

# Official Journal

## of the European Union

L 39



English edition

Legislation

Volume 56

9 February 2013

### Contents

#### I *Legislative acts*

#### REGULATIONS

- ★ **Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors <sup>(1)</sup>** ..... 1
- ★ **Regulation (EU) No 99/2013 of the European Parliament and of the Council of 15 January 2013 on the European statistical programme 2013-17 <sup>(2)</sup>** ..... 12
- ★ **Regulation (EU) No 100/2013 of the European Parliament and of the Council of 15 January 2013 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency <sup>(1)</sup>** ..... 30

Price: EUR 3

<sup>(1)</sup> Text with EEA relevance<sup>(2)</sup> Text with relevance for the EEA and for Switzerland

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.



## I

*(Legislative acts)*

## REGULATIONS

## REGULATION (EU) No 98/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 January 2013

on the marketing and use of explosives precursors

*(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 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

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

Whereas:

- (1) Certain substances and mixtures are explosives precursors and can be misused for the illicit manufacture of explosives. The European Union Action Plan on Enhancing the Security of Explosives, adopted by the Council on 18 April 2008, called on the Commission to establish a standing committee on precursors to consider measures and prepare recommendations concerning the regulation of explosives precursors available on the market, taking into account their cost-benefit effects.
- (2) The Standing Committee on Precursors, established by the Commission in 2008, identified various explosives precursors that are susceptible to being used to commit terrorist attacks and recommended that appropriate action be taken at Union level.
- (3) Some Member States have already adopted laws, regulations and administrative provisions regarding the placing on the market, making available and possession of certain explosives precursors.

- (4) Those laws, regulations and administrative provisions, which are divergent and liable to cause barriers to trade within the Union, should be harmonised in order to improve the free movement of chemical substances and mixtures within the internal market and, to the extent possible, to remove distortions of competition, while ensuring a high level of protection of the safety of the general public. Other rules relating to certain substances covered by this Regulation have also been laid down at national and Union level regarding the safety of workers and the protection of the environment. Those other rules are not affected by this Regulation.

- (5) In order to ensure the greatest degree of uniformity for economic operators, a regulation is the most appropriate legal instrument to regulate the marketing and use of explosives precursors.

- (6) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures <sup>(3)</sup> provides that substances and mixtures classified as hazardous are to be correctly labelled before being placed on the market. It further provides that economic operators including retailers are either to classify and label such substances or to rely on the classification made by an up-stream actor in the supply chain. It is therefore appropriate to provide, in this Regulation, that all economic operators, including retailers, which make available substances restricted by this Regulation to members of the general public, ensure that the packaging indicates that the acquisition, possession or use of that substance or mixture by members of the general public is subject to a restriction.

- (7) In order to attain, at national level, protection against the illicit use of explosives precursors that is similar to or higher than that envisaged by this Regulation at Union level, some Member States already have laws, regulations and administrative provisions in force in respect of some substances susceptible of illicit use. Some of those

<sup>(1)</sup> OJ C 84, 17.3.2011, p. 25.

<sup>(2)</sup> Position of the European Parliament of 20 November 2012 (not yet published in the Official Journal) and decision of the Council of 11 December 2012.

<sup>(3)</sup> OJ L 353, 31.12.2008, p. 1.

substances are already listed in this Regulation, while others might be restricted at the level of the Union in the future. Since it would be contrary to the aims of this Regulation for measures at the level of the Union to diminish protection, it is appropriate to provide for a mechanism by which such national measures could remain in force (a safeguard clause).

- (8) The illicit manufacture of explosives should be made more difficult by laying down concentration limit values in respect of certain explosives precursors. Below those limit values, the free movement of those explosives precursors is ensured, subject to a safeguard mechanism; above those limit values, the access of the general public to those explosives precursors should be restricted.
- (9) Members of the general public should therefore not be able to acquire, introduce, possess or use those explosives precursors at concentrations above the limit values. However, it is appropriate to provide for members of the general public to be able to acquire, introduce, possess or use such explosives precursors for legitimate purposes, only if they hold a licence to do so.
- (10) Furthermore, in view of the fact that some Member States already have well-established registration systems, which are used to control the making available on the market of some or all of the substances restricted by this Regulation which are not to be made available to members of the general public, it is appropriate to provide in this Regulation for a system of registration applicable to some or all of those substances.
- (11) Hydrogen peroxide, nitromethane and nitric acid are widely used for legitimate purposes by members of the general public. It should therefore be possible for Member States to provide for access to those substances within a given range of concentrations by applying a registration system under this Regulation rather than a licensing system.
- (12) Given its very specific subject matter, the objective of this Regulation can be achieved whilst, in accordance with the principles of subsidiarity and proportionality, leaving the Member States the flexibility to choose whether to grant limited access for members of the general public in accordance with this Regulation.
- (13) In order to pursue legitimate objectives of public security whilst still ensuring the least disruption to the proper functioning of the internal market, it is appropriate to provide for a licensing system in accordance with which a member of the general public who has acquired a substance restricted by this Regulation which is not to be made available to members of the general public, or a mixture or substance containing it, in a concentration above the limit value would be able to introduce it

from another Member State or from a third country into a Member State which allows access to that substance in accordance with any of the systems provided for in this Regulation.

- (14) In order to implement efficiently the provisions concerning the introduction of explosives precursors, Member States are encouraged to ensure that the restrictions applicable to the introduction of substances restricted by this Regulation which are not to be made available to members of the general public are brought to the attention of international travellers. For the same reason, Member States are also encouraged to ensure that the general public is made aware that those restrictions also apply to small consignments to private persons and to consignments ordered at a distance by final consumers.
- (15) Information provided by Member States to industry, particularly to small and medium-sized enterprises (SMEs), could be a valuable means of facilitating compliance with this Regulation, having regard to the importance of minimising administrative burdens for SMEs.
- (16) As it would be disproportionate to prohibit the use of explosives precursors in professional activities, the restrictions relating to the making available, introduction, possession and use of explosive precursors should apply only to the general public. Nevertheless, in view of the general aims of this Regulation, it is appropriate to provide for a reporting mechanism that covers both professional users throughout the supply chain and members of the general public involved in transactions which, by reason of their nature, or scale, are to be regarded as suspicious. To that end, Member States should set up national contact points for the reporting of suspicious transactions.
- (17) Various transactions in respect of explosives precursors might be regarded as suspicious and therefore reportable. This is the case, for example, where the prospective customer (professional or non-professional) appears unclear about the intended use, appears unfamiliar with the intended use or cannot plausibly explain it, intends to buy unusual quantities, unusual concentrations or unusual combinations of substances, is unwilling to provide proof of identity or place of residence, or insists on using unusual methods of payment including large amounts of cash. Economic operators should be able to reserve the right to refuse such a transaction.
- (18) In view of the general aims of this Regulation, the competent authorities are encouraged to inform the relevant national contact point of any refusal of an application for a licence where the refusal is based on reasonable grounds for doubting the legitimacy of the

