisation, digitalisation, surveillance and maritime awareness.

CHAPTER II TASKS OF THE AGENCY:

This new chapter describes the tasks of the Agency by abolishing the distinction between core and ancillary and instead follows a thematic approach from horizontal support up to tasks in

the areas of maritime safety, sustainability, decarbonisation, security and cybersecurity, maritime surveillance and crises, digitalization and simplification and visits and inspections.

Article 3 includes the flexibility existing in Article 2 in the previous mandate in order for the Agency to be able to assist with technical and operational assistance the Commission and the Member States in any tasks falling under the competences of the Agency. The Articles include assistance to the Commission in preparing new legislation but also to any other piece of legislation assigning tasks to the Commission for which it might need the assistance of the Agency, corresponding to the tasks under Article 2 (2) points (a) to (d) of the previous mandate. It also includes operational and technical assistance to the Member States for any tasks falling under its objectives corresponding to Article 2 (3) points (a) and (b) of the previous mandate. This Article is meant to provide flexibility to the mandate and render it future proof to new tasks that might emanate from future legislation in the area of needs of the sector.

Article 4 includes the tasks of the Agency in the area of maritime safety, retaining the ones prescribed in Article 2 (4) points (c) and (e) of the previous mandate. It also reflects the activities of the Agency in other pieces of legislation notably the flag and port State control as they are proposed to be amended, the passenger ship safety legislation, the recognized organizations including Article 2(3)(c) of the previous mandate, the marine equipment Directive and the work on autonomous ships.

Article 5 includes the tasks of the Agency in the area of sustainability, retaining the ones of Article 2 (3)(d), (f),(g) and Article 2a (2) points (a) and (e) of the previous mandate. It also reflects the changes emanating in the new proposed Directive on Ship Source pollution and the current work of the Agency for the port reception facilities, the sulphur and NOx emissions and the ship recycling legislation.

Article 6 includes the tasks of the Agency in the efforts to decarbonize shipping, amending and further expanding on the task of Article 2a(2)(b) of the previous mandate. It includes the work of the Agency for the FuelEU Maritime Regulation, for the extension of the Emission Trading System (ETS) to shipping and for the Monitoring Reporting Verification (MRV) legislation while it mandates the Agency to continue supporting the Commission and the Member States' efforts to reduce greenhouse gases from shipping both in the EU and in EU-led efforts at IMO.

Article 7 includes the tasks of the Agency in the area of maritime security and cybersecurity, reflecting the task of Article 2(2)(b) of the previous mandate while reflecting the engagement of the Agency in the effort to develop resilience against cybersecurity threats.

Article 8 includes the tasks of the Agency in the area of maritime surveillance and maritime crises, reflecting the tasks of Article 2(4) points (a), (b) and (i) and Article 2a(2) points (c) and (d) of the previous mandate. The Article proposes also the 24/7 maritime awareness center of the Agency which has played already a crucial role in assisting during periods of crises.

Article 9 includes the tasks of the Agency in the area of digitalization and simplification, reflecting the task of Article 2(4)(d) and Article 2a(2) points (a) and (b) of the previous mandate. It reflects also the tasks of the Agency in assisting the Commission in the implementation of the European Maritime Single Window environment (EMSWe).

Article 10 reflects the previous Article 3 on the visits and inspections that Agency should conduct. It provides also flexibility to allow for the assistance of the Agency with any other

inspections in the maritime transport area for which the Commission might need such assistance.

CHAPTER III OTHER TASKS OF THE AGENCY REGARDING INTERNATIONAL RELATIONS AND EUROPEAN COAST GUARD COOPERATION:

Article 11 reflects the tasks of Article 2(4)(h) and Article 2(5) of the previous mandate while it reflects the broader assistance of the Agency to the Commission and the European External Action Service with regards to third countries.

Article 12 repeats Article 2b of the previous mandate and Article 13 reflects and regulates the communication activities of the Agency.

CHAPTER IV and CHAPTER V (Articles 14 to 26) sets out the rules on the organisation of the Agency. The rules are based on Regulation (EC) No 1406/2002. The changes introduced to the rules in this Chapter are due to the implementation of the Joint Statement of the Commission, the European Parliament and the Council on decentralised agencies and the Common Approach (2012). The main changes include the introduction of a flexibility mechanism when it comes to various requests for assistance or implementation of certain tasks that allows first for a reflection and analysis by the management board of the available human and financial resources in the context of the annual and multi-annual programming (Article 17) and an executive board (Article 21) while the previous administrative board is renamed into management board. In particular:

Article 14 defines the structure of the Agency. Articles 15 to 20 set out the composition, functions and the working methods of the Management Board. They are developed based on Articles 10 to 14 of Regulation (EC) No 1406/2002 and the common approach. Article 17: "annual and multi-annual work programmes" is a new, separate article on work programmes deemed useful for clarity in accordance with the Joint Statement.

Article 21 sets out the rules for the Executive Board, which supports the Management Board and prepares its meetings.

Articles 22 to 23 set out the appointment procedure and the responsibilities of the Executive Director and is based on Articles 15 and 16 of Regulation (EC) No 1406/2002 and the common approach.

Article 24 is a repetition of Article 17 of the previous mandate.

CHAPTER VI (Articles 25 to 29) includes the financial provisions. These provisions have been adapted to the latest financial regulations¹². Changes in the financial provisions compared to Regulation (EC) No 1406/2002 are due to the implementation of the common approach and the currently applicable financial rules for EU decentralised agencies. The changes introduced as regards the budget procedures and the presentation of accounts and discharge are minor. The main amendment in comparison to the previous mandate is in Article 26, which would allow the Agency to charge fees for certain tasks. It will be up to the Agency to decide at a later stage, once this Regulation is applicable, whether it will use this option or not while the establishment of the amount of the fee for the services to third

¹² Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1–38).

countries and the industry shall be made by an implementing act as further prescribed in Article 33.

CHAPTER VII (Articles 30 to 31) includes the staff rules.

Chapter VIII (Articles 32 to 45) includes general and final provisions. Changes compared to Regulation (EC) No 1406/2002 are due to the implementation of the common approach and adaptations to more recent legislation. The majority of these provisions was already included in Regulation (EC) No 1406/2002. The new Articles 33 and 34 on the comitology are necessary for the implementation of the fees possibility.

This Chapter also includes transitional provisions (Article 43) to enable a proper transition from the previous mandate to the new one without interruption of service for EMSA.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the European Maritime Safety Agency and repealing Regulation (EC) No 1406/2002

(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 Committee¹³,

Having regard to the opinion of the Committee of the Regions¹⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) A number of legislative measures have been adopted at the Union in order to enhance maritime safety and security, to promote the sustainability, by also preventing pollution, and the decarbonisation of shipping, and to facilitate the exchange of information and the digitalisation of the maritime sector. In order to be effective, such legislation should be applied in a proper and uniform manner throughout the Union. That would ensure a level playing field, reduce the distortion of competition resulting from the economic advantages enjoyed by non-complying ships and would reward the serious maritime players.
- (2) The pursuit of those goals requires substantial technical work led by a specialised body. That is why it was necessary, as part of the second ‘Erika package’ in 2002, to establish, within the existing institutional framework and with respect for the responsibilities and rights of the Member States as flag, port and coastal States, a European agency for the purpose of ensuring a high, uniform and effective level of maritime safety and prevention of pollution by ships.
- (3) Regulation (EC) No 1406/2002 of the European Parliament and of the Council¹⁵ established the European Maritime Safety Agency (‘the Agency’) in order to assist the Commission and the Member States with the effective implementation at the Union level of the legislation in the areas of maritime safety and pollution prevention through appropriate visits to Member States for the monitoring of the relevant legislation and the provision of training and capacity building.

¹³ OJ C , , p. .

¹⁴ OJ C , , p. .

¹⁵ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1).

- (4) Following the establishment of the Agency in 2002, the Union legislation in the areas of maritime safety, sustainability and pollution prevention and maritime security expanded significantly resulting in five amendments to the Agency’s mandate.
- (5) Since 2013 the Agency continued to expand significantly its tasks either through the activation of relevant ancillary tasks prescribed in Article 2a of Regulation (EC) No 1406/2002 or through requests for technical assistance to the Commission and the Member States especially in the area of decarbonisation and digitalisation of the maritime sector. In addition, amendments to Directives 2005/35/EC¹⁶, 2009/16/EC¹⁷, 2009/18/EC¹⁸ and 2009/21/EC¹⁹ of the European Parliament and of the Council have a direct impact on the tasks of the Agency. Those Directives provide in particular for the performance of tasks by the Agency relating to ship source pollution, the port State control regime at the Union level, the Member States activities concerning the investigations related to maritime accidents in Union waters and the obligations of the Member States as flag States.
- (6) In addition, the administrative and financial governance of the Agency needs to be aligned to the inter-institutional agreement on the governance of decentralised agencies²⁰ and the framework financial regulation for the decentralized bodies of the Union²¹.
- (7) Due to the substantial number of changes in view of the above developments, it is appropriate to repeal Regulation (EC) No 1406/2002 and replace it by a new legal act.
- (8) The Agency was initially established with the objective of contributing to the establishment of a high level of maritime safety across the Union while also assisting the pollution prevention from ships and later also from oil and gas installations. While these objectives were further strengthened with the addition of promoting maritime security, the Agency’s focus, during recent years, on support to regulatory developments in the area of decarbonisation and digitalisation of shipping merit the addition of those areas in the overall objectives of the Agency enabling it to contribute to the goals of the twin, green and digital, transition of the industry. Likewise, the crucial role of the Agency in the provision of a maritime awareness picture in the sea, through satellite images and the operation of remotely piloted aircraft systems, justifies the addition of a relevant overall objective for the Agency.
- (9) These objectives should define the areas of the Agency’s engagement in supporting the Commission and the Member States with technical and operational assistance in order to implement the Union’s policies in the maritime domain.

¹⁶ 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 (OJ L 255, 30.9.2005, p. 11).

¹⁷ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

¹⁸ 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 and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council (OJ L 131, 28.5.2009, p. 114).

¹⁹ Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (OJ L 131, 28.5.2009, p. 132).

²⁰ https://european-union.europa.eu/system/files/2022-06/joint_statement_on_decentralised_agencies_en.pdf

²¹ Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial Regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council, (OJ L 122, 10.5.2019 p. 1).

- (10) For the proper achievement of these objectives, it is appropriate that the Agency carries out specific tasks in the area of maritime safety, sustainability, decarbonisation of the maritime sector, maritime security and cybersecurity, maritime surveillance and maritime crises and the promotion of the digitalisation and facilitation of exchanges of data in the maritime domain.
- (11) In addition to the specific tasks, the Agency should provide horizontal, technical support, upon request by the Commission or the Member States, for the implementation of any task that falls under the remit of its competences and objectives, stemming from future needs and developments at the Union level. Such additional tasks shall be subjected to a consideration of the available human and financial resources, which the Management Board of the Agency should take into account before deciding to include them in the Single Programming Document of the Agency as part of its annual or multiannual work program. This is necessary to ensure that certain tasks which constitute the core of the Agency could be prioritised if needed.
- (12) The Agency is at the forefront of the technical expertise in the areas of its competence and thus it should provide training and capacity building activities to the Member States with the development of common core curricula courses and the use of the most technologically advanced tools in their delivery.
- (13) This technical expertise of the Agency should be further cultivated by conducting research in the maritime field and contributing to the relevant Union's activities in the area. The Agency should contribute with a proactive approach to the objectives of enhancing maritime safety, security, decarbonisation of shipping and prevention of pollution by ships. In this regard, the Agency could issue relevant non-binding guidance, recommendations or manuals that could assist the Commission, the Member States and/or the maritime industry in attaining these objectives.
- (14) As regards maritime safety, the Agency should develop a proactive approach in determining safety risks and challenges on the basis of which it should present to the Commission every three years a report on the progress on maritime safety. Moreover, the Agency should continue assisting the Commission and the Member States in the implementation of the relevant Union legislation, especially in the areas of flag and port State obligations, the accident investigation of marine accidents, the passenger ship safety legislation, Recognised Organisations and marine equipment. Finally, the Agency should have a proactive role in assisting the deployment of maritime autonomous and automated surface ships while also it is important to collect further data in the area of the training and certification for seafarers and the Maritime Labour Convention (MLC, 2006).
- (15) Since the last substantial amendment of the Regulation in 2013, there have been significant legislative developments in the maritime sector with regards to sustainability. In addition to the tasks that the Agency's mandate covered until now, such as the prevention of pollution from ships and oil and gas installations, mainly through the operation of CleanSeaNet, the Agency should continue assisting the Commission in the implementation of Directive (EU) 2019/883 of the European Parliament and of the Council²² by reflecting this task in its updated mandate. Moreover, there is an increased need for the Agency to continue assisting in the implementation

²² Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116).

of the shipping related elements of Directives 2008/56/EC²³ and (EU) 2016/802²⁴ of the European Parliament and of the Council. Those two areas together with the engagement of the Agency in the collection, analysis and sharing of data in relation to nitrogen oxides (NOx) emissions from ships are of importance for promoting sustainability in the maritime sector for which the Agency should deliver a report on the progress made every three years.

