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(Acts whose publication is obligatory)

REGULATION (EC) No 724/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 31 March 2004 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty 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) Regulation (EC) No 1406/2002 [3] established a European Maritime Safety Agency ('the Agency') for the purpose of ensuring a high, uniform and effective level of maritime safety and prevention of pollution by ships.

(2) On 12 December 2002, the Diplomatic Conference of the International Maritime Organisation (IMO) adopted a number of amendments to the International Convention for the Safety of Life at Sea (SOLAS) and an International Ship and Port Facility Security Code (ISPS) that provide a set of measures regarding maritime security. It is therefore appropriate to specify the role of the Agency in the field of maritime security.

(3) It is important to take appropriate security measures to ensure the safety of Community shipping and Community ports as well as the safety of passengers, crews and port staff, against the threats of intentional unlawful acts.

(4) Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security [4] assigns to the Commission certain inspection tasks in relation to the checking of the implementation of these security measures by Member States, in the performance of which the Agency could provide useful technical assistance. These tasks shall cover inspections of ships and related companies, as well as Recognised Security Organisations authorised to undertake certain security-related activities in this context.

(5) Recent accidents in Community waters, particularly those of the oil tankers 'Erika' and 'Prestige', demonstrated the need for additional Community action not only in the field of pollution prevention, but also in the pollution response field.

(6) Decision No 2850/2000/EC of the European Parliament and of the Council of 20 December 2000 [5] set up a Community framework for cooperation in the field of accidental or deliberate marine pollution for the period from 1 January 2000 to 31 December 2006.

(7) Council Decision 2001/792/EC, Euratom of 23 October 2001 [6] established a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions, including accidental marine pollution. This mechanism involves a Commission monitoring and information centre deployed in all cases of civil protection assistance interventions.

[1] OJ C 32, 5.2.2004, p. 21.
[2] Opinion of the European Parliament of 12 February 2004. Decision of the Council of 25 March 2004.
[3] OJ L 208, 5.8.2002, p. 1. Regulation as amended by Regulation (EC) No 1644/2003 (OJ L 245, 29.9.2003, p. 10).
[4] See page 6 of this Official Journal.
[5] OJ L 332, 28.12.2000, p. 1.
[6] OJ L 297, 15.11.2001, p. 7.

(8) The Agency should be provided with the appropriate means to support on request the pollution response mechanisms of the Member States. 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 respect existing cooperation arrangements between Member States or groups of Member States in this field. In the event of a pollution incident, the Agency should assist the affected Member State under the authority of which the cleaning up operations will be conducted. The Agency should act in support of the Community mechanism in the field of civil protection.

(9) Directive 2003/103/EC of the European Parliament and of the Council of 17 November 2003 amending Directive 2001/25/EC on the minimum level of training of seafarers ([1]) introduces new procedures with regard to the recognition of certificates of competency of seafarers issued by third countries. The Agency should assist the Commission in the evaluation of the compliance of those countries with the requirements of the 1978 International Convention on Standards of Training, Certification and Watchkeeping (STCW Convention).

(10) The Administrative Board of the Agency should have the competence, in agreement with the Commission, to define a policy plan with regard to the Agency's pollution preparedness and response activities. In drawing up the plan, the Administrative Board should take into account the added value which the Agency's pollution response activities involve for the activities of the Member States, as well as the best possible combination of cost and efficiency.

(11) Regard should be had to the existing agreements on accidental pollution, such as the Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances, 1983 (Bonn Cooperation Agreement), which facilitate mutual assistance and cooperation between Member States in this field, as well as to the relevant international conventions and agreements for the protection of European maritime areas from pollution incidents, such as the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (OPRC Convention) developed under the auspices of the IMO, the Convention for the Protection of the Marine Environment of the North-East Atlantic of 22 September 1992 (OSPAR Convention), the Barcelona Convention, the Helsinki Convention and the Lisbon Agreement.

(12) For future appointments in the administrative structure of the Agency (Administrative Board, Executive Director), due account should be taken of the required experience and expertise in the new fields of competence of the Agency: the response to pollution caused by ships, and maritime security.

(13) Third countries wishing to participate in the Agency should adopt and apply Community law in all fields of competence of the Agency, including the response to pollution caused by ships and maritime security.

(14) Regulation (EC) No 1406/2002 should, therefore, be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1406/2002 is hereby amended as follows:

1. Article 1 shall be amended as follows:

(a) paragraphs 1 and 2 shall be replaced by the following:

'1. This Regulation establishes a European Maritime Safety Agency ("the Agency") for the purpose of ensuring a high, uniform and effective level of maritime safety, maritime security within the limits of the tasks defined in Article 2(b)(iv), prevention of pollution and response to pollution by ships within the Community.

2. The Agency shall provide the Member States and the Commission with the technical and scientific assistance needed and with a high level of expertise, in order to help them to apply the Community legislation properly in the field of maritime safety, maritime security within the limits of the tasks defined in Article 2(b)(iv), prevention of pollution caused by ships, to monitor its implementation and to evaluate the effectiveness of the measures in place.'

(b) the following paragraph shall be added:

'3. The Agency shall provide Member States and the Commission with technical and scientific assistance in the field of accidental or deliberate pollution by ships and support on request with additional means in a cost-efficient way the pollution response mechanisms of Member States, without prejudice to the responsibility of coastal States to have appropriate pollution response mechanisms in place and respecting existing cooperation between Member States in this field. It shall act in support of the Community framework for cooperation in the field of accidental or deliberate marine pollution established by Decision No 2850/2000/EC of the European Parliament and of the Council of 20 December

([1]) OJ L 326, 13.12.2003, p. 28.