- intended use or the intentions of the user. Likewise, the competent authorities are encouraged to inform the national contact point of the suspension or revocation of a licence.
- (19) In order to prevent and detect the possible illicit use of explosives precursors, it is desirable that the national contact points keep records of reported suspicious transactions, and that the competent authorities take the necessary measures to investigate the concrete circumstances, including the genuineness of the relevant economic activity exercised by a professional user involved in a suspicious transaction.
- (20) Where feasible, concentration limit values should be set, above which access to certain explosives precursors is restricted, whereas only the reporting of suspicious transactions should be provided for in respect of certain other explosives precursors. The criteria for determining which measures should apply to which explosives precursors include the level of threat associated with the explosives precursor concerned, the volume of trade in the explosives precursor concerned, and the possibility of establishing a concentration level below which the explosives precursor could still be used for the legitimate purposes for which it is made available. Those criteria should continue to guide further actions which may be taken with respect to explosives precursors not currently covered by the scope of this Regulation.
- (21) Concentration limit values on hexamine in fuel tablets are technically not feasible. In addition, there are many legitimate uses of sulphuric acid, acetone, potassium nitrate, sodium nitrate, calcium nitrate and calcium ammonium nitrate. A regulation at Union level restricting sales to the general public of those substances would result in disproportionately high administrative and compliance costs for consumers, public authorities and businesses. Nevertheless, in view of the aims of this Regulation, measures should be adopted to facilitate the reporting of suspicious transactions in respect of hexamine fuel tablets and in respect of those other explosives precursors for which there are not suitable and safe alternatives.
- (22) Thefts of explosives precursors are a means of obtaining starting materials for the illicit manufacture of explosives. It is therefore appropriate to provide for the reporting of significant thefts and disappearances of substances subject to measures under this Regulation. In order to facilitate the tracing of the perpetrators and to alert the competent authorities of other Member States to possible threats, national contact points are encouraged, where appropriate, to make use of the Europol early warning system.
- (23) Member States should lay down rules on penalties applicable to infringements of this Regulation. Those penalties should be effective, proportionate and dissuasive.
- (24) By virtue of Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) <sup>(1)</sup> the supply to members of the general public of ammonium nitrate that could be readily misused as an explosive precursor is prohibited. However, the supply of ammonium nitrate to certain professional users, in particular farmers, is permitted. That supply should therefore be subject to the reporting mechanism for suspicious transactions established by this Regulation, since there is no equivalent requirement in Regulation (EC) No 1907/2006.
- (25) This Regulation requires the processing of personal data and their further disclosure to third parties in case of suspicious transactions. That processing and disclosure imply a serious interference with the fundamental rights to private life and the right to the protection of personal data. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data <sup>(2)</sup> governs the processing of personal data carried out in the framework of this Regulation. Accordingly, it should be ensured that the fundamental right to the protection of personal data of individuals whose personal data are processed in application of this Regulation is duly protected. In particular the processing of personal data that licensing, the registration of transactions and the reporting of suspicious transactions entail, should be carried out in accordance with Directive 95/46/EC, including the general data protection principles of data minimisation, purpose limitation, proportionality and necessity and the requirement to show due respect for the data subject's rights of access, rectification and deletion.
- (26) The choice of substances used by terrorists and other criminals for the illicit manufacture of explosives can change rapidly. It should therefore be possible to bring additional substances under the regime provided by this Regulation, where necessary as a matter of urgency.
- (27) In order to accommodate developments in the misuse of substances as explosives precursors, and provided that proper consultation with relevant stakeholders is carried out to take into account the potentially significant impact on economic operators, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the concentration limit values above which certain substances restricted under this Regulation are not to be made available to the general public, and to list additional substances in respect of which suspicious transactions are to be reported. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when
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- <sup>(1)</sup> OJ L 396, 30.12.2006, p. 1.  
<sup>(2)</sup> OJ L 281, 23.11.1995, p. 31.

preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (28) The Commission should maintain under constant review the list of substances which are not to be made available to the general public above certain concentration limit values, and the list of substances in respect of which suspicious transactions are to be reported. The Commission should, where justified, prepare legislative proposals, in accordance with the ordinary legislative procedure, to add or delete entries in the former list, or to delete entries from the latter list, in order to accommodate developments in the misuse of substances as explosives precursors.
- (29) In order to deal with substances not already restricted by this Regulation but in respect of which a Member State discovers reasonable grounds for believing that they could be used for the illicit manufacture of explosives, a safeguard clause providing for an adequate Union procedure should be introduced.
- (30) Moreover, in view of the specific risks to be addressed in this Regulation, it is appropriate to allow Member States, in certain circumstances, to adopt safeguard measures, including in respect of substances already subject to measures under this Regulation.
- (31) Given the requirements under this Regulation as regards information to be provided to the Commission and the Member States, it would be inappropriate to make such new safeguard measures subject to the regime laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services<sup>(1)</sup> regardless of whether they refer to substances already subject to measures under this Regulation or to substances not so restricted.
- (32) Given the aims of this Regulation and the impact that it may have on the security of citizens and on the internal market, the Commission should, drawing on the continuous discussions in the Standing Committee on Precursors, present a report to the European Parliament and to the Council examining any problems arising from the implementation of this Regulation, the desirability and feasibility of extending its scope, both as regards covering professional users and as regards including in the provisions on the reporting of suspicious transactions, disappearances and thefts of substances which, although not subject to measures under this Regulation, are identified as having been used for the illicit manufacture of explosives (non-scheduled explosives precursors). Furthermore, the Commission should, taking into account relevant experience gained by Member States and considering costs and benefits, present a report examining the desirability and feasibility of further

strengthening and harmonising the system in view of the threat to public security. As part of the review, the Commission should present a report to the European Parliament and the Council examining the possibilities to transfer provisions on ammonium nitrate from Regulation (EC) No 1907/2006 into this Regulation.