- (16) In the area of decarbonisation of the shipping sector, efforts to limit global maritime emissions through the International Maritime Organisation (IMO) are under way and should be encouraged, including the rapid implementation of the initial IMO Strategy on Reduction of Greenhouse Gas Emissions from Ships, adopted in 2018. Discussions are undergoing on the means to implement in practice such ambition, including on a revision of the initial strategy. At the Union level, a set of policies and legislative proposals to support the decarbonisation and further promote the sustainability of the maritime sector has been developed, as reflected in particular in the European Green Deal, the Sustainable and Smart Mobility Strategy, the “Fit for 55” package and the Zero Pollution Strategy. As a result, the need to reduce greenhouse gas emissions from the maritime sector should be reflected in the mandate of the Agency.
- (17) In this regard, while the Agency should continue assisting the Commission and the Member States in the implementation of Regulation (EU) 2015/757 of the European Parliament and of the Council²⁵ it should further assist in the implementation of the new regulatory measures to decarbonise the shipping sector, as stemming from the Fit for 55 legislative package, such as the Regulation [...] on the use of renewable and low-carbon fuels in maritime transport and the shipping-related elements of Directive 2003/87/EC of the European Parliament and of the Council²⁶ establishing a scheme for greenhouse gas emission allowance trading within the Community. The Agency should continue to be at the forefront of expertise at Union level to assist in the transition of the sector into renewable and low carbon fuels by conducting research and providing guidance on the uptake and deployment of sustainable alternative sources of power for ships, including onshore power supply to ships and in relation to the deployment of energy efficiency and wind propulsion assistance solutions. In order to monitor progress in the area of decarbonisation of the shipping sector, the Agency should report to the Commission on the greenhouse gas reduction efforts and any recommendations that might have every three years.
- (18) In the area of maritime security, the Agency should continue to provide technical assistance to the Commission inspections in the framework of Regulation 725/2004 of the European Parliament and of the Council²⁷ on enhancing ship and port facility security. Given that the number of cybersecurity incidents in the maritime sector has gone up significantly in recent years, the Agency should assist Union efforts to enhance resilience against cybersecurity

²³ 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).

²⁴ Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (OJ L 132, 21.5.2016, p. 58).

²⁵ Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).

²⁶ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

²⁷ Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security, OJ L 129 of 29.4.2004, p. 6

incidents in the maritime sector by facilitating the exchange of best practices and information on cyber security incidents between the Member States.

- (19) The Agency should continue to host the vessel monitoring and information system established under Directive 2002/59/EC of the European Parliament and of the Council²⁸ together with other systems underpinning the establishment of a maritime awareness picture. In this regard, the Agency should continue to play a vital role in the management of the maritime security component of Copernicus programme and should continue making use of available state-of-the-art technology, such as remotely piloted aircraft systems providing to Member States and other Union bodies a useful tool for surveillance and monitoring. In addition to these services, the Agency has demonstrated its strategic role in providing maritime situational awareness supporting various crises, such as the COVID-19 and Russia's war of aggression against Ukraine. As a result, the Agency should operate a centre, open 24 hours per day and 7 days per week, which should assist the Commission and the Member States with such emergency situations.
- (20) Digitalisation of data is part of technological progress in the area of data collection and communication with a view to helping to bring down costs and making efficient use of human resources. The deployment and operation of Maritime Autonomous Surface Ships (MASS) and the digital and technological developments provide a wide range of new opportunities in terms of data collection and management of integrated systems. This creates opportunities for the potential digitalisation, automation and standardisation of several processes, which would allow for the facilitation of safety, security, sustainability and efficiency of maritime operations, including surveillance mechanisms, at Union level, reducing in parallel the administrative burden to the Member States. In this regard, the Agency should, among others, facilitate and promote the use of electronic certificates, the collection, recording and evaluation of technical data, the systematic exploitation of existing databases, including their cross-fertilisation through the use of innovative IT and artificial intelligence tools, and, where appropriate, the development of additional interoperable databases.
- (21) In order to properly carry out the tasks entrusted to the Agency, it is appropriate that its officials should carry out visits to the Member States in order to monitor the overall functioning of the Union maritime safety and pollution prevention system. The Agency should also carry out inspections in order to assist the Commission in the assessment of the effective implementation of Union law.
- (22) In the context of the IMO, the International Labour Organisation (ILO) and the Paris Memorandum of Understanding on Port State Control, signed at Paris on 26 January 1982 ('Paris MoU'), the Commission and the Member States may need technical assistance and expertise. Likewise, the Commission may also need the technical assistance of the Agency in supporting third countries in the maritime domain, in particular with capacity building and pollution prevention and response means. The Management Board of the Agency should be tasked with adopting a strategy for international relations of the Agency concerning matters under its competence, as part of the single programming document.
- (23) National authorities carrying out coast guard functions are responsible for a wide range of tasks, which may include maritime safety, security, search and rescue, border control, fisheries

²⁸ 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 and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).

control, customs control, general law enforcement and environmental protection. The Agency, the European Border and Coast Guard Agency, established by Regulation (EU) 2019/1896 of the European Parliament and of the Council²⁹, and the European Fisheries Control Agency, established by Regulation (EU) 2019/473 of the European Parliament and of the Council³⁰, should therefore strengthen their cooperation, within their mandate, both with each other and with the national authorities carrying out coast guard functions, in order to increase maritime situational awareness and to support coherent and cost-efficient action.

- (24) The implementation of this Regulation should not affect the division of competence between the Union and the Member States or the obligations of Member States under international conventions such as the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, the International Convention for the Prevention of Pollution from Ships, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, and other relevant international maritime instrument.
- (25) In order to streamline the decision-making process in the Agency and to contribute to enhancing efficiency and effectiveness, a two-level governance structure should be introduced. To that end, the Member States and the Commission should be represented on a Management Board vested with the necessary powers, including the power to establish the budget and approve the programming document. The Management Board should give general orientations for the Agency's activities and be more closely involved in the monitoring of the Agency's activities, with a view to reinforcing supervision on administrative and budgetary matters. A smaller Executive Board should be set up with the task of preparing the meetings of the Management Board in an appropriate manner and supporting its decision-making process. The powers of the Executive Board should be defined in a mandate to be adopted by the Management Board and should, where necessary, include opinions and provisional decisions subject to final endorsement by the Management Board. The Agency should be headed by an Executive Director.
- (26) In order to guarantee the transparency of the Management Board's decisions, representatives of the sectors concerned should attend its meetings, but without the right to vote. The representatives of the various stakeholders should be appointed by the Commission on the basis of their representativeness at Union level.
- (27) In order to perform its tasks properly, the Agency should have legal personality and an autonomous budget funded mainly through a contribution by the Union and through fees and charges paid by third countries or other entities. The Agency's independence and impartiality should not be compromised by any financial contribution that it receives from Member States, third countries or other entities. In order to ensure independence in its daily management and in the opinions, recommendations and decisions which it issues, the Agency's organisation should be transparent and the Executive Director should have full responsibility. The Agency's staff should be independent and should be employed on both short-term and long-term contracts in order to maintain its organisational knowledge and business continuity, while keeping a

²⁹ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

³⁰ Regulation (EU) 2019/473 of the European Parliament and of the Council of 19 March 2019 on the European Fisheries Control Agency (OJ L 83, 25.3.2019, p. 18).

necessary and ongoing exchange of expertise with the maritime sector. The expenditure of the Agency should include staff, administrative, infrastructure and operational expenses.

- (28) With regard to the prevention and management of conflicts of interest, it is essential that the Agency acts impartially, demonstrates integrity and establishes high professional standards. There should never be any legitimate reason to suspect that decisions might be influenced by interests conflicting with the role of the Agency as a body serving the Union as a whole or by private interests or affiliations of any member of the Management Board which would create, or have the potential to create, a conflict with the proper performance of the official duties of the person concerned. The Management Board should therefore adopt comprehensive rules on conflicts of interests.
- (29) A broader strategic perspective in relation to the activities of the Agency would facilitate the planning and management of its resources in a more effective manner and would contribute to a higher quality of its outputs. That is confirmed and reinforced by Delegated Regulation (EU) 2019/715. Therefore, a single programming document containing the annual and multi-annual work programmes should be adopted and updated periodically by the Management Board, following proper consultation of the relevant stakeholders.
- (30) When the Agency is asked to conduct a new task not specifically provided for in its mandate or certain tasks for which a consideration and an analysis of the impact on its resources, in human and budgetary terms, is necessary according to its mandate, the Management Board should include such tasks in the programming document only after such an analysis. That analysis should identify the necessary resources with which the Agency could deliver upon those new tasks and whether the existing tasks of the Agency are negatively affected.
- (31) The Agency should be properly resourced to carry out its tasks and granted an autonomous budget. It should be mainly financed by a contribution from the general budget of the Union. The Union budgetary procedure should be applicable to the Union contribution and to any other subsidies chargeable to the general budget of the Union. The auditing of accounts should be undertaken by the Court of Auditors of the Union.
- (32) Fees improve the funding of an agency and may be considered for specific services, falling under the scope of its competencies, rendered by the Agency to third countries or the industry. Any fees levied by the Agency should cover its costs for providing the respective services.
- (33) In order to ensure uniform conditions for the implementation of this Regulation with regards to fees and charges, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council³¹.
- (34) Over the past years, as more decentralised agencies have been created, transparency and control over the management of Union funding allocated to them has improved, in particular as regards the budgetisation of fees, financial control, power of discharge, pension scheme contributions and the internal budgetary procedure (code of conduct). Similarly, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council³² should apply without restriction

³¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L55, 28.2.2011, p. 13)

³² Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC)

to the Agency, which should accede to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF)³³.

- (35) Since the objectives of this Regulation, namely to establish a specialised body that can assist the Commission and the Member States in the application and monitoring of the Union legislation in the field of maritime safety, as well as with the evaluation of its effectiveness, cannot be sufficiently achieved by the Member States but can rather, by reason of the cooperation to be done, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (36) It is necessary for the proper functioning of the Agency to implement certain principles regarding the governance of the Agency in order to comply with the Joint Statement and Common Approach agreed by the Inter-Institutional Working Group on EU decentralised agencies in July 2012, the purpose of which is to streamline the activities of agencies and increase their performance.
- (37) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (38) The European Maritime Safety Agency established by Regulation (EC) No 1406/2002 remains the same legal person and will continue all its activities and procedures.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND OBJECTIVES

Article 1

Establishment, subject matter and scope

- 1. This Regulation provides comprehensive rules on the tasks, functioning and governance of the European Maritime Safety Agency established by Regulation (EC) No 1406/2002 ('the Agency').
- 2. The Agency shall assist the Member States and the Commission in the effective application and implementation of Union law related to maritime transport across the Union. To that end, the Agency shall cooperate with the Member States and the Commission and provide them

No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

³³ OJ L 136, 31.5.1999, p. 15.

with technical, operational and scientific assistance within the scope of the Agency's objectives and tasks set out in Article 2 and Chapters II and III.

3. By providing the assistance referred to in paragraph 2, the Agency shall in particular provide support to the Member States and the Commission to apply the relevant Union legal acts properly while contributing to the overall efficiency of maritime traffic and maritime transport as set out in this Regulation, so as to facilitate the achievement of the Union's objectives in the maritime transport domain.

