Regulation (EC) No 1891/2006 of the European Parliament and of the Council of 18 December 2006 on multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and amending Regulation (EC) No 1406/2002 (Text with EEA relevance)

REGULATION (EC) No 1891/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 18 December 2006

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee[(1)],

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) Certain bilateral and regional agreements concluded between coastal states, such as the Helsinki and Barcelona Conventions of 1992 and 1976 respectively, provide for mutual assistance in the event of a maritime pollution incident.

(2) Regulation (EC) No 1406/2002[(3)] established a European Maritime Safety Agency (hereinafter ‘the Agency’) for the purpose of ensuring a high, uniform and effective level of maritime safety and prevention of pollution by ships.

(3) Regulation (EC) No 724/2004, which amended Regulation (EC) No 1406/2002, assigned to the Agency new tasks in the fields of preventing and responding to pollution caused by ships, in response to recent accidents in Community waters, particularly those of the oil tankers ‘Erika’ and ‘Prestige’.

(4) For the purposes of implementing these new tasks of preventing and responding to pollution, the Administrative Board of the Agency adopted on 22 October 2004 an Action Plan for Oil Pollution Preparedness and Response, which determines the Agency's oil pollution response activities and is aimed at optimum use of the financial resources available to the Agency (hereinafter ‘the Action Plan’).

(5) The pollution response action of the Agency, as defined in the Action Plan, relates to activities in the fields of information, cooperation and coordination and above all the provision of operational assistance to the Member States by supplying, on request, additional anti-pollution vessels to combat oil pollution and other types of pollution such as that caused by hazardous and noxious substances. The Agency is to pay particular attention to those areas identified as most vulnerable without prejudice to any other area in need.

(6) The activities of the Agency in this field should not relieve coastal states of their responsibility to have appropriate pollution response mechanisms in place and should comply with existing cooperation arrangements between Member States or groups of Member States in this field. In the event of a maritime pollution incident, the Agency is to assist the Member State(s) affected, under whose authority clean-up operations are to be conducted.

(7) In accordance with the Action Plan, the Agency is to play an active role in developing a centralised satellite imagery service for surveillance, the early detection of pollution and identification of the ships responsible. This new system will improve the availability of data and the effectiveness of the response to pollution caused by ships.

(8) The additional means to be provided by the Agency to the Member States should be made available through the Community mechanism in the field of civil protection assistance interventions, including accidental marine pollution, established by Council Decision 2001/792/EC, Euratom[(4)].

(9) In order to ensure thorough implementation of the Action Plan and strengthen the prevention of and response to pollution caused by ships by expanding current anti-pollution activities, the Agency should be provided with a viable and cost-effective system for financing, in particular, its operational assistance to the Member States.

(10) It is therefore necessary to provide for appropriate financial security for the funding of the tasks entrusted to the Agency in the field of pollution response and other associated actions on the basis of a multiannual commitment. The annual amounts of the Community contribution should be determined in accordance with the procedures in force.

(11) The amounts to be committed for the funding of pollution response should cover the period 2007 to 2013, in line with the new financial framework.

(12) A financial envelope covering the same period should therefore be provided for the implementation of the Action Plan.

(13) The amount of that envelope should be regarded as the minimum needed to carry out the tasks entrusted to the Agency in the field of responding to pollution caused by ships.

(14) In order to optimise the allocation of commitments and take into account any changes with regard to activities in response to pollution caused by ships, it is necessary to ensure continuous monitoring of the particular needs for action so as to allow for adaptation of the annual financial commitments.

(15) The Administrative Board of the Agency should thus review the budgetary commitments, on the basis of a report to be produced by the Executive Director, to include any necessary adjustments to the budget of the Agency. Regulation (EC) No 1406/2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Objective

This Regulation lays down the detailed arrangements for the financial contribution of the Community to the budget of the European Maritime Safety Agency for the implementation of the tasks assigned to it in the field of responding to pollution caused by ships and other associated actions, pursuant to Article 2 of Regulation (EC) No 1406/2002.

Article 2

Definitions

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

(a) 'the Agency' means the European Maritime Safety Agency, established by Regulation (EC) No 1406/2002;

(b) 'regional agreements' means the bilateral and regional agreements concluded between coastal states to render mutual assistance in the event of a maritime pollution incident;

(c) 'oil' means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products as established by the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990;

(d) 'hazardous and noxious substances' means any substance other than oil which, if introduced into the marine environment, is likely to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, as established by the Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances, 2000.

Article 3

Scope

The financial contribution of the Community referred to in Article 1 shall be allocated to the Agency with the aim of financing actions such as the ones mentioned in the Action Plan and in particular those relating to:

(a) information and the assembling, analysing and disseminating of best practices, techniques and innovations, such as instruments for monitoring tank-emptying, in the field of responding to pollution caused by ships;

(b) cooperation and coordination and the provision to the Member States and the Commission of technical and scientific assistance in the framework of the activities of the relevant regional agreements;

(c) operational assistance and supporting, on request, with additional means, such as stand-by anti-pollution ships and equipment, Member States' pollution response actions in the event of accidental or deliberate pollution caused by ships.

Article 4

Community funding

The financial envelope for the implementation of the tasks referred to in Article 3 for the period from 1 January 2007 to 31 December 2013 shall be EUR 154 000 000.

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

Article 5

Monitoring existing capabilities

In order to define the requirements for operational assistance, such as additional anti-pollution vessels, to be provided by the Agency to the Member States, the Agency shall draw up on a regular basis a list of the private and state pollution response mechanisms and response capabilities in the various regions of the European Union.

Article 6

Protection of Community financial interests

1 The Commission and the Agency shall ensure that, when actions funded under this Regulation are implemented, the financial interests of the Community are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by means of effective checks and the recovery of any amounts unduly paid and, where irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Council Regulations (EC, Euratom) No 2988/95[(5)] and (Euratom, EC) No 2185/96[(6)] and Regulation (EC) No 1073/1999 of the European Parliament and of the Council[(7)].

2 For the Community actions funded under this Regulation, the notion of irregularity referred to in Article 1(2) of Regulation (EC, Euratom) No 2988/95 shall mean any infringement of a provision of Community law or any breach of a contractual obligation resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by it, by an unjustified item of expenditure.

3 The Commission and the Agency shall, each within its respective sphere of competence, ensure that best value for money is achieved in the funding of Community actions under this Regulation.