- (33) Since the objective of this Regulation, namely limiting access by the general public to explosives precursors, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the limitation, 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 that objective.
- (34) Pursuant to Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>(2)</sup>, the European Data Protection Supervisor has given an opinion<sup>(3)</sup>.
- (35) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, notably the protection of personal data, the freedom to conduct a business, the right to property and the principle of non-discrimination. This Regulation should be applied by the Member States in accordance with those rights and principles,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

##### **Subject matter**

This Regulation establishes harmonised rules concerning the making available, introduction, possession and use of substances or mixtures that could be misused for the illicit manufacture of explosives, with a view to limiting their availability to the general public, and ensuring the appropriate reporting of suspicious transactions throughout the supply chain.

This Regulation is without prejudice to other more stringent provisions of Union law concerning the substances listed in the Annexes.

#### *Article 2*

##### **Scope**

1. This Regulation applies to the substances listed in the Annexes and to mixtures and substances containing them.

<sup>(1)</sup> OJ L 204, 21.7.1998, p. 37.

<sup>(2)</sup> OJ L 8, 12.1.2001, p. 1.

<sup>(3)</sup> OJ C 101, 1.4.2011, p. 1.



2. This Regulation does not apply to:

- (a) articles as defined in Article 3(3) of Regulation (EC) No 1907/2006;
- (b) pyrotechnic articles as defined in Article 2(1) of Directive 2007/23/EC of the European Parliament and of the Council of 23 May 2007 on the placing on the market of pyrotechnic articles<sup>(1)</sup>, pyrotechnic articles intended for non-commercial use, in accordance with national law, by the armed forces, the law enforcement authorities or the fire department, pyrotechnic equipment falling within the scope of Council Directive 96/98/EC of 20 December 1996 on marine equipment<sup>(2)</sup>, pyrotechnic articles intended for use in the aerospace industry, or percussion caps intended for toys;
- (c) medicinal products legitimately made available to a member of the general public on the basis of a medical prescription in accordance with the applicable national law.

#### Article 3

##### Definitions

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

- (1) 'substance' means a substance within the meaning of point (1) of Article 3 of Regulation (EC) No 1907/2006;
- (2) 'mixture' means a mixture within the meaning of point (2) of Article 3 of Regulation (EC) No 1907/2006;
- (3) 'article' means an article within the meaning of point (3) of Article 3 of Regulation (EC) No 1907/2006;
- (4) 'making available' means any supply, whether in return for payment or free of charge;
- (5) 'introduction' means the act of bringing a substance into the territory of a Member State whether from another Member State or from a third country;
- (6) 'use' means any processing, formulation, storage, treatment or mixing, including in the production of an article, or any other utilisation;
- (7) 'member of the general public' means any natural person who is acting for purposes not connected with his trade, business or profession;
- (8) 'suspicious transaction' means any transaction concerning the substances listed in the Annexes, or mixtures or substances containing them, including transactions involving professional users, where there are reasonable grounds for suspecting that the substance or mixture is intended for the illicit manufacture of explosives;
- (9) 'economic operator' means any natural or legal person or public entity or group of such persons and/or bodies which delivers products or services on the market;
- (10) 'restricted explosives precursor' means a substance listed in Annex I, in a concentration higher than the corresponding

limit value set out therein and includes a mixture or another substance in which such a listed substance is present in a concentration higher than the corresponding limit value.

#### Article 4

##### Making available, introduction, possession and use

1. Restricted explosives precursors shall not be made available to, or introduced, possessed or used by, members of the general public.

2. Notwithstanding paragraph 1, a Member State may maintain or establish a licensing regime allowing restricted explosives precursors to be made available to, or to be possessed or used by, members of the general public, provided that the member of the general public obtains, and, if requested, presents a licence for acquiring, possessing or using them, issued in accordance with Article 7 by a competent authority of the Member State where that restricted explosives precursor is going to be acquired, possessed or used.

3. Notwithstanding paragraphs 1 and 2, a Member State may maintain or establish a registration regime allowing the following restricted explosives precursors to be made available to, or to be possessed or used by, members of the general public if the economic operator who makes them available registers each transaction in accordance with the detailed arrangements laid down in Article 8:

- (a) hydrogen peroxide (CAS RN 7722-84-1) in concentrations higher than the limit value set out in Annex I, but no higher than 35 % w/w;
- (b) nitromethane (CAS RN 75-52-5) in concentrations higher than the limit value set out in Annex I, but no higher than 40 % w/w;
- (c) nitric acid (CAS RN 7697-37-2) in concentrations higher than the limit value set out in Annex I, but no higher than 10 % w/w.

4. Member States shall notify to the Commission all measures they take in order to implement any of the regimes provided for in paragraphs 2 and 3. The notification shall set out the restricted explosives precursors in respect of which the Member State provides for an exception.

5. The Commission shall make publicly available a list of measures notified by Member States in accordance with paragraph 4.

6. Where a member of the general public intends to introduce a restricted explosives precursor into the territory of a Member State which has derogated from paragraph 1 by applying a licensing regime in accordance with paragraph 2 and/or a registration regime in accordance with paragraph 3 or with Article 17, that person shall obtain, and, if requested, present to the competent authority, a licence issued in accordance with the rules laid down in Article 7 and which is valid in that Member State.

<sup>(1)</sup> OJ L 154, 14.6.2007, p. 1.

<sup>(2)</sup> OJ L 46, 17.2.1997, p. 25.

7. An economic operator who makes available a restricted explosives precursor to a member of the general public in accordance with paragraph 2 shall for each transaction require the presentation of a licence or, if it is made available in accordance with paragraph 3, keep a record of the transaction, in compliance with the regime established by the Member State where the restricted explosives precursor is made available.

#### Article 5

##### Labelling

An economic operator who intends to make available restricted explosives precursors to a member of the general public, shall ensure, either by affixing an appropriate label or by verifying that an appropriate label is affixed, that the packaging clearly indicates that the acquisition, possession or use of that restricted explosives precursor by members of the general public is subject to a restriction as set out in Article 4(1), (2) and (3).

#### Article 6

##### Free movement

Without prejudice to the second paragraph of Article 1 and to Article 13, and unless otherwise provided for in this Regulation or in other legal acts of the Union, Member States shall not, on grounds related to the prevention of the illicit manufacture of explosives, prohibit, restrict or impede the making available of:

- (a) the substances listed in Annex I in concentrations not higher than the limit values laid down therein; or
- (b) the substances listed in Annex II.

#### Article 7

##### Licences

1. Each Member State which issues licences to members of the general public with a legitimate interest to acquire, introduce, possess or use restricted explosives precursors shall lay down rules for granting the licence provided for in Article 4(2) and (6). When considering whether to grant a licence, the competent authority of the Member State shall take into account all relevant circumstances and, in particular, the legitimacy of the intended use of the substance. The licence shall be refused if there are reasonable grounds for doubting the legitimacy of the intended use or the intentions of the user to use it for a legitimate purpose.