4. Any assistance provided by the Agency shall be without prejudice to the rights and responsibilities of the Member States as flag, port or coastal States.

Article 2

Objectives of the Agency

1. The objectives of the Agency shall be the promotion and establishment of a high, uniform and effective level of maritime safety aiming towards zero accidents, maritime security, the reduction of greenhouse gas emissions from ships and the sustainability of the maritime sector as well as the prevention of and response to pollution caused by ships and the response to marine pollution caused by oil and gas installations.

2. Further objectives of the Agency shall be the promotion of digitalisation of the maritime sector by facilitating the electronic transmission of data supporting simplification and the provision of integrated maritime surveillance and awareness systems and services to the Commission and the Member States.

CHAPTER II

TASKS OF THE AGENCY

Article 3

Horizontal technical support

1. The Agency shall assist the Commission:
 - (a) in the control of the effective implementation of relevant binding legal acts of the Union, falling under the objectives of the Agency, in particular by carrying-out the visits and inspections as referred to in Article 10. In this regard, the Agency may address suggestions to the Commission for possible improvements;
 - (b) in the preparatory work for updating and developing relevant legal acts of the Union falling under the objectives of the Agency, in particular in accordance with the development of international law;
 - (c) in the performance of any other task assigned to the Commission in legislative acts of the Union regarding the objectives of the Agency.

2. The Agency shall work with the Member States to:
 - (a) organise, where appropriate, relevant capacity building and training activities in fields which fall under the objectives of the Agency and are the responsibility of the Member States. In this regard, the Agency shall establish appropriate capabilities with the aim to develop, implement and coordinate training activities relevant to the objectives of the Agency, including through the development of common core curricula courses, seminars, conferences, workshops as well as web-based, e-learning and other innovative and advanced training tools. The details of such training activities provided outside formal education shall be developed in close consultation with the Member States and the Commission and approved by the Management Board in accordance with Article 17 of this Regulation, while fully respecting Article 166 of the Treaty on the Functioning of the European Union (TFEU);
 - (b) develop technical solutions, including the provision of relevant operational services, and provide technical assistance, to building up the necessary national capacity for the implementation of relevant legal acts of the Union pertinent to the objectives of the Agency.
3. The Agency shall promote and facilitate cooperation between Member States and between them and the Commission in the implementation of the Union legislation by promoting the exchange and dissemination of experiences and good practices.
4. The Agency shall contribute, at the Commission's request, or on its own initiative, subject to the approval of the Management Board in accordance with Article 17, to maritime research activities at the Union level consistent with the objectives of the Agency. In this regard, the Agency shall assist the Commission and the Member States in identifying key research themes, without prejudice to other research activities at the Union level, and in analyzing ongoing and completed research projects relevant to the objectives of the Agency. Where appropriate, subject to the applicable rules on intellectual property and security considerations, the Agency may disseminate the results of its research and innovation activities, following approval by the Commission, as part of its contribution to creating synergies between the research and innovation activities of other Union bodies and the Member States.
5. Where required for the implementation of its tasks, the Agency shall undertake studies, involving the Commission and where applicable, through consultation steering groups, the Member States, and where appropriate, the social partners and industry representatives with expertise in the relevant topics.
6. On the basis of the research and studies conducted by the Agency, but also on the basis of the experience gained through its own activities, especially the visits and inspections, and exchange of information and good practices with the Member States and the Commission, the Agency may issue, after prior consultation with the Commission, relevant non-binding recommendations, guidelines or manuals to support and facilitate Member States, and where appropriate the industry, in the implementation of the Union legislation.

Article 4

Tasks relating to maritime safety

1. The Agency shall monitor progress on the safety of maritime transport in the Union, conduct risk analysis on the basis of the available data and develop safety risk assessment models to identify safety challenges and risks. Every three years it shall present to the Commission a report on progress on maritime safety with possible technical recommendations that could be addressed at the Union or the international level. In this regard, the Agency shall in particular analyse and propose relevant guidance or recommendations in relation to potential safety risks stemming from the uptake and deployment of sustainable alternative sources of power for ships, including onshore power supply to ships at berth.

2. The Agency shall assist the Commission and the Member States in the implementation of Directive 2009/21/EC. In particular, the Agency shall develop and maintain the inspection database in accordance with [Article 6a] of that Directive, establish the electronic reporting tool referred to in [Article 9b] of that Directive, maintain the public website referred to in Article 8(2c) and provide to the Commission recommendations on the basis of the data collected.

The Agency shall assist the Commission in participating as an observer in the International Maritime Organisation auditing process according to [Article 7] of Directive 2009/21/EC. The Agency shall also develop relevant tools and services assisting the Member States, upon their request, on fulfilling their obligations under Directive 2009/21/EC.

The Agency shall also provide a common capacity building scheme for flag State surveyors and flag State inspectors of the Member States, referred to in [Article 4c] of the aforementioned Directive.

3. The Agency shall assist the Commission in the development and maintenance of the databases provided for in Articles 24 and 24a of Directive 2009/16/EC. On the basis of the data collected, the Agency shall assist the Commission in the analysis of the relevant information and the publication of information concerning ships and companies with low and very low performance pursuant to Directive 2009/16/EC.

The Agency shall develop relevant tools and services assisting the Member States, upon their request, on fulfilling their obligations under Directive 2009/16/EC.

The Agency shall also provide a professional development and training program for port State control inspectors of the Member States, as provided for in [Article 22 (7)] of the aforementioned Directive 2009/16/EC.

4. The Agency shall assist the Commission in the development and maintenance of the database provided for in Article 17 of Directive 2009/18/EC. On the basis of the data collected the Agency shall compile a yearly overview of marine casualties and incidents. The Agency shall, if requested by the concerned Member States and where no conflict of interest arises, provide operational support to these Member States concerning safety investigations. The Agency shall also carry out an analysis of safety investigation reports with a view to identify added value at Union level in terms of any relevant lessons to be drawn.

The Agency shall provide a professional development and training program to the competent marine safety accident investigation Authorities.

5. The Agency shall assist the Commission and the Member States in the implementation of Directives 2009/45/EC³⁴ and 2003/25/EC of the European Parliament and of the Council³⁵ and Council Directive 98/41/EC³⁶. The Agency shall, in particular, develop and maintain a database for recording measures as provided for in Article 9 of Directive 2009/45/EC and Article 9 of Directive 98/41/EC and assist the Commission in the assessment such measures.

6. The Agency shall facilitate the cooperation and the exchange of information between the Commission and the Member States for the assessment of the recognised organisations that carry out

³⁴ Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).

³⁵ Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships (OJ L 123, 17.5.2003, p. 22).

³⁶ Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community (OJ L 188, 2.7.1998, p. 35).

survey and certification tasks in accordance with Article 8(1) of Regulation (EC) No 391/2009³⁷. In particular, the Agency shall:

- (a) provide to the Commission an opinion on its assessment of the recognised organisations under Article 8(1) of Regulation (EC) No 391/2009;
- (b) provide to the Member States appropriate information in the context of the inspections conducted to support the Commission's assessment under Article 8 (1) of Regulation (EC) No 391/2009 in order to support the monitoring and oversight of the recognised organisations according to Article 9 of Directive 2009/15/EC of the European Parliament and of the Council³⁸ supporting the Member States in the discharge of their Union and international obligations as flag States. In this regard, the Agency shall assist the Commission in the managing of the high level group on flag State matters under [Article 9 (1)] of Directive 2009/21/EC.
- (c) provide, on its own initiative or at the Commission's request, a recommendation and technical assistance to the Commission on possible remedial measures or the imposition of fines to the recognised organisations in accordance with Article 5 and 6 of Regulation (EC) No 391/2009.

7. The Agency shall assist the Commission in the implementation of Directive 2014/90/EU of the European Parliament and of the Council³⁹ by providing its technical assessment on safety aspects, providing recommendations with lists of the respective design, construction and performance requirements and testing standards, developing and maintaining the database provided for in Article 35(4) of that Directive and facilitating cooperation between notified assessment bodies acting as the technical secretariat for their coordination group.

8. The Agency shall assist the Commission and the Member States in the identification of safety risks related to the development of maritime autonomous and automated surface ships (MASS), and assist the Member States by facilitating, through research and the development of relevant digital tools, guidance and manuals for the approval of MASS projects and/or operations.

9. The Agency shall gather and analyse data on seafarers provided and used in accordance with Directive (EU) 2022/993 of the European Parliament and of the Council⁴⁰. It may also gather and analyse data on the implementation of the Maritime Labour Convention, 2006 (MLC, 2006) with the aim of assisting in the improvement of the onboard working and living conditions of seafarers..

Article 5

Tasks relating to sustainability

³⁷ 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 (OJ L 131, 28.5.2009, p. 11).

³⁸ 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 (OJ L 131, 28.5.2009, p. 47).

³⁹ Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC (OJ L 257, 28.8.2014, p. 146).

⁴⁰ Directive (EU) 2022/993 of the European Parliament and of the Council of 8 June 2022 on the minimum level of training of seafarers (OJ L 169, 27.6.2022, p. 45).

1. The Agency shall, in a cost efficient, way support the Member States with additional pollution response means in case of pollution caused by ships as well as marine pollution caused by oil and gas installations. The Agency shall so act on request of the affected Member State under the authority of which the cleaning operations are conducted. Such assistance is without prejudice to the responsibility of coastal States to have appropriate pollution response mechanisms in place and shall respect existing cooperation between Member States in this field. The operational means that the Agency provides to the Member States shall take into account and cater for the transition of the sector to the use of sustainable alternative sources of power for ships. As appropriate, requests for mobilisation of anti-pollution actions shall be relayed through the Union Civil Protection Mechanism established by Decision No 1313/2013/EU of the European Parliament and of the Council⁴¹.

2. The Agency shall assist the Commission and the Member States with the detection of possible pollution and pursuit of ships making illegal discharges in accordance with Directive 2005/35/EC. The Agency shall in particular assist with the implementation of Articles [10, 10a, 10b, 10c and 10d] of that Directive by:

- (a) developing and maintaining the necessary information system (CleanSeaNet), as part of the Union Maritime Information and Exchange System (SafeSeaNet), and databases;
- (b) collecting, analysing and disseminating the relevant information on the implementation and enforcement of Directive 2005/35/EC;
- (c) providing capacity building to the competent national authorities and facilitating the exchange of best practices;
- (d) developing and maintaining the online external reporting channel for receiving and handling information on potential illegal discharges communicated by the crew and shall relay such information to the Member State or Member States concerned.

3. The Agency shall provide the CleanSeaNet service and any other tools to assist the Commission and the Member States, upon their request, to monitor the extent and environmental impact of marine oil pollution caused by oil and gas installations.

4. The Agency shall assist the Commission and the Member States in the implementation of Directive (EU) 2019/883 on port reception facilities for the delivery of waste from ships. In particular, the Agency shall assist the Commission in the development and maintenance of the inspection database provided for in Article 14 of that Directive.

5. The Agency shall assist the Commission and the Member States in the context of the implementation of Directive 2008/56/EC, by contributing to the objective of achieving good environmental status of marine waters with its shipping-related elements and in exploiting the results of existing tools such as the Integrated Maritime Services. In this regard, the Agency shall conduct further research in issues related to lost containers, including plastic pellets, and underwater noise and provide recommendations to the Commission and the Member States.

6. The Agency shall assist the Commission and the Member States, including with operational tools and services, in the implementation of the shipping-related elements of Directive (EU) 2016/802. In this regard, the Agency shall also enhance and maintain a database providing assistance to the Member States on targeting and prioritising appropriately ships for inspections based on risk of non compliance with that Directive.

⁴¹ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

7. The Agency shall assist the Commission and the Member States, upon their request, with appropriate operational tools and services on the monitoring and collection of data in relation to nitrogen oxides (NOx) emissions from ships.
8. The Agency shall assist the Commission and the Member States in the implementation of Regulation (EU) No 1257/2013 of the European Parliament and of the Council⁴² by issuing appropriate guidance and through the collection and analysis of data on compliance with the provisions of that Regulation.
9. The Agency shall every three years present to the Commission a report on the progress made in reducing the environmental impact of maritime transport at the Union level.

Article 6

Tasks relating to decarbonisation

1. The Agency shall monitor progress on the operational and technical measures undertaken to increase the energy efficiency of ships and the deployment of sustainable alternative fuels, energy and power systems for ships, including onshore power supply and wind propulsion assistance, to reduce greenhouse gas emissions from ships.
2. The Agency shall provide technical assistance to the Commission and the Member States, upon their request, in relation to regulatory efforts to reduce greenhouse gas emissions from ships. In this regard, the Agency may utilize any operational tools or services pertinent to the task. The Agency shall in particular research, analyse and propose relevant guidance or recommendations in relation to the uptake and deployment of sustainable alternative fuels, energy and power systems for ships, including onshore power supply and wind propulsion assistance as well as in relation to energy efficiency measures.
3. The Agency shall assist the Commission and the Member States in the implementation of Regulation (EU)[.., on the use of renewable and low-carbon fuels in maritime transport]. In particular, the Agency shall assist the Commission with the development and maintenance of the FuelEU database and other relevant IT tools as referred to in [Article 16] of that Regulation, in the development of the appropriate monitoring tools, guidance and risk-based targeting tools to facilitate verification and enforcement activities provided for in [Article 15 ter] of that Regulation and with the analysis of the relevant data and the preparation of the reporting under [Article 28] of that Regulation.
4. The Agency shall assist the Commission and the Member States in the implementation of Regulation (EU) 2015/757. In particular, the Agency shall assist the Commission with the development, update and maintenance of relevant IT tools, databases and guidance for the purposes of implementing that Regulation and facilitating enforcement activities, assist the Commission with the analysis of relevant data reported under that Regulation, and support the Commission in its activities to comply with the obligations under Article 21 of that Regulation.
5. The Agency shall assist the Commission and the Member States in the implementation of Directive 2003/87/EC, as relevant to the maritime sector. In particular, the Agency shall assist the Commission with the development of the appropriate IT implementation tools, monitoring tools, guidance and risk-based targeting tools to facilitate verification, enforcement and implementation

⁴² Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (OJ L 330, 10.12.2013, p. 1).

activities related to Directive 2003/87/EC, as relevant to the maritime sector, while exploiting the results of existing relevant tools, services and databases.

6. The Agency shall every three years present to the Commission a report on the progress made in achieving the decarbonisation of maritime transport at the Union level. Where possible, the report shall include technical analysis on identified issues that could be addressed at the Union level.

Article 7

Tasks relating to maritime security and cybersecurity

1. The Agency shall provide 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.

2. The Agency shall assist the Commission and the Member States, together with any other relevant Union body, in developing resilience against cybersecurity incidents in the maritime sector in particular by facilitating the exchange of best practices and information on cyber security incidents between the Member States.

Article 8

Tasks relating to maritime surveillance and maritime crises

1. The Agency shall provide to the Commission and the Member States, upon their request, maritime surveillance and communication services based on state-of-the-art, including space-based and ground infrastructure and sensors mounted on any kind of platform, improving maritime situational awareness.

2. In the field of traffic monitoring covered by Directive 2002/59/EC, the Agency shall in particular promote cooperation between riparian States in the shipping areas concerned, as well as, develop, maintain and operate the European Union Long-Range Identification and Tracking of Ships European Data Centre and the Union Maritime Information and Exchange System (SafeSeaNet) as referred to in Articles 6b and 22a of that Directive as well as the International Long-Range Identification and Tracking information data exchange system in accordance with the commitment made in the IMO.

3. The Agency shall provide, upon request and without prejudice to national and Union law, relevant vessel positioning and Earth observation data to the Commission, the competent national authorities and relevant Union bodies within their mandate in order to facilitate measures against threats of piracy and of intentional unlawful acts as provided for in applicable Union law or under internationally agreed legal instruments in the area of maritime transport, subject to applicable data protection rules and in accordance with administrative procedures to be established by the High Level Steering Group established in accordance with Directive 2002/59/EC, as appropriate. The provision of long-range identification and tracking of ships data shall be subject to the consent of the flag State concerned.

4. The Agency shall operate a center available 24 hours a day and 7 days a week providing, upon request and without prejudice to national and Union law, to the Commission, the competent national authorities, without prejudice to their rights and responsibilities as flag, coastal and port States, and to relevant Union bodies, within their mandate, maritime situational awareness and analytical data, as appropriate, supporting them in:

- (a) safety, security and pollution at sea;
- (b) situations of emergency at sea;

- (c) the implementation of any Union legislation requiring the monitoring of ship movements;
- (d) measures against threats of piracy and of intentional unlawful acts as provided for in applicable Union law or under internationally agreed legal instruments in the area of maritime transport;
- (e) the deployment of MASS and their interaction with conventional ships.

The provision of such information shall be subject to applicable data protection rules and in accordance with administrative procedures to be established by the High Level Steering Group established in accordance with Directive 2002/59/EC, as appropriate. The provision of long-range identification and tracking of ships data shall be subject to the consent of the flag State concerned.

5. The Agency shall within its field of competence contribute to a timely response to and mitigation of crises by assisting, upon request, the Member States and the Commission with the execution of contingency plans and by facilitating the exchange of information and best practices.

6. The Agency shall assist the Commission in the operation of the maritime surveillance component of the Copernicus Security Service within the governance and financial framework of the Copernicus programme.

7. The Agency shall assist the Commission and the Member States in the development and maintenance of the voluntary Common Information Sharing Environment (CISE), an interoperability solution, with the aim of facilitating information exchange between different systems used by civil and military authorities with responsibility in the maritime domain complementing the information already available through the mandatory information systems.

Article 9

Tasks relating to digitalisation and simplification

1. The Agency shall, where appropriate, collect and provide, in the areas of Union law within the Agency's competence, objective, reliable and comparable statistics, information and data, to 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 facilitation and promotion of electronic certificates, the collection, recording and evaluation of technical data, the systematic exploitation of existing databases, including their cross-fertilisation through the use of innovative IT and artificial intelligence tools, and, where appropriate, the development of additional interoperable databases. In this regard, the Agency shall also contribute to the maritime domain of the common European mobility data space by exploring links with systems of other transport modes.

2. The Agency shall assist the Commission in the implementation of the Regulation (EU) 2019/1239 of the European Parliament and of the Council⁴³, with the following tasks:

- (a) to develop, make available and maintain the common IT components and services of the European Maritime Single Window environment ('EMSWe') under the responsibility of the Commission;

⁴³ Regulation (EU) 2019/1239 of the European Parliament and of the Council of 20 June 2019 establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU (OJ L 198, 25.7.2019, p. 64).

- (b) to maintain the EMSWe Data Set, the Message Implementation Guide and the templates of the digital spreadsheets;
 - (c) to provide technical guidance to the Member States for the implementation of the EMSWe.
 - (d) to facilitate the re-use and the sharing of data exchanged in the EMSWe using SafeSeaNet.
3. The Agency shall provide technical assistance to the Member States, upon their request and without prejudice to their rights and obligations as flag States, in the digitalization of their registries and their procedures facilitating the uptake of electronic certificates.

Article 10

Visits to Member States and inspections

1. In order to assist the Commission in fulfilling its duties under the TFEU, and in particular the assessment of the effective implementation of relevant Union law, the Agency shall carry out visits to Member States in accordance with a methodology established by the Management Board. Such methodology shall take into account an integrated approach by each visit aiming to verify more than one piece of legislation each time pertinent to the function of flag, port or coastal State of the examined Member State during the visit.
2. The Agency shall inform the Member State concerned in good time of the planned visit, the names of the authorised officials, and the date on which the visit starts and its expected duration. The Agency officials delegated to carry out such visits shall do so on presentation of a decision in writing from the Executive Director of the Agency specifying the purpose and the aims of their mission.
3. The Agency may carry out inspections on behalf of the Commission as required by binding legal acts of the Union regarding organisations recognised by the Union in accordance with Regulation (EC) No 391/2009, and as regards the training and certification of seafarers in third countries in accordance with Directive (EU) 2022/993.
4. The Agency may also carry out inspections on behalf of the Commission as required by any other binding legal act of the Union if the Commission decides to delegate such a task to the Agency.
5. At the end of each visit or inspection, the Agency shall draw up a report and send it to the Commission and to the Member State concerned. The report would follow the template previously established by the Commission.
6. Where appropriate, and in any case when a cycle of visits or 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 in order to draw any relevant lessons and facilitate the dissemination of good working practices.

CHAPTER III

OTHER TASKS OF THE AGENCY REGARDING INTERNATIONAL RELATIONS AND EUROPEAN COAST GUARD COOPERATION

Article 11

International relations

1. The Agency shall provide technical assistance necessary for the Member States and the Commission, upon their request, to contribute to the relevant work of the technical bodies of the IMO, the International Labour Organisation as far as shipping is concerned, and the Paris Memorandum of Understanding on Port State Control ('Paris MoU') and relevant regional organisations to which the Union has acceded, with regard to matters of Union competence.

For the purpose of carrying out these tasks in an efficient and effective manner, the Executive Director may decide to locate staff in Union delegations in third countries subject to the appropriate agreements with the European External Action Service. That decision requires the prior consent of the Commission and of the Management Board. That decision shall specify the scope of the activities to be carried out by the located staff in a manner that avoids unnecessary costs and duplication of administrative functions of the Agency.

2. The Agency may, upon the request of the Commission, provide technical assistance, including the organisation of relevant training activities, as regards relevant legal acts of the Union, to States applying for accession to the Union, and, where applicable, to European Neighbourhood partner countries and to countries taking part in the Paris MoU.

3. The Agency may, upon the request of the Commission or the European External Action Service, or both, provide assistance in case of pollution caused by ships as well as marine pollution caused by oil and gas installations affecting third countries sharing a regional sea basin with the Union. The Agency shall provide the assistance in line with the Union Civil Protection Mechanism established by Decision No 1313/2013/EU, and with the conditions applicable to Member States as referred to in Article 5 (1) of this Regulation applied by analogy to the third countries. Those tasks shall be coordinated with the existing regional cooperation arrangements related to marine pollution.

4. Without prejudice to Article 24, the Agency may provide, upon the request of the Commission, technical assistance to third countries for matters falling under its competence.

5. The Agency may enter into administrative arrangements and cooperation with other Union bodies working in the matters falling within the scope of the Agency's competence following the approval of the Commission. Such arrangements and cooperation shall be subject to the opinion of the Commission and periodical reporting to it.

6. The Management Board shall adopt a strategy for international relations of the Agency concerning matters under its competence. That strategy shall be in line with the Commission's political priorities and shall aim at assisting the Commission and the European External Action Service in fulfilling such priorities. It shall be included in the programming document of the Agency, with a specification of associated resources.

Article 12

European cooperation on coast guard functions

1. The Agency shall, in cooperation with the European Border and Coast Guard Agency, established by Regulation (EU) 2019/1896, and the European Fisheries Control Agency, established by

Regulation (EU) 2019/473, each within their mandate, support national authorities carrying out coast guard functions at national and Union level and, where appropriate, at international level by:

- (a) sharing, fusing and analysing information available in ship reporting systems and other information systems hosted by or accessible to those agencies, in accordance with their respective legal bases and without prejudice to the ownership of data by Member States;
- (b) providing surveillance and communication services based on state-of-the-art technology, including space-based and ground infrastructure and sensors mounted on any kind of platform;
- (c) building capacity by drawing up guidelines and recommendations and by establishing best practices as well as by providing training and exchange of staff;
- (d) enhancing the exchange of information and cooperation on coast guard functions including by analysing operational challenges and emerging risks in the maritime domain;
- (e) sharing capacity by planning and implementing multipurpose operations and by sharing assets and other capabilities, to the extent that these activities are coordinated by those agencies and are agreed to by the competent authorities of the Member States concerned.

2. Without prejudice to the powers of the Management Board of the Agency set out in Article 15, the precise forms of cooperation on coast guard functions between the Agency, the European Border and Coast Guard Agency and the European Fisheries Control Agency shall be determined in a working arrangement, in accordance with their respective mandates and the financial rules applicable to those agencies. Such an arrangement shall be approved by the management Board of the Agency, the Administrative Board of the European Fisheries Control Agency and the management board of the European Border and Coast Guard Agency.