2. The competent authority may choose how to limit the validity of the licence, through permitting single or multiple use for a period not exceeding three years. The competent authority may oblige the licence holder to demonstrate, until the designated expiry of the licence, that the conditions under which the licence was granted are still fulfilled. The licence shall mention the restricted explosives precursors in respect of which it is issued.

3. The competent authorities may require applicants to pay a licence application fee. Such a fee shall not exceed the cost of processing the application.

4. The licence may be suspended or revoked by the competent authority where there are reasonable grounds for believing that the conditions under which the licence was granted are no longer fulfilled.

5. Appeals against any decision of the competent authority, and disputes concerning compliance with the conditions of the licence, shall be heard by an appropriate body responsible under national law.

6. Licences granted by the competent authorities of a Member State may be recognised in other Member States. The Commission shall, by 2 September 2014 draw up guidelines, after consulting the Standing Committee on Precursors, on the technical details of the licences in order to facilitate their mutual recognition. Those guidelines shall also contain information on what data is to be comprised in licences valid for the introduction of restricted explosives precursors, including a draft format for such licences.

#### Article 8

##### Registration of transactions

1. For the purposes of registration pursuant to Article 4(3), members of the general public shall identify themselves by means of an official identification document.

2. The register shall comprise at least the following information:

- (a) the name, address and, where applicable, either the identification number of the member of the general public or the type and number of their official identification document;
- (b) the name of the substance or mixture, including its concentration;
- (c) the amount of the substance or mixture;
- (d) the intended use of the substance or mixture as declared by the member of the general public;
- (e) the date and place of the transaction;
- (f) the signature of the member of the general public.

3. The register shall be kept for five years from the date of the transaction. During that period, the register shall be made available for inspection at the request of the competent authorities.

4. The register shall be kept on paper or on another durable medium and shall be available for inspection at any time during the entire period provided for in paragraph 3. Any data stored electronically shall:

- (a) match the format and content of the corresponding paper documents; and
- (b) be readily available at any time during the entire period provided for in paragraph 3.

#### Article 9

##### Reporting of suspicious transactions, disappearances and thefts

1. Suspicious transactions involving the substances listed in the Annexes, or involving mixtures or substances containing them, shall be reported in accordance with this Article.



2. Each Member State shall set up one or more national contact points with a clearly identified telephone number and e-mail address for the reporting of suspicious transactions.

3. Economic operators may reserve the right to refuse the suspicious transaction and shall report the transaction or attempted transaction without undue delay, including if possible the identity of the customer, to the national contact point of the Member State where the transaction was concluded or attempted in the event that they have reasonable grounds for believing that a proposed transaction involving one or more substances listed in the Annexes, or involving mixtures or substances containing them, is a suspicious transaction, having regard to all the circumstances and in particular where the prospective customer:

- (a) appears unclear about the intended use of the substance or mixture;
- (b) appears unfamiliar with the intended use of the substance or mixture or cannot plausibly explain it;
- (c) intends to buy substances in quantities, combinations or concentrations uncommon for private use;
- (d) is unwilling to provide proof of identity or place of residence; or
- (e) insists on using unusual methods of payment, including large amounts of cash.

4. Economic operators shall also report significant disappearances and thefts of the substances listed in the Annexes and of mixtures or substances containing them to the national contact point of the Member State where the disappearance or theft has taken place.

5. In order to facilitate cooperation between the competent authorities and economic operators, the Commission shall, after consulting the Standing Committee on Precursors, draw up, by 2 September 2014 guidelines to assist the chemical supply chain and, where relevant, the competent authorities. The guidelines shall, in particular, provide:

- (a) information on how to recognise and report suspicious transactions, in particular as concerns the concentrations and/or quantities of substances listed in Annex II below which no action is normally needed;
- (b) information on how to recognise and report significant disappearances and thefts;
- (c) other information which may be deemed useful.

The Commission shall update the guidelines regularly.

6. The competent authorities shall ensure that the guidelines provided for in paragraph 5 are regularly disseminated in a manner deemed appropriate by the competent authorities in accordance with the objectives of the guidelines.

#### Article 10

##### Data protection

Member States shall ensure that the processing of personal data carried out in application of this Regulation is in accordance with Directive 95/46/EC. In particular, Member States shall ensure that the processing of personal data required in respect of licensing pursuant to Article 4(2) and (6) and Article 7 of this Regulation or for the registration of transactions pursuant to Article 4(3) and Articles 8 and 17 of this Regulation, and the reporting of suspicious transactions pursuant to Article 9 of this Regulation, comply with Directive 95/46/EC.

#### Article 11

##### Penalties

Member States shall lay down rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

#### Article 12

##### Amendments to the Annexes

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 14 concerning changes of the limit values in Annex I to the extent necessary to accommodate developments in the misuse of substances as explosives precursors, or on the basis of research and testing, as well as concerning the addition of substances to Annex II, where necessary to accommodate developments in the misuse of substances as explosives precursors. The Commission shall, as part of the preparation of the delegated acts, endeavour to consult relevant stakeholders, in particular the chemical industry and the retail sector.

Where, in the case of a sudden change in the risk assessment as far as the misuse of substances for the illicit manufacture of explosives is concerned, imperative grounds of urgency so require, the procedure provided for in Article 15 shall apply to delegated acts adopted pursuant to this Article.

2. The Commission shall adopt a separate delegated act in respect of each change of the limit values in Annex I and each new substance added to Annex II. Each delegated act shall be based on an analysis demonstrating that the amendment is not likely to lead to disproportionate burdens on economic operators or consumers, having due regard to the objectives sought to be achieved.

#### Article 13

##### Safeguard clause

1. Where a Member State has reasonable grounds for believing that a specific substance not listed in the Annexes could be used for the illicit manufacture of explosives, it may restrict or prohibit the making available, possession and use of

that substance, or of any mixture or substance containing it, or it may provide that the substance be subject to the reporting of suspicious transactions in accordance with Article 9.

2. Where a Member State has reasonable grounds for believing that a specific substance listed in Annex I could be used for the illicit manufacture of explosives, at a concentration lower than the limit value laid down in Annex I, it may further restrict or prohibit the making available, possession and use of that substance by imposing a lower concentration limit value.

3. Where a Member State has reasonable grounds for establishing a concentration limit value above which a substance listed in Annex II should be subject to the restrictions otherwise applying to restricted explosives precursors, it may restrict or prohibit the making available, possession and use of that substance by imposing a maximum permitted concentration.