3. The Commission shall, in close cooperation with the Member States, the Agency, the European Border and Coast Guard Agency and the European Fisheries Control Agency, make available a practical handbook on European cooperation on coast guard functions. That handbook shall contain guidelines, recommendations and best practices for the exchange of information. The Commission shall adopt the handbook in the form of a recommendation.

4. The tasks set out in this Article shall not be detrimental to the Agency's tasks referred to in Articles 4 to 12 and shall not infringe upon Member States' rights and obligations, in particular as flag States, port States or coastal States.

Article 13

Communication and dissemination

The Agency may engage in communication activities on its own initiative in the fields within its mandate. Communication activities shall not be detrimental to the rest of the tasks referred to in the Articles 4 to 13 and shall be carried out in accordance with relevant communication and dissemination plans adopted by the Management Board. Those plans, based on an analysis of needs, shall be regularly updated by the Management Board.

CHAPTER IV

ORGANISATION OF THE AGENCY

Article 14

Administrative and management structure

The Agency's administrative and management structure shall comprise:

- (a) a Management Board, which shall exercise the functions set out in Article 16;
- (b) an Executive Board, which shall exercise the functions set out in Article 21;
- (c) an Executive Director, who shall exercise the duties set out in Article 23.

Article 15

Composition of the Management Board

1. The Management Board shall be composed of one representative of each Member State and four representatives of the Commission, all with voting rights.

The Management Board shall also include as well as of four professionals from the sectors most concerned, as referred to in Article 2, appointed by the Commission, without the right to vote.

All Management Board members shall be appointed on the basis of their degree of relevant experience and expertise in the areas referred to in Article 2. The Member States and the Commission shall each strive for a balanced representation between men and women on the Management Board. One of the four professionals shall be a representative of the Permanent Cooperation Framework of accident investigation bodies in accordance with Article 10 of Directive 2009/18/EC.

3. Each Member State and the Commission shall appoint their members of the Management Board as well as an alternate who will represent the member in his or her absence.

4. The duration of the term of office shall be four years. The term of office may be renewed.

5. Each member and alternate shall sign a written statement at the time of taking office declaring that he or she is not in a situation of conflict of interests. Each member and alternate shall update his or her statement in the case of a change of circumstances with regard to any conflict of interests. The Agency shall publish the statements and updates on its website.

Article 16

Functions of the Management Board

1. In order to ensure that the Agency carries out its tasks, the Management Board shall:
 - (a) give the general and strategic orientations for the Agency's activities;

- (b) adopt each year, by a two-thirds majority of its members with voting rights, after having received the opinion of the Commission and in accordance with Article 17, the single programming document of the Agency;
- (c) adopt, by a two-thirds majority of its members with voting rights, the annual budget and the staff establishment plan of the Agency and exercise other functions in respect of the Agency's budget pursuant to Chapter VI;
- (d) adopt, by a two-thirds majority of its members with voting rights, the consolidated annual activity report on the Agency's activities and forward it each year by 1 July to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States. The report shall be made public;
- (e) adopt the financial rules applicable to the Agency in accordance with Article 25;
- (f) deliver an opinion on the Agency's final accounts ;
- (g) establish the methodology for the visits to be carried out pursuant to Article 10. In the event that the Commission expresses, within 15 days from the date of adoption of the methodology, its disagreement, the Management Board shall re-examine and adopt it, possibly amended, in second reading either with a two-thirds majority, including the Commission representatives, or by unanimity of the representatives of the Member States;
- (h) consider and approve administrative arrangements, as referred to in Article 11 (5);
- (i) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;
- (j) adopt rules for the prevention and management of conflicts of interest in respect of its members and publish annually on its website the declaration of interests of the Management Board members;
- (k) adopt and regularly update the communication and dissemination plans referred to in Article 13, based on an analysis of needs;
- (l) adopt its rules of procedure;
- (m) appoint the members of the Executive Board, by a two-third majority of its members with voting rights, in accordance with Article 21;
- (n) adopt a mandate for the tasks of the Executive Board referred to in Article 21;
- (o) in accordance with paragraph 2, exercise, with respect to the staff of the Agency, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment⁴⁴ ;
- (p) adopt implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 (2) of the Staff Regulations;
- (q) appoint, provide guidance and monitor the performance of the Executive Director and where relevant extend his or her term of office or remove him or her from office in accordance with Article 22;

⁴⁴ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1)

- (r) establish procedures for decision-making by the Executive Director;
- (s) if appropriate, appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be totally independent in the performance of his or her duties;
- (t) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO);
- (u) take all decisions on the establishment of the Agency's internal structures, including the set-up of advisory or working groups and, where necessary, their modification;
- (v) decide on the services that the Agency may offer against fees and charges and adopt a framework model for the financial apportionment of the fees and charges payable as referred to in Article 26 (3), point (c). In the event that the Commission expresses, within 15 days from the date of adoption of the Management Board's decision concerning the services offered against fees or the framework model, its disagreement, the Management Board shall re-examine and adopt it, possibly amended, in second reading either with a two-thirds majority, including the Commission representatives, or by unanimity of the representatives of the Member States;
- (w) adopt an efficiency gains and synergies strategy;
- (x) adopt a strategy for cooperation with third countries or international organisations, or both, referred to in Article 11 (6). In the event that the Commission expresses, within 15 days from the date of adoption of the strategy, its disagreement, the Management Board shall re-examine and adopt it, possibly amended, in second reading either with a two-thirds majority, including the Commission representatives, or by unanimity of the representatives of the Member States;
- (y) adopt the internal security rules of the Agency referred to in Article 41;
- (z) appoint the data protection officer of the Agency.

2. The Management Board shall adopt, in accordance with Article 110(2), of the Staff Regulations, a decision based on Article 2 (1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Executive Director and defining the conditions under which this delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Management Board may, by way of a decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

Article 17

Annual and multi-annual programming

1. By 30 November each year the Management Board shall adopt a single programming document containing multi-annual and annual programming, based on a draft put forward by the Executive Director, taking into account the opinion of the Commission. It shall forward it to the European Parliament, the Council and the Commission.

In the event that the Commission expresses, within 15 days from the date of adoption of the single programming document, its disagreement with the document, the Management Board shall re-examine the single programming document and adopt it, possibly amended, within a period of two months, in second reading either with a two-thirds majority, including the Commission representatives, or by unanimity of the representatives of the Member States.

2. The single programming document shall become definitive after final adoption of the general budget and if necessary shall be adjusted accordingly.

3. The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 7. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year. Annual or multi-annual programming, or both, shall include the strategy for relations with third countries or international organisations referred to in Article 11 and the actions linked to this strategy.

4. The Management Board shall amend the adopted annual work programme when a new task is given to the Agency. The inclusion of such a new task shall be subject to an analysis of the human and budgetary resources implications and may be subject to a decision to postpone other tasks.

5. The Management Board shall examine and approve, in the framework of the preparation of the single programming document, Commission's or Member States' requests for technical assistance, as referred to in Article 3 (1), point (c), Article 3 (2), point (b), Article 5(5) to (8), Article 8(6) and (7), Article 9 (3), Article 10 (4) and Article 11 (2) and (4). The approval of such requests shall:

- (a) not be detrimental to the other tasks of the Agency;
- (b) shall avoid duplication of efforts;
- (c) shall be subject to an analysis of the human and budgetary resources implications; and
- (d) may be subject to a decision to postpone other tasks.

6. Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

7. The multi-annual work programme shall set out overall strategic programming including objectives, expected results and performance indicators. It shall also set out resource programming including multi-annual budget and staff.

8. The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and in particular to address the outcome of the evaluation referred to in Article 41.

Article 18

Chairperson of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members with voting rights. The Chairperson and the Deputy Chairperson shall be elected by a majority of two thirds of the members of the Management Boards with voting rights.

2. The Deputy Chairperson shall automatically take the place of the Chairperson if he or she is prevented from attending to Chairperson's duties.
3. The terms of office of the Chairperson and Deputy Chairperson shall be four years. Their term of office may be renewed once. If, however, their membership of the Management Board ends at any time during their term of office, their term of office shall automatically expire on that date.

Article 19

Meetings of the Management Board

1. Meetings of the Management Board shall be conducted in accordance with its rules of procedure and convened by its Chairperson.
2. The Executive Director of the Agency shall take part in the deliberations except when his or her participation may lead to a conflict of interests, as decided by the Chairperson, or when the Management Board is to take a decision, in accordance with Article 35.
3. The Management Board shall hold an ordinary meeting twice a year. In addition, it shall meet on the initiative of the Chairperson or at the request of the Commission or of one-third of the Member States.
4. When a matter of confidentiality or a conflict of interest arises, the Management Board may decide to examine specific items on its agenda without the members concerned being present. This shall not affect the right of the Member States and of the Commission to be represented by an alternate or by any other person. Detailed rules for the application of this provision shall be laid down in the Management Board's rules of procedure.
5. The Management Board may invite any person whose opinion can be of interest to attend its meetings as an observer.
6. The members of the Management Board may, subject to the provisions of its rules of procedure, be assisted by advisers or experts.
7. The secretariat for the Management Board shall be provided by the Agency.

Article 20

Voting rules of the Management Board

1. The Management Board shall take its decisions by absolute majority of its members with voting rights, except if provided otherwise in this Regulation.
2. The decisions referred to in Article 16(1) points (c) to (e) and points (i), (j), (n), (o), (p), (q), (t), (u) and in Article 16(2) may only be taken if the representatives of the Commission cast a positive vote. For the purposes of taking the decisions referred to in Article 16(1), point (b), the positive vote of the representative of the Commission shall only be required on the elements of the decision not related to the annual and multi-annual working programme of the Agency.
3. Each member shall have one vote. The Executive Director of the Agency shall not vote.
4. In the absence of a member, his or her alternate shall be entitled to exercise the member's right to vote.

5. The rules of procedure shall establish more detailed voting arrangements, including the conditions for a member to act on behalf of another member.

Article 21

Executive Board

1. The Management Board shall be assisted by an Executive Board.
2. The Executive Board shall :
 - (a) supervise the implementation of the decisions of the Management Board on administrative and budgetary management;
 - (b) prepare decisions to be adopted by the Management Board;
 - (c) ensure, together with the Management Board, adequate follow-up to the findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of OLAF and of the EPPO;
3. When necessary, because of urgency, the Executive Board may take certain provisional decisions on behalf of the Management Board, in particular on administrative management matters, including the suspension of the delegation of the appointing authority powers and budgetary matters.
4. The Executive Board shall be composed of the Chairperson of the Management Board, one representative of the Commission to the Management Board and three other members appointed by the Management Board from among its members with the right to vote. The Chairperson of the Management Board shall also be the Chairperson of the Executive Board. The Executive Director shall take part in the meetings of the Executive Board, but shall not have the right to vote.
5. The term of office of members of the Executive Board shall be four years with the possibility to be renewed. The term of office of members of the Executive Board shall end when their membership of the Management Board ends.
6. The Executive Board shall hold at least one ordinary meeting every three months. In addition, it shall meet on the initiative of its Chairperson or at the request of its members.
7. The Management Board shall lay down the rules of procedure of the Executive Board.

CHAPTER V

EXECUTIVE DIRECTOR

Article 22

Appointment, extension of the term of office and removal from office

1. The Executive Director shall be appointed by the Management Board on the basis of merit and skills from a list of candidates proposed by the Commission following an open and transparent selection procedure which shall respect the principle of gender balance.
2. For the purpose of concluding the contract of the Executive Director, the Agency shall be represented by the Chairperson of the Management Board.

3. The term of office of the Executive Director shall be five years. In due time before the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges.
4. The Management Board, acting on a proposal from the Commission, taking into account the assessment referred to in paragraph 3, may extend once the term of office of the Executive Director, for not more than five years.
5. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post.
6. The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission.
7. The Executive Director shall be engaged as a temporary agent of the Agency under Article 2(a) of the Conditions of Employment of Other servants.