4. A Member State restricting or prohibiting substances in accordance with paragraph 1, 2 or 3 shall immediately inform the Commission and the other Member States thereof, giving its reasons.

5. In the light of the information communicated pursuant to paragraph 4, the Commission shall immediately examine whether to prepare amendments to the Annexes in accordance with Article 12(1) or to prepare a legislative proposal to amend the Annexes. The Member State concerned shall, where appropriate, amend or repeal its national measures to take account of any such amendment to the Annexes.

6. By 2 June 2013, Member States shall notify the Commission of any existing national measures restricting or prohibiting the making available, possession and use of a substance or of any mixture or substance containing it on the ground that it could be used for the illicit manufacture of explosives.

#### Article 14

##### Exercise of the delegation

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

2. The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission for a period of five years from 1 March 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 12 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the

day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

5. A delegated act adopted pursuant to Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### Article 15

##### Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of the act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 14(5). In such a case, the Commission shall repeal the act without delay following notification of the decision to object by the European Parliament or by the Council.

#### Article 16

##### Transitional provision

The possession and use by members of the general public of restricted explosives precursors shall be allowed until 2 March 2016.

#### Article 17

##### Existing registration regimes

A Member State which, on 1 March 2013 has a regime in place that requires economic operators to register transactions making one or more restricted explosives precursors available to members of the general public may derogate from Article 4(1) or (2) by applying that registration regime in accordance with Article 8 to some or all of the substances listed in Annex I. The rules laid down in Article 4(4) to (7), shall apply *mutatis mutandis*.

#### Article 18

##### Review

1. By 2 September 2017, the Commission shall present a report to the European Parliament and to the Council examining:

(a) any problems that have arisen as a result of the application of this Regulation;

- (b) the desirability and feasibility of further strengthening and harmonising the system in view of the threat to public security caused by terrorism and other serious criminal activities, taking into account the experience gained by Member States under this Regulation, including any detected security gaps, taking into account the costs and benefits for Member States, economic operators and other relevant stakeholders;
  - (c) the desirability and feasibility of extending the scope of this Regulation to cover professional users, taking into account the burdens imposed on economic operators and having regard to the objective of this Regulation;
  - (d) the desirability and feasibility of including non-scheduled explosives precursors in the provisions on reporting of suspicious transactions, disappearances and thefts.
2. By 2 March 2015, the Commission shall present a report to the European Parliament and to the Council examining the

possibilities to transfer relevant provisions on ammonium nitrate from Regulation (EC) No 1907/2006 into this Regulation.

3. If appropriate, in the light of the reports referred to in paragraphs 1 and 2, the Commission shall submit a legislative proposal to the European Parliament and to the Council with a view to amending this Regulation accordingly.

#### Article 19

##### 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*.

It shall apply from 2 September 2014.

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

Done at Strasbourg, 15 January 2013.

For the European Parliament  
The President  
M. SCHULZ

For the Council  
The President  
L. CREIGHTON

## ANNEX I

Substances which shall not be made available to members of the general public on their own, or in mixtures or substances including them, except if the concentration is equal to or lower than the limit values set out below

Name of the substance and Chemical Abstracts Service Registry number (CAS RN)	Limit value	Combined Nomenclature (CN) code for a separate chemically defined compound meeting the requirements of Note 1 to Chapter 28 or 29 of the CN, respectively <sup>(1)</sup>	Combined Nomenclature (CN) code for a mixture without constituents (e.g. mercury, precious or rare-earth metals or radioactive substances) which would determine classification under another CN code <sup>(1)</sup>
Hydrogen peroxide (CAS RN 7722-84-1)	12 % w/w	2847 00 00	3824 90 97
Nitromethane (CAS RN 75-52-5)	30 % w/w	2904 20 00	3824 90 97
Nitric acid (CAS RN 7697-37-2)	3 % w/w	2808 00 00	3824 90 97
Potassium chlorate (CAS RN 3811-04-9)	40 % w/w	2829 19 00	3824 90 97
Potassium perchlorate (CAS RN 7778-74-7)	40 % w/w	2829 90 10	3824 90 97
Sodium chlorate (CAS RN 7775-09-9)	40 % w/w	2829 11 00	3824 90 97
Sodium perchlorate (CAS RN 7601-89-0)	40 % w/w	2829 90 10	3824 90 97

<sup>(1)</sup> Commission Regulation (EC) No 948/2009 (OJ L 287, 31.10.2009, p. 1).

## ANNEX II

Substances on their own or in mixtures or in substances for which suspicious transactions shall be reported

Name of the substance and Chemical Abstracts Service Registry number (CAS RN)	Combined Nomenclature (CN) code for a separate chemically defined compound meeting the requirements of Note 1 to Chapter 28, Note 1 to Chapter 29 or Note 1(b) to Chapter 31 of the CN, respectively <sup>(1)</sup>	Combined Nomenclature (CN) code for mixtures without constituents (e.g. mercury, precious or rare-earth metals or radioactive substances) which would determine classification under another CN code <sup>(1)</sup>
Hexamine (CAS RN 100-97-0)	2921 29 00	3824 90 97
Sulphuric acid (CAS RN 7664-93-9)	2807 00 10	3824 90 97
Acetone (CAS RN 67-64-1)	2914 11 00	3824 90 97
Potassium nitrate (CAS RN 7757-79-1)	2834 21 00	3824 90 97
Sodium nitrate (CAS RN 7631-99-4)	3102 50 10 (natural)	3824 90 97
	3102 50 90 (other than natural)	3824 90 97
Calcium nitrate (CAS RN 10124-37-5)	2834 29 80	3824 90 97
Calcium ammonium nitrate (CAS RN 15245-12-2)	3102 60 00	3824 90 97
Ammonium nitrate (CAS RN 6484-52-2) [in concentration of 16 % by weight of nitrogen in relation to ammonium nitrate or higher]	3102 30 10 (in aqueous solution)	3824 90 97
	3102 30 90 (other)	

<sup>(1)</sup> Regulation (EC) No 948/2009.



**REGULATION (EU) No 99/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 15 January 2013**  
**on the European statistical programme 2013-17**  
**(Text with relevance for the EEA and for Switzerland)**

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 338(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure <sup>(1)</sup>,

Whereas:

- (1) Solid empirical data and statistics are absolutely essential in order to measure the progress and evaluate the efficiency of the Union's policies and programmes, especially in the context of the Europe 2020 Strategy set out in the Commission Communication of 3 March 2010 entitled 'Europe 2020: A strategy for smart, sustainable and inclusive growth' (Europe 2020).
- (2) Pursuant to Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics <sup>(2)</sup>, a multiannual European statistical programme (the 'multiannual programme') should be established, providing a framework for funding Union actions.
- (3) In accordance with Regulation (EC) No 223/2009, the multiannual programme should provide the framework for the development, production and dissemination of European statistics, the main fields and the objectives of the actions envisaged for a period not exceeding five years. It should lay down priorities concerning the needs for information for the purpose of carrying out the activities of the Union. Those needs should be weighed against the resources needed at Union and national level to provide the required statistics, and also against the response burden and the respondents' associated costs, paying particular attention to cost-effectiveness.