Article 23

Tasks and responsibilities of the Executive Director

1. The Executive Director shall manage the Agency in accordance with the decisions of the Management Board and shall be accountable to the Management Board.
2. Without prejudice to the powers of the Commission, the Management Board, and the Executive Board, the Executive Director shall be independent in the performance of the duties and shall neither seek nor take instructions from any government nor from any other body.
3. The Executive Director shall report to the European Parliament on the performance of his/her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his/her duties.
4. The Executive Director shall be the legal representative of the Agency.
5. The Executive Director shall be responsible for the implementation of the tasks assigned to the Agency by this Regulation. In particular, the Executive Director shall:
 - (a) ensure the sustainable and efficient day-to-day administration of the Agency;
 - (b) organise, direct and supervise the operations and the staff of the Agency within the limits of the decisions of the Management Board;
 - (c) prepare and implement the decisions adopted by the Management Board.
 - (d) prepare draft financial rules applicable to the Agency for adoption by the Management Board;
 - (e) draw up estimates of the Agency's revenue and expenditure, in accordance with Article 27, and implementing the budget in accordance with Article 28.
 - (f) prepare the draft single programming document and submit it for adoption to the Management Board after consulting the Commission at least four weeks before the relevant Management Board meeting;
 - (g) implement the single programming document, assessing progress compared to the relevant indicators and report to the Management Board on its implementation;

- (h) prepare the Agency's consolidated annual activity report and present it to the Management Board for assessment and adoption;
- (i) respond to any requests for assistance in accordance with Article 17 (5);
- (j) decide to carry out the visits and inspections provided for in Article 10, after consultation of the Commission and following the methodology for visits established by the Management Board in accordance with Article 16 (1) point (g);
- (k) decide to enter into administrative arrangements with other Union bodies working in the Agency's fields of activities provided that the draft arrangement has been submitted for consultation to the Commission first and the Management Board in accordance with Article 11 (5) and provided that the Management Board has not objected within four weeks;
- (l) take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Agency in accordance with the provisions of this Regulation;
- (m) 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 that end, he or she shall establish, in agreement with the Commission and the Management Board, tailored performance indicators allowing for an effective assessment of the results achieved. He or she shall ensure that the Agency's organisational structure be regularly adapted to the evolving needs within the available financial and human resources. In this regard, he or she shall establish regular evaluation procedures that meet recognised professional standards;
- (n) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Management Board;
- (o) ensure the carrying out of risk assessments and risk management for the Agency;
- (p) prepare a follow-up action plan in relation to the conclusions of internal or external audit reports and evaluations, as well as investigations by OLAF and EPPO, as referred to in Article 38, and report on progress twice a year to the Commission and regularly to the Management Board;
- (q) protect the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, without prejudicing the investigative competence of OLAF and EPPO, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative, including financial penalties;
- (r) prepare an anti-fraud strategy, an efficiency gains and synergies strategy, a strategy for cooperation with third countries or international organisations, or both, and a strategy for the organisational management and internal control systems, for the Agency and present it to the Management Board for approval;
- (s) promote diversity and ensure gender balance as regards the recruitment of the Agency's staff;
- (t) recruit staff on the broadest possible geographical basis;
- (u) design and implement a communication policy for the Agency;
- (v) perform any other tasks entrusted or delegated to him or her by the Management Board or as may be required by this Regulation;

Article 24

Participation of third countries

1. The Agency shall be open to the participation of third countries, which have entered into agreements with the Union, whereby they have adopted and are applying the Union law in the field of maritime safety, maritime security, prevention of pollution and response to pollution caused by ships.
2. Under the relevant provisions of those agreements, arrangements specifying the nature and the extent of the detailed rules for the participation by those countries in the work of the Agency including provisions on financial contributions and staff shall be concluded by the Agency following the opinion of the Commission .

CHAPTER VI

FINANCIAL PROVISIONS

Article 25

Financial rules

The financial rules applicable to the Agency shall be adopted by the Management Board after consulting the Commission. The financial rules shall not depart from Commission Delegated Regulation (EU) 2019/715 unless such a departure is specifically required for the Agency's operation and the Commission has given its prior consent.

Article 26

Budget

1. Estimates of all revenue and expenditure for the Agency shall be prepared each financial year, corresponding to the calendar year, and shall be shown in the Agency's budget.
2. The Agency's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, the Agency's revenue shall comprise:
 - (a) a contribution from the Union entered in the general budget of the European Union and grants from Union bodies;
 - (b) possible contributions from any third country which participates in the work of the Agency in accordance with Article 24;
 - (c) any fees and charges for infrastructure, publications, training or any other services falling under the scope of this Regulation provided by the Agency in accordance with the implementing acts adopted pursuant to Article 33;
 - (d) any voluntary financial contribution from Member States, third countries or other entities, provided such contribution is transparent, is clearly identified in the budget and does not compromise the independence and impartiality of the Agency.
4. The expenditure of the Agency shall include staff remuneration, administrative and infrastructure expenses and operating costs.

Article 27

Establishment of the budget

1. Each year, the Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, including the establishment plan, and send it to the Management Board.
2. The Management Board shall, on the basis of that draft, adopt a provisional draft estimate of the Agency's revenue and expenditure for the following financial year.
3. The provisional draft estimate of the Agency's revenue and expenditure shall be sent to the Commission by 31 January each year. The Management Board shall send the final draft estimate to the Commission by 31 March of that year.
4. The Commission shall send the statement of estimates to the budgetary authority together with the draft general budget of the European Union.
5. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it considers 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 Articles 313 and 314 of the TFEU.
6. The budgetary authority shall authorize the appropriations for the contribution to the Agency.
7. The budgetary authority shall adopt the Agency's establishment plan.
8. The Agency's budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the European Union. Where necessary, it shall be adjusted accordingly.
9. For any building project likely to have significant implications for the budget of the Agency the provisions of Delegated Regulation (EU) No 715/2019 shall apply.

Article 28

Implementation of the budget

1. The Executive Director shall implement the Agency's budget.
2. Each year the Executive Director shall send to the budgetary authority all information relevant to the findings of evaluation procedures.

Article 29

Presentation of accounts and discharge

1. By 1 March of the following financial year, the Agency's accounting officer shall send the provisional accounts to the Commission's accounting officer and to the Court of Auditors
2. By 31 March of the following financial year, the Agency shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

3. By 31 March of the following financial year, the Commission's accounting officer shall send the Agency's provisional accounts, consolidated with the Commission's accounts, to the Court of Auditors.
4. On receipt of the Court of Auditors' observations on the Agency's provisional accounts pursuant to Article 246 of the Financial Regulation, the Executive Director shall draw up the Agency's final accounts under his or her own responsibility and submit them to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on the Agency's final accounts.
6. The accounting officer shall, by 1 July of the following financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.
7. The final accounts shall be published in the Official Journal of the European Union by 15 November of the following financial year.
8. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September. The Executive Director shall also send that reply to the Management Board.
9. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 261(3) of the Financial Regulation.
10. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

CHAPTER VII

STAFF

Article 30

General provision

The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of the Agency.

Article 31

Seconded national experts and other staff

1. The Agency may make use of seconded national experts or other staff not employed by the Agency.
2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to the Agency.

CHAPTER VIII

GENERAL AND FINAL PROVISIONS

Article 32

Legal status and seat

1. The Agency shall be a body of the Union and shall have legal personality.
2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may in particular, acquire and dispose of movable and immovable property and be a party to legal proceedings.
3. The Agency shall be represented by its Executive Director.
4. The seat of the Agency shall be in Lisbon, the Republic of Portugal.
5. At the request of the Commission, the Management Board may decide, with the agreement of and in cooperation with the Member States concerned and with due regard to budgetary implications, including any contribution the Member States concerned may provide, to establish regional centers necessary in order to carry out, in the most efficient and effective way, some of the Agency's tasks. When taking such a decision, the Management Board shall define the precise scope of activities of the regional centre while avoiding unnecessary financial costs and enhancing cooperation with existing regional and national networks.

Article 33

Implementing acts relating to fees and charges

1. The Commission shall adopt, in accordance with the principles set out in paragraphs 2, 3 and 4 implementing acts specifying:
 - (a) the fees and charges payable to the Agency, in particular in application of Article 26 (3) point (c); and
 - (b) the conditions of payment.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 34 (2).

2. Fees and charges shall be levied for possible services provided by the Agency, in particular to third countries and the industry for tasks falling under its competencies.
3. All fees and charges shall be expressed, and payable, in euro. Fees and charges shall be set in a transparent, fair and uniform manner. The specific needs of small and medium-sized enterprises, including the possibility of splitting payments into several instalments and phases, shall be taken into account, as appropriate. The apportionment of the fees shall be clearly identified in the accounts. Reasonable deadlines shall be set for the payment of fees and charges.
4. The amount of the fees and charges shall be fixed at such a level as to ensure that the revenue in respect thereof is sufficient to cover the full cost of the services provided. All expenditure of the Agency attributed to staff involved in the activities referred to in paragraph 2, including the employer's

pro-rata contribution to the pension scheme, shall in particular be reflected in that cost. Should a significant imbalance resulting from the provision of the services covered by fees and charges become recurrent, the level of those fees and charges shall be revised. Those fees and charges shall be assigned revenues for the Agency.

Article 34

Committee procedure

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) established by Regulation (EC) No 2099/2002 of the European Parliament and of the Council⁴⁵. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 35

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Union shall apply to the Agency and its staff.

Article 36

Language arrangements

1. The provisions laid down in Council Regulation No 1⁴⁶ shall apply to the Agency.
2. The translation services required for the functioning of the Agency shall be provided by the Translation Centre of the Bodies of the European Union.

Article 37

Transparency

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council⁴⁷ shall apply to documents held by the Agency.

⁴⁵ Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships (OJ L 324, 29.11.2002, p. 1).

⁴⁶ OJ 17, 6.10.1958, p. 385/58. Regulation as last amended by the Regulation (EC) No 1791/2006 of 20 November 2006 adapting certain Regulations and Decisions by reason of the accession of Bulgaria and Romania.

⁴⁷ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

2. The Management Board shall, within six months of the date of its first meeting, adopt the detailed rules for applying Regulation (EC) No 1049/2001.
3. Decisions taken by the Agency under Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice of the European Union, under the conditions laid down in Articles 228 and 263 of the TFEU respectively.
4. The processing of personal data by the Agency shall be subject to Regulation (EU) 2018/1725 of the European Parliament and of the Council⁴⁸.

Article 38

Combating fraud

1. In order to facilitate combating fraud, corruption and other unlawful activities under Regulation (EU, Euratom) No 883/2013 the Agency shall adopt appropriate provisions applicable to all employees of the Agency.
2. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the Agency.
3. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013.
4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Agency shall contain provisions expressly empowering the European Court of Auditors OLAF and EPPO to conduct such audits and investigations, according to their respective competences.

Article 39

Security rules on the protection of classified and sensitive non-classified information

The Agency shall adopt own security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, as set out in the Commission Decisions (EU, Euratom) 2015/443⁴⁹ and 2015/444⁵⁰. The security rules of the Agency shall include provisions for the exchange, processing and storage of such information.

⁴⁸ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁴⁹ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

⁵⁰ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

Article 40

Liability

1. The Agency's contractual liability shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.
3. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.
4. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.
5. The personal liability of its staff towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Article 41

Evaluation and review

1. No later than 5 years after the [date of entry into force], and every 5 years thereafter, the Commission shall conduct an evaluation to assess particularly the impact, effectiveness and efficiency of the Agency and its working practices. The evaluation shall, in particular, address the possible need to modify the mandate of the Agency, and the financial implications of any such modification.
2. The Commission shall forward the evaluation report together with its conclusions on the report, to the European Parliament, the Council and the Management Board. The findings of the evaluation shall be made public.
3. On the occasion of every second evaluation, there shall also be an assessment of the results achieved by the Agency having regard to its objectives, mandate and tasks. If the Commission considers that the continuation of the Agency is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this Regulation be amended accordingly or repealed.

Article 42

Administrative inquiries of the European Ombudsman

The activities of the Agency shall be subject to the inquiries of the European Ombudsman in accordance with Article 228 of the TFEU.

Article 43

Transitional provisions

1. By way of derogation from Article 15 of this Regulation, the members of the Administrative Board appointed under Regulation (EC) No 1406/2002 before [date of entry into force] shall remain in office as members of the Management Board until the expiry date of their term of office, without prejudice to the right of each Member State to appoint a new representative.

2. The Executive Director of the Agency appointed on the basis of Article 16 of Regulation (EU) No 1406/2002 shall remain assigned to the post of the Executive Director with the tasks and responsibilities provided for in Article 23 of this Regulation. If a decision extending the mandate of the Executive Director in accordance with Article 16(2) of Regulation (EU) No 1406/2002 is adopted prior to the entry into force of this Regulation, the duration of the extended mandate shall be for 5 years. The other conditions of her contract shall remain unchanged.

4. The entry into force of this Regulation is without prejudice to all employment contracts in force on [date of entry into force].

Article 44

Repeal

Regulation (EC) No 1406/2002 is repealed.

Article 45

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT 'AGENCIES'

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council on the European Maritime Safety Agency and repealing Regulation (EC) No 1406/2002

1.2. Policy area(s) concerned

Mobility and Transport – Maritime Safety

1.3. The proposal relates to

- a new action
- a new action following a pilot project/preparatory action⁵¹
- the extension of an existing action
- a merger of one or more actions towards another/a new action

1.4. Objective(s)

1.4.1. General objective(s)

The general objective is to propose a new Regulation establishing the European Maritime Safety Agency (EMSA). EMSA's objective is the promotion and establishment of a high, uniform and effective level of maritime safety aiming towards zero accidents, maritime security, the reduction of greenhouse gas emissions from ships and the sustainability of the maritime sector as well as the prevention of and response to pollution caused by ships and the response to marine pollution caused by oil and gas installation.

Further objectives of the Agency shall be the promotion of digitalisation of the maritime sector by facilitating the electronic transmission of data supporting simplification and the provision of integrated maritime surveillance and awareness systems and services to the Commission and the Member States.

1.4.2. Specific objective(s)

The specific objectives of the revision are:

to better anchor and reflect the current tasks and objectives of EMSA in its founding Regulation so that EMSA is legally mandated to fulfil these and support the Member States and the Commission with the necessary technical, operational and scientific assistance in ensuring maritime safety and security together with the green and digital transition of the sector while rendering the EMSA's founding Regulation future proof by allowing enough flexibility to incorporate new tasks in addressing the evolving needs of the maritime sector and ensuring that EMSA will have adequate human and financial resources to fulfil its role.

The current revision (and legislative financial statement) includes the complete budget impact of the new Regulation establishing EMSA repealing Regulation (EC) no 1406/2002, and also

⁵¹ As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

the budget impact of (i) revision of Directive 2009/21/EC on Flag State requirements; (ii) the revision of Directive 2009/16/EC on port State control; (iii) the revision of Directive 2009/18/EC on accident investigation, and (iv) revision of Directive 2005/35/EC on ship-source pollution. The budget impact of the latter four proposals is described in more detail in each of the respective legislative financial statements.

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The Regulation is expected to reflect the bigger role that EMSA plays in the maritime sector evolving considerably since 2013. It is expected to ensure flexibility to EMSA to adjust its scope of action, without bending its core mission.

The Regulation is expected to ensure that EMSA can support the EU maritime sector in the most effective way in dealing with the double transition it is facing regarding the topics of sustainability and digitalisation while it will render the mandate future proof in order to tackle the challenges of the future.

1.4.4. *Indicators of performance*

Specify the indicators for monitoring progress and achievements.

The effectiveness of the proposed Regulation, with respect to the specific objective no. 1, will be determined based on the annual and multiannual outputs and fulfilment of the Agency in relation to each of its tasks as indicated in its annual SPD and CAAR report.

The effectiveness of the proposed Regulation, with respect to the specific objective no. 2, will be determined based on the number of requests and new tasks that will be allocated to EMSA in the following years.

The effectiveness of the proposed Regulation, with respect to the specific objective no. 3, will be determined based on the deliverables of the Agency according to annual SPD and CAAR report

The overall effectiveness of the proposed Regulation will be monitored through the proposed evaluation of the Agency every 5 years while the Commission will issue an opinion on the single programming document of the Agency, which includes the annual and multiannual working program and the allocated resources for each of the tasks of the Agency.

1.5. Grounds for the proposal/initiative

1.5.1. *Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative*

1) In relation to the revision of Directive 2009/21/EC on Flag State requirements:

EMSA will be required to implement technical solutions for e-certificate registry, reporting of e-certificates and e-Flag State inspection reports, as well as tools for validation, and developing new modules. EMSA will also be required to develop a mechanism and template for reporting information and statistics and introduce common capacity building and harmonised training (post-qualification) for Flag State inspectors and/or surveyors and/or auditors, by developing a common curricula for Flag State inspectors and training of flag State inspectors to new technologies, including but not limited to renewable and low carbon fuels, which are particularly relevant in view of the “Fit for 55” package, and automation.

By 2025, 1 additional FTE will be required to develop the new module for the e-certificates and 1 additional FTE to provide specialist IT skills and maritime knowledge in the Maritime Support Services. The budget impact of the revision of Directive 2009/21/EC on Flag State requirements is included in the current LFS. The revision of Directive 2009/21/EC on Flag State requirements will include a separate LFS providing more detail.

2) in relation to the revision of Directive 2009/16/EC on port State control:

EMSA will be required to organise trainings of Port State Control Officers (PSCOs) in relation to large fishing vessels with main focus on the relevant EU guidelines, and develop the relevant courses. EMSA will also be required to develop a THETIS module for fishing vessels and a common curriculum for Port State Control of fishing vessels which will cover all the relevant instructions and guidance.

EMSA will be required to organise trainings of PSCOs in relation to the use of electronic statutory certificates and will have to develop a validation tool and repository.

EMSA will be required to develop enhanced training tools/capacity development for PSCOs on new technologies, including but not limited to renewable and low carbon fuels, which are particularly relevant in view of the “Fit for 55” package, and automation by enhancing EMSA’s online training tools and recruiting experts.

By 2025, 2 FTEs will be needed to support the tasks of EMSA to develop the tools. The budget impact of the revision of Directive 2009/16/EC on port State control is included in the current LFS. The revision of Directive 2009/16/EC on port State control will include a separate LFS providing more detail.

3) In relation to the revision of Directive 2009/18/EC on accident investigation:

EMSA will be required to organise additional trainings in relation to renewable and low carbon fuels (risks, use on board, ship protections, etc.), in support of the initiatives part of the “Fit for 55” package, but also on: human element, conduct of an automated ship, safety analysis (to encourage Member States to better use casualty data), forensic (photos, sampling, etc.), occurrences (fire, navigational accidents, damage to equipment, occupational activities, etc.) and GDPR rules.

EMSA will also provide operational tools and equipment during an individual investigation such as ROV (remotely operator submersible), RPAS (aerial drones), Robots (e.g. to access damaged areas, enclosed spaces, etc.), VDR (voyage data recorder) facilities, software such as MADAS (Marine Accident Data Analysis Suite); ad-hoc resources (scientific laboratories, tank testing); ad-hoc services (3D simulation for fire, loss of containers, etc.). This support will build upon the existing services provided by EMSA in different areas (as seen above aerial drones, submersible drones, satellite imagery training etc.) and will be provided on a first come, first served basis. In the longer term, and depending on experience in implementation, the EMSA resources would be adapted accordingly.

EMSA will also offer highly specialised analytical support during individual VSMC (Very Serious Marine Casualty) Investigations of ‘standard’ and ‘high level’ experts from EMSA, these could include but are not limited to behavioural analysts, psychologists and other specialists.

By 2025, 2 FTEs will be needed to provide operational and analytical support to the new tasks of EMSA. The budget impact of the revision of Directive 2009/18/EC on accident investigation is included in the current LFS. The revision of Directive 2009/18/EC on accident investigation will include a separate LFS providing more detail.

4) In relation to the revision of Directive 2005/35/EC on ship-source pollution:

EMSA will be required to establish additional satellite monitoring services to Member State authorities because of the extension of the scope of the Directive and upgrade the CleanSeaNet service to better monitor and detect the pollutants. EMSA will be required to develop trainings

and develop guidance documents, while regularly updating them. It will also develop an external reporting channel for whistle-blowers, to submit information on possible illegal discharges and enhance the Integrated Maritime Services. EMSA will also be required to develop and maintain a new reporting tool so that Member States report on each ship-source pollution incident, as well as develop a website to keep the public informed about ship-source pollution.

In total, 9 FTEs will be needed to support the provision of the additional satellite monitoring services and additional 3 FTEs to support the development of the Integrated Maritime Services. From those, 1 will be hired in the next MFF. The budget impact of the revision of Directive 2005/35/EC on ship-source pollution is included in the current LFS. The revision of Directive 2005/35/EC on ship-source pollution will include a separate LFS providing more detail.

The resources needed under 1) to 4) are reflected in the individual Legislative Financial Statements accompanying the respective legislative proposals.

5) In relation to the new Regulation repealing Regulation (EC) no 1406/2002:

EMSA will need to deliver on the below additional expanded tasks:

EMSA will need 2 FTEs in 2025 and 2 additional FTEs from 2026 for assisting Member States and the Commission with the discussions at the IMO level on alternative fuels and their deployment, including safety risks stemming from these developments. The Agency will need to intensify research and increase the number of annual studies. One additional FTE will be required under the next MFF.

One FTE will be required from 2026 to intensify work on cybersecurity in the maritime transport sector, notably to produce guidelines and facilitate the exchange of expertise between Member States.

The 24/7 Maritime Awareness Centre will need to reinforce its operations and expand its current activity to respond to new needs in the environmental and safety areas, also in the new geopolitical context, assisting the Member States and the Commission upon request in cases of emergencies, like the implementation of sanctions. The Agency will require 8 FTEs to develop the necessary IT infrastructure for this center already in 2025 and complete it by 2027 and operate it. Additional 3 FTEs will be needed under the next MFF.

Assistance in the implementation of the European Maritime Single Window environment (EMSWe) is expected by the Agency with the addition of 3 FTEs to assist on the development of the relevant datasets and IT infrastructure.

The Agency is also expected to deliver on autonomous ships deployment (MASS) by conducting further risk based analysis for which it will require 1 FTE in the next MFF.

The budget impact of the new Regulation repealing Regulation (EC) no 1406/2002 is included in the current LFS.

1.5.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

Reasons for action at European level (ex-ante)

Current EU involvement (tasks of EMSA) is laid down in EMSA Founding Regulation (EC) No 1406/2002. Moreover, numerous Directives such as EU Emission Trading System (EU ETS), Directive (EU) 2019/883 on port reception facilities for the delivery of waste from ships, Regulation (EU) No 1257/2013 on ship recycling and Regulation (EU) 2015/757 in the monitoring, reporting and verification of carbon dioxide emissions from maritime transport have given direct or indirect tasks to EMSA.

In a similar manner, the revision takes into account the current revisions of Directive 2009/21/EC on compliance with flag State requirements, Directive 2009/16/EC on port State control, Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements, which will add new tasks to EMSA.

The current Regulation aims to combine all existing tasks of the Agency in one legal act, and extend the role of EMSA to areas where it is justified.

Expected generated Union added value (ex-post)

The review of the Regulation highlighted EMSA's added value in terms of its role in hosting and promoting the development of EU-level systems, such as SafeSeaNet, THETIS and, though to a lesser extent, the EMCIP database for accident investigation. Against this background, the Fitness Check recommended to continue building on EMSA's capacities, with a focus on promoting and investing in EMSA's digital systems, applications and databases.

1.5.3. *Lessons learned from similar experiences in the past*

The evaluation of the EMSA Regulation showed the added value of the Agency.

This initiative seeks to address the identified issues, specifically that:

The mandate of EMSA does not properly reflect its current scope of activities undertaken due to the evolving needs of the maritime sector and the new EU regulatory framework in the area; the administrative and financial provisions of the mandate do not reflect the latest EU Regulatory framework on agencies governance; and

EMSA is facing stretched resources to fulfil both its current tasks and the new tasks and activities arising from the needs of the sector, such as the green transition, or legislative developments, such as the new maritime safety package.