(4) The development, production and dissemination of European statistics within the legislative framework of the multiannual programme should be achieved through close and coordinated cooperation within the European Statistical System (ESS) between the Union statistical authority, which is the Commission (Eurostat), and the national statistical institutes and other national authorities as designated by the Member States <sup>(3)</sup> (collectively, 'national statistical authorities'). Professional independence of the national statistical institutes and the Commission (Eurostat) is essential for providing credible and high-quality statistical data.

(5) Closer cooperation between the Commission (Eurostat) and the national statistical institutes is absolutely essential, in order to enhance the quality of European statistics. Such closer cooperation should focus mainly on the provision of further methodological training on statistics and related matters, on the development and dissemination of existing good practices within the ESS, and on the exchange of staff between the Member States and the Commission (Eurostat) in both directions.

(6) The implementation of the multiannual programme is an opportunity to produce harmonised European statistics in order to contribute to the development, production and dissemination of common, comparable and reliable statistical information at Union level.

(7) High-quality statistics developed, produced and disseminated under the multiannual programme are essential for evidence-based decision-making, should be available in a timely manner and should contribute to the implementation of Union policies as reflected in the Treaty on the Functioning of the European Union (TFEU) and Europe 2020 and other policies addressed in the Commission's strategic priorities for 2010-14, namely strengthened and integrated economic governance, climate change, reformed agricultural policy, growth and social cohesion, gender equality, a people's Europe and globalisation. They should be fostered through actions which are financed under the multiannual programme where the Union can bring a clear added value, and which aim at ensuring that economic, social and environmental indicators are all treated on an equal footing.

<sup>(1)</sup> Position of the European Parliament of 12 December 2012 (not yet published in the Official Journal) and decision of the Council of 20 December 2012.

<sup>(2)</sup> OJ L 87, 31.3.2009, p. 164.

<sup>(3)</sup> Without prejudice to Article 5 of Protocol No 4 on the Statute of the European System of Central Banks and of the European Central Bank.

- (8) When defining statistical areas to be developed, the objectives of Regulation (EU) No 691/2011 of the European Parliament and of the Council of 6 July 2011 on European environmental economic accounts<sup>(1)</sup>, which relate to the development of new environmental economic account modules, should be taken into account.
- (9) In addition, particular attention should be paid in statistical studies to the impact of fiscal consolidation programmes on workers and other citizens. Statistical data should be collected in such a way as to ensure the visibility of developments in individual Member States, such as developments regarding unemployment, the amount of and changes to social transfer payments, the number and quality of jobs, labour mobility within the Member States, within the Union and between the Union and third countries, and the related socio-geographical changes in pay structure and training measures.
- (10) In recent years, the ESS has been faced with a number of challenges. First, a lack of high-quality national statistics can have detrimental effects on Member States and on the Union in general. Consistently accurate and high-quality statistics, produced by the professionally independent national statistical institutes, are therefore absolutely essential for the purposes of policy-making at national and at Union level, and, in particular, in the context of the euro area's supervisory mechanisms.
- (11) Second, the need for European statistics has been constantly increasing, and this trend is unlikely to change in the future. Economic globalisation represents a specific challenge, requiring the development of new metrics to measure global value chains in an internationally coordinated way, thereby providing a better picture of economic growth and job creation.
- (12) Third, the nature of needs is constantly changing, requiring more synergy between statistical domains.
- (13) Fourth, appropriate breakdowns of available data can make it easier to monitor the effects of the economic and financial crisis and the impact of implemented policies on citizens, including the most vulnerable.
- (14) Fifth, the nature of statistics has changed. They are no longer merely one source of information for policy-making purposes, but are now at the very heart of the decision-making process. Evidence-based decision-making requires statistics that meet high-quality criteria linked to the specific purposes they are serving, and there is an increasing need for complex multidimensional statistics supporting composite policy areas. In order to respond correctly to policy-making requirements, gender disaggregated data is necessary, where appropriate.
- (15) Sixth, due to the appearance of new actors on the information market, including those providing information in nearly real time, the priority for the ESS in future is high quality, including timeliness.
- (16) Seventh, budget constraints at both national and Union level as well as the need to further reduce the burden on enterprises and citizens make the situation even more challenging.
- (17) The Commission Communication of 10 August 2009 on the production method of EU statistics: a vision for the next decade, and the ESS strategy for its implementation, address all those seven challenges by aiming to re-engineer the ways of working in the ESS in order to make it more efficient and flexible. The implementation of that Communication constitutes the core of the multi-annual programme within the framework of the joint ESS strategy.
- (18) To ensure the integrity and quality management of the development, production and dissemination of European statistics under this Regulation, the national statistical institutes and the Commission (Eurostat) should take all necessary measures to maintain public confidence in statistics and to allow for a more rigorous application of the European Statistics Code of Practice in force and of the Commission Communication of 15 April 2011 entitled 'Towards robust quality management for European Statistics', while complying with the principles set out therein.
- (19) With the aim of better matching the limited resources available to national and European producers for producing European statistics with the increasing needs for statistics, the preparation phase of the Commission's annual statistical work programmes, which spell out in detail the multiannual programme, should include a systematic and thorough review of statistical priorities that will reduce less important requirements and simplify existing processes, while at the same time improving the reliability and maintaining the high-quality standards of official statistics. Account should also be taken of the burden on respondents, be they businesses, central, regional or local government units, households or individuals. The process should be pursued in close cooperation with both the users and the producers of European statistics.

<sup>(1)</sup> OJ L 192, 22.7.2011, p. 1.

- (20) In this context, reasonable financial burden-sharing between the budgets of the Union and the Member States should be achieved. In addition to the financial allocation set by this Regulation, the national statistical authorities should therefore receive at national level the appropriate funding for carrying out the individual statistical actions decided for the implementation of the multiannual programme.
- (21) In view of the compliance burden, particularly on smaller Member States, the Commission (Eurostat) should be able to provide technical assistance and expertise to Member States to help them tackle research constraints and major methodological obstacles, with a view to ensuring compliance and the provision of high-quality data.
- (22) The financial envelope of the multiannual programme should also be allocated in such a way as to cover the expenses needed for improving the process for producing high-quality European statistics, and the capacity to do so, and for the training needs of national statisticians.
- (23) Financial contributions by the Union should support actions for the development, production and dissemination of European statistics as set out in this Regulation. They should take the form of grants, public procurement contracts or any other interventions needed for the purposes of achieving the objectives of the multiannual programme. In this context, the use of lump sums should be a principal means of simplifying grant management.
- (24) Pursuant to Article 15 of Regulation (EC) No 223/2009, an adequate financial structure should be developed to support collaborative networks.
- (25) Provision should be made to open the multiannual programme to participation of the countries of the European Free Trade Association participating in the European Economic Area ('the EEA/EFTA countries') and to Switzerland. Provision should also be made to open the multiannual programme to participation by other countries, in particular the neighbouring countries of the Union, countries which have applied for membership of the Union and candidate and acceding countries.
- (26) In the context of the implementation of the multiannual programme, where appropriate, cooperation with third countries not participating in the multiannual programme should be encouraged, taking into account any relevant agreements, or any envisaged agreements, between those countries and the Union.
- (27) In order to be considered as financing decisions according to Article 84(3) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union<sup>(1)</sup> ('the Financial Regulation'), the annual work programmes adopted by the Commission for the implementation of the multiannual programme have to set out the objectives pursued, the expected results, the method of implementation and their total amount. They must also contain a description of the actions to be financed, an indication of the amount allocated to each action and an indicative implementation timetable. It is desirable that they also set out the relevance of the objectives pursued to the users' needs and a project plan. For grants, they should include the priorities, the essential evaluation criteria and the maximum rate of co-financing. Moreover, the annual work programmes should include appropriate indicators for monitoring outcomes.
- (28) Since the objective of this Regulation, namely to establish the multiannual programme, cannot be sufficiently achieved by the Member States and can therefore 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 that objective.
- (29) An *ex-ante* evaluation has been performed in accordance with the principle of sound financial management, in order to focus the multiannual programme on the need for effectiveness and efficiency in achieving its objectives and in order to incorporate budgetary constraints from the design phase of the multiannual programme onwards. The value and impact of the measures taken under the multiannual programme should be regularly monitored and evaluated, including by independent external evaluators. For the purpose of evaluating the multiannual programme, measurable objectives have been formulated and indicators developed.
- (30) For 2013, this Regulation lays down a financial envelope for the multiannual programme, which, in the framework of the annual budgetary procedure, is to be the prime reference for the budgetary authority within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management<sup>(2)</sup>.
- (31) In addition to the financial envelope set by this Regulation, the individual statistical actions aimed at implementing the multiannual programme, including actions taking the form of an agreement between the national statistical authorities and the Commission (Eurostat), should receive, to the extent possible, appropriate funding at national level.
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- <sup>(1)</sup> OJ L 298, 26.10.2012, p. 1.  
<sup>(2)</sup> OJ C 139, 14.6.2006, p. 1.

- (32) The impact assessment for this Regulation, indicating cost savings for the Union and the Member States, is the basis for the commitment of finances to the multi-annual programme. Cost savings will result, in particular, from new methods of production of European statistics resulting from developments in the areas of information and communication technology.
- (33) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, penalties.
- (34) In order to ensure the continuity of statistical operations under the ESS for the entire calendar year of 2013, and for the purpose of legal certainty, this Regulation should enter into force on the day of its publication and should apply from 1 January 2013. The date of application of this Regulation should, in particular, serve to justify payments to contract staff as well as all activities under the programme.
- (35) In accordance with Regulation (EC) No 223/2009, the draft multiannual programme has been submitted for prior examination to the European Statistical System Committee, to the European Statistical Advisory Committee established by Decision No 234/2008/EC of the European Parliament and of the Council<sup>(1)</sup> and to the Committee on Monetary, Financial and Balance of Payments Statistics established by Council Decision 2006/856/EC<sup>(2)</sup>,

HAVE ADOPTED THIS REGULATION:

#### Article 1

##### Establishment of the European statistical programme

The European statistical programme for the period from 2013 to 2017 ('the programme') is hereby established.

#### Article 2

##### Added value

The programme represents the added value of ensuring that European statistics are focused on the information needed to design, implement, monitor and evaluate Union policies. In addition, it contributes to the effective use of resources by fostering actions which provide an essential contribution to the development, production and dissemination of harmonised, comparable, reliable, user-friendly and accessible statistical information based on uniform standards and common principles set out in the European Statistics Code of Practice ('Code of Practice'), as adopted by the European Statistical System Committee (ESSC), in particular the quality criteria of relevance, accuracy and reliability, timeliness and punctuality, accessibility and clarity, and coherence and comparability.

#### Article 3

##### Scope

1. This Regulation provides the programming framework for the development, production and dissemination of European

statistics, the main fields and the objectives of the actions envisaged for the period from 2013 to 2017, in accordance with Articles 13 and 14 of Regulation (EC) No 223/2009.

2. The programme does not cover measures provided for by the Programme for the Modernisation of European Enterprise and Trade Statistics ('the MEETS Programme'), established by Decision No 1297/2008/EC of the European Parliament and of the Council<sup>(3)</sup>, until the end of the MEETS Programme on 31 December 2013, but includes objectives in the area of enterprise and trade statistics planned to be implemented from 2014 to 2017.

#### Article 4

##### Objectives

1. The general objective of the programme is for the European Statistical System (ESS) to continue to be the leading provider of high-quality statistics on Europe.

2. Bearing in mind the available resources both at national and Union level as well as the response burden, the following specific objectives shall be pursued in statistical actions undertaken for the implementation of the programme:

— Objective 1: provide statistical information, in a timely manner, to support the development, monitoring and evaluation of the policies of the Union properly reflecting priorities, while keeping a balance between economic, social and environmental fields and serving the needs of the wide range of users of European statistics, including other decision-makers, researchers, businesses and European citizens in general, in a cost-effective manner without unnecessary duplication of effort,

— Objective 2: implement new methods of production of European statistics aiming at efficiency gains and quality improvements,

— Objective 3: strengthen the partnership within the ESS and beyond in order to further enhance its productivity and its leading role in official statistics worldwide, and

— Objective 4: ensure that delivery of such statistics is kept consistent throughout the whole duration of the programme, provided that this does not interfere with the priority-setting mechanisms of the ESS.