1.5.4. *Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

The proposed revision is a key deliverable of the Communication from the Commission on a Sustainable and Smart Mobility Strategy, which sets out the EU vision for the transport system of the future. The strategy announced that the Commission is planning to initiate a major review of existing legislation, including to revise the mandate of the European Maritime Safety Agency in 2022 (under Flagship 10 - Enhancing transport safety and security).

The proposed revision will create synergies with several pieces of EU regulatory framework, notably the Directive 2009/21/EC on compliance with flag State requirements, Directive 2009/16/EC on port State control, Directive 2009/18/EC on accident investigation and Directive 2005/35/EC on ship-source pollution.

The proposal is compatible with the current Multiannual Financial Framework, although it will require reprogramming within Heading 1 as regards the annual contribution to EMSA. The increase in appropriations for EMSA will be offset by a compensatory reduction of programmed spending under CEF Transport (02 03 01) under the current multiannual financial framework.

1.5.5. *Assessment of the different available financing options, including scope for redeployment*

The budgetary impact of this initiative refers to the additional resources necessary for the new tasks allocated to EMSA following the revision of the several Directives, as well as the extension of already existing. These are new tasks for EMSA that will become permanent, while existing tasks will not decrease or be partly phased out. The additional need of human resources will be, in some cases, be met by redeployment, while in other cases this is not possible. In the case of further expanded tasks (such as assistance on monitoring the Recognised Organisations) the human resource needs will be met by redeploying 2 FTEs in 2027. 5 more FTEs will be redeployed in the next MFF to assist on expanded tasks such as assistance to crisis management, safety risk analysis for future trends and support of preparedness measures for oil and gas installations. The need of human resources on the other tasks cannot be met by redeployment, while the additional budgetary needs will be met through offsetting by existing programmes managed by DG MOVE under the current multiannual financial framework. The increase in appropriations for EMSA will be offset by a compensatory reduction of programmed spending under CEF Transport (02 03 01) under the current multiannual financial framework.

1.6. Duration and financial impact of the proposal/initiative

limited duration

- Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- Financial impact from YYYY to YYYY

unlimited duration

- Implementation with a start-up period from YYYY to YYYY [*n.a.*]
- followed by full-scale operation.

1.7. Method(s) of budget implementation planned⁵²

Direct management by the Commission through

- executive agencies

Shared management with the Member States

Indirect management by entrusting budget implementation tasks to:

international organisations and their agencies (to be specified);

the EIB and the European Investment Fund;

bodies referred to in Articles 70 and 71;

public law bodies;

bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;

bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;

bodies or persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

Comments

Management of the proposed Regulation will be done by the European Maritime Safety Agency and the European Commission overseeing it as appropriate.

⁵² Details of budget implementation methods and references to the Financial Regulation may be found on the BUDGpedia site: <https://myintracomm.ec.europa.eu/corp/budget/financial-rules/budget-implementation/Pages/implementation-methods.aspx>

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The Regulation provides for an evaluation which assesses, in particular, the impact, effectiveness and efficiency of EMSA and of its working practices and may address the possible need to modify the structure, operation, field of action and tasks of EMSA, and the financial implications of any such modification. Further to this evaluation, the Commission will draw data through its representation in the Agency's Management Board meetings and its supervision, along with the Member States, of EMSA's work. The Management Board should give general orientations for the Agency's activities and be more closely involved in the monitoring of the Agency's activities, with a view to reinforcing supervision on administrative and budgetary matters.

The Executive Director will organise an effective monitoring system in order to be able to compare EMSA's achievements with its objectives and tasks as laid down in this Regulation.

All EU agencies work under a strict monitoring system involving internal audit capability, the Internal Audit Service of the Commission, the Administrative Board, the Commission, the Court of Auditors and the Budgetary Authority. This system as laid down in the EMSA founding Regulation will continue to apply.

2.2. Management and control system(s)

2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

All EU agencies work under a strict monitoring system involving internal audit capability, the Internal Audit Service of the Commission, the Administrative Board, the Commission, the Court of Auditors and the Budgetary Authority. This system as laid down in the EMSA founding Regulation will continue to apply.

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

While the Commission will be overall accountable for reporting to the European Parliament and the Council on the impact, effectiveness and efficiency of EMSA and its working practices, and proposing a revisions where necessary, the European Maritime Safety Agency will be responsible for the performance of its operation and for the implementation of its internal control framework.

The Executive Director will organise an effective monitoring system in order to be able to compare EMSA'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 and the Management Board, tailored performance indicators allowing for an effective assessment of the results achieved. He/she shall ensure that EMSA's organisational structure will be regularly adapted to the evolving needs within the available financial and human resources. In this regard, he/she shall establish regular evaluation procedures that meet recognised professional standards.

DG MOVE will apply the necessary controls in line with the supervision strategy adopted in 2017 on the DG's relations with decentralised agencies and joint undertakings. Under the strategy, DG MOVE monitors performance indicators for the implementation of the budget, the audit recommendations and administrative matters. A report is provided by the Agency on

a bi-annual basis. The controls performed on the supervision of the Agency as well as on the related financial and budgetary management are in accordance with DG MOVE's Control Strategy, updated in 2022.

The additional resources put at the disposal of EMSA will be covered by EMSA's internal control and risk management system that is aligned with the relevant international standards and includes specific controls to prevent conflict of interests and ensure the protection of whistle-blowers.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

Under the proposed Regulation, additional financing will be provided only to EMSA, which will be required to carry out the tasks allocated following the revision of the Directive 2009/21/EC on flag State requirements, Directive 2009/16/EC on port State control, Directive 2009/18/EC on accident investigation and Directive 2005/35/EC on ship-source pollution.

EMSA has full responsibility for the implementation of their budget, while DG MOVE is responsible for the regular payment of the contributions established by the Budgetary Authority. The expected level of risk of error at payment and at closure is similar to that attached to the budget subsidies provided to the Agency.

The additional tasks resulting from the proposed Regulation are not expected to generate specific additional controls. Therefore, the cost of control for DG MOVE (measured against the value of funds managed) is expected to remain stable.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

EMSA applies the anti-fraud principles of decentralised EU Agencies, in line with the Commission approach. In March 2021, the Agency adopted an updated Anti-Fraud Strategy, based on the methodology and guidance for anti-fraud strategy presented by OLAF as well as on the Anti-Fraud Strategy of DG MOVE. It provides a framework addressing the issues of prevention, detection and conditions for investigations of fraud at Agency level. EMSA continuously adapts and improves its policies and actions to promote the highest level of integrity of EMSA staff, support effective prevention and detection of fraud risk and establish the appropriate procedures to report and handle potential fraud cases and their outcomes. Furthermore, EMSA adopted in 2015 its Conflict of Interest policy for the Management Board.

EMSA cooperates with the Commission services on matters relating to preventing fraud and irregularity. The Commission will ensure that this cooperation will continue and will be strengthened.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. ⁵³	from EFTA countries ⁵⁴	from candidate countries and potential candidates ⁵⁵	From other third countries	other assigned revenue
1	02 10 02	diff.	YES	NO	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./non-diff.	from EFTA countries	from candidate countries and	from other third countries	other assigned revenue

⁵³ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

⁵⁴ EFTA: European Free Trade Association.

⁵⁵ Candidate countries and, where applicable, potential candidates from the Western Balkans.

				potential candidates		
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure⁵⁶

EUR million (to three decimal places)

Heading of multiannual financial framework		1	Single Market, Innovation and Digital				
European Maritime Safety Agency (EMSA)			Year 2025	Year 2026	Year 2027	Year 2028-2034	TOTAL
Title 1:	Commitments	(1)	1.727	4.992	5.163	43.323	55.205
	Payments	(2)	1.727	4.992	5.163	43.323	55.205
Title 2:	Commitments	(1a)					
	Payments	(2a)					
Title 3:	Commitments	(3a)	8.012	15.097	16.007	125.833	164.949
	Payments	(3b)	8.012	15.097	16.007	125.833	164.949
TOTAL appropriations for EMSA	Commitments	=1+1a +3a	9.739	20.089	21.170	169.156	220.154
	Payments	=2+2a +3b	9.739	20.089	21.170	169.156	220.154

The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement

⁵⁶ The summary of estimated impact on expenditure includes the total estimated impact of the activities 1) to 5) described in section 1.5.1. The estimated impact of actions 1) to 4) is also reflected in the individual legislative financial statements accompanying the respective legislative proposals.

Heading of multiannual financial framework	7	'Administrative expenditure'
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EUR million (to three decimal places)

		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
DG: <.....>									
• Human Resources									
• Other administrative expenditure									
TOTAL DG <.....>	Appropriations								

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)								
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EUR million (to three decimal places)

		Year 2025	Year 2026	Year 2027	Year 2028-2034	TOTAL
TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework	Commitments	9.739	20.089	21.170	169.156	220.154
	Payments	9.739	20.089	21.170	169.156	220.154

The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement

3.2.2. *Estimated impact on EMSA's appropriations*

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

Amounts in EUR million (to three decimal places)

Indicate objectives and outputs ↓			Year N		Year N+1		Year N+2		Year N+3		Enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL	
	OUTPUTS																	
	Type ⁵⁷	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ⁵⁸ ...																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTAL COST																		

Where applicable, amounts reflect the sum of the Union contribution to the agency and other revenue of the agency (fees and charges).

⁵⁷ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

⁵⁸ As described in point 1.4.2. ‘Specific objective(s)...’

3.2.3. Estimated impact on EMSA's human resources

3.2.3.1. Summary

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places) Where applicable, amounts reflect the sum of the Union contribution to the agency and other revenue of the agency (fees and charges).

	Year 2025	Year 2026	Year 2027	Year 2028-2034	TOTAL
--	--------------	--------------	--------------	-------------------	-------

Temporary agents (AD Grades)	1.368	4.104	4.275	35.910	45.657
Temporary agents (AST grades)	0.086	0.342	0.342	3.591	4.361
Contract staff	0.273	0.546	0.546	3.822	5.187
Seconded National Experts					

TOTAL	1.727	4.992	5.163	43.323	55.205
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The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

Staff requirements (FTE):

	Year 2025	Year 2026	Year 2027	Year 2028-2034	TOTAL
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Temporary agents (AD Grades)	16	24	25	30	30
Temporary agents (AST grades)	1	2	2	3	3
Contract staff	6	6	6	6	6
Seconded National Experts					

TOTAL	23	32	33	39	39
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The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

EMSA will start preparing the recruitment as soon as the proposal is adopted. The costs are estimated based on the assumption that the 23 FTEs are recruited as of 1st July 2025. So only 50% of the HR costs are needed for the first year.

3.2.3.2. Estimated requirements of human resources for the parent DG

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)	
• Establishment plan posts (officials and temporary staff)							
20 01 02 01 and 20 01 02 02 (Headquarters and Commission's Representation Offices)							
20 01 02 03 (Delegations)							
01 01 01 01 (Indirect research)							
10 01 05 01 (Direct research)							
• External staff (in Full Time Equivalent unit: FTE)⁵⁹							
20 02 01 (AC, END, INT from the 'global envelope')							
20 02 03 (AC, AL, END, INT and JPD in the Delegations)							
Budget line(s) (specify) ⁶⁰	- at Headquarters ⁶¹						
	- in Delegations						
01 01 01 02 (AC, END, INT – Indirect research)							
10 01 05 02 (AC, END, INT – Direct research)							
Other budget lines (specify)							
TOTAL							

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary

⁵⁹ AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD = Junior Professionals in Delegations.

⁶⁰ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

⁶¹ Mainly for the EU Cohesion Policy Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime Fisheries and Aquaculture Fund (EMFAF).

with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

Description of the calculation of cost for FTE units should be included in the Annex V, section 3.

3.2.4. *Compatibility with the current multiannual financial framework*

- The proposal/initiative is compatible the current multiannual financial framework.
- The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

The tasks allocated to EMSA will require reprogramming of the budget line for the annual contribution to the Agency (02 10 02) under the current multiannual financial framework. The increase in appropriations for EMSA will be offset by a compensatory reduction of programmed spending under CEF Transport (02 03 01) under the current multiannual financial framework. The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

- The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework⁶².

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

⁶² See Articles 12 and 13 of Council Regulation (EU, Euratom) No 2093/2020 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027.

3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
 - on own resources
 - on other revenue

please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ⁶³							
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			
Article									

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

⁶³ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.