3. The general and specific objectives referred to in paragraphs 1 and 2 are elaborated further in the Annex, together with the indicators used for monitoring the implementation of the programme. In accordance with Articles 13 and 14 of Regulation (EC) No 223/2009, the programme shall be subject to detailed annual planning which will include a priority-setting mechanism as an integral part of the process. The objectives of the programme shall be achieved through close and coordinated cooperation in the ESS. The

<sup>(1)</sup> OJ L 73, 15.3.2008, p. 13.

<sup>(2)</sup> OJ L 332, 30.11.2006, p. 21.

<sup>(3)</sup> OJ L 340, 19.12.2008, p. 76.



programme shall include the development of appropriate instruments resulting in enhanced quality, a greater flexibility of the ESS and the increased ability to satisfy users' needs in a timely manner. It shall also pioneer the development of reliable indicators able to meet the challenges of the 21st century, namely measuring environmental sustainability, quality of life and social cohesion, and record economic activity in the tertiary sector and the social economy.

#### Article 5

##### **Statistical governance, independence, transparency and quality**

1. European statistics shall be produced in a professionally independent and transparent manner.

2. The programme shall be implemented in accordance with the principles of the Code of Practice with a view to producing and disseminating high-quality, harmonised and comparable European statistics in accordance with Article 12 of Regulation (EC) No 223/2009, and ensuring the proper functioning of the ESS as a whole. The national statistical institutes and the Union statistical authority (Commission (Eurostat)) shall ensure, through their professional independence, that European statistics comply with the Code of Practice.

3. The national statistical institutes and other national authorities as designated by the Member States (collectively, 'national statistical authorities'), and the Commission (Eurostat), which are responsible for the development, production and dissemination of European statistics, shall:

- aim to reinforce an institutional and organisational environment which promotes the coordination, effectiveness and credibility of national statistical authorities and the Commission (Eurostat) producing and disseminating European statistics,
- place emphasis on the statistical principles set out in Article 2(1) of Regulation (EC) No 223/2009 and the needs of users,
- serve the needs of Union institutional users in accordance with Regulation (EC) No 223/2009, and seek to develop statistics which serve a wide range of users of European statistics, including other decision-makers, researchers, businesses and European citizens in general, and
- cooperate with statistical bodies at international level in order to promote the use of international concepts, classifications, methods and other standards, in particular, with a view to ensuring more coherence and better comparability at global level.

4. Each Member State shall endeavour to ensure that its statistical production processes are set up in a standardised manner and are enhanced, to the extent possible, by audit mechanisms.

5. In the interest of transparency, the Commission (Eurostat) shall, where appropriate, disclose publicly its assessment of the quality of national contributions to European statistics as part of the quality reporting and compliance monitoring exercise.

6. The Commission (Eurostat) shall consider how to make its publications, particularly those which are accessible via its website, more user-friendly to non-professionals, and shall allow easy access to complete data series and include intuitive comparative graphs in order to give more added value to citizens. The periodic updates of the Commission (Eurostat) shall provide, where possible, information on each Member State and shall offer annual, monthly and long-term data series, where appropriate, and where the benefits are greater than the costs of collection.

#### Article 6

##### **Statistical priority-setting**

1. The programme shall ensure statistical initiatives underpinning the development, implementation and monitoring of current Union policies and shall provide statistical support for important requirements resulting from new Union policy initiatives.

2. The Commission shall, in the preparation of the annual work programmes referred to in Article 9, ensure effective priority-setting and an annual review of, and report on, statistical priorities. The annual work programmes will thereby aim to ensure that European statistics can be produced within the available resources at the national and the Union level. Prioritisation shall contribute to the reduction of costs and burdens for new statistical requirements by reducing statistical requirements in existing domains of European statistics and shall be pursued in close cooperation with the Member States.

3. The Commission shall ensure the development and implementation of instruments to annually review the priorities of statistical activities in order to contribute to the reduction of costs and burdens on data providers and producers of statistics.

4. When putting forward new actions or introducing major revisions of existing statistics, the Commission shall duly justify such actions or revisions and shall provide information with input from Member States on response burden and production costs in accordance with Article 14(3) of Regulation (EC) No 223/2009.

#### Article 7

##### **Financing**

1. The Union financial envelope for the implementation of the programme for 2013 is set at EUR 57,3 million, covered by the programming period 2007 to 2013.



2. Not later than three months after the adoption of the multiannual financial framework for the years 2014-20 ('MFF 2014 to 2020'), the Commission is invited to submit to the European Parliament and to the Council a legislative proposal introducing the financial allocation for the period 2014 to 2017.

3. The Commission shall implement the Union financial support in accordance with the Financial Regulation.

4. The Commission shall adopt its decision on annual appropriations in compliance with the prerogatives of the budgetary authority.

#### *Article 8*

##### **Administrative and technical assistance**

The financial allocation for the programme may cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the programme and the achievement of its objectives; in particular, studies, meetings of experts, expenses linked to the reimbursement of statistical experts, information and communication actions, expenses linked to IT networks focusing on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission for the management of the programme. The allocation may also cover technical assistance and expertise provided to Member States which are unable to produce certain European statistics or statistics of the required quality due to specific circumstances.

#### *Article 9*

##### **Annual work programmes**

In order to implement the programme, the Commission shall adopt annual work programmes which shall satisfy the requirements laid down in Article 17 of Regulation (EC) No 223/2009 and which shall set out the objectives pursued by them and their expected results, in accordance with the general and specific objectives referred to in Article 4(1) and (2) of this Regulation. Each annual work programme shall be communicated to the European Parliament for information purposes.

#### *Article 10*

##### **Types of intervention**

Financial contributions by the Union may take the form of grants, public procurement contracts or any other interventions needed for the purposes of achieving the general and specific objectives referred to in Article 4(1) and (2).

#### *Article 11*

##### **Eligible actions**

1. A financial contribution by the Union shall support actions for the development, production and dissemination of European statistics needed for the purposes of achieving the

general and specific objectives referred to in Article 4(1) and (2). Priority shall be given to actions with high added value for the Union in accordance with Article 2.

2. A financial contribution to support collaborative networks as referred to in Article 15 of Regulation (EC) No 223/2009 may take the form of grants for an action and may cover up to 95 % of the eligible costs.

3. Where appropriate, operating grants, not exceeding 50 % of the eligible costs, may be awarded for the functioning of organisations referred to in Article 12(3).

4. As a contribution to expenses incurred by the Member States in carrying out actions based on data collection, a lump sum per set of data, the complete results of which are to be forwarded to the Commission, may be paid up to a maximum threshold defined per data collection. The amount of the lump sum shall be defined by the Commission taking due account of the complexity of the data collection.

#### *Article 12*

##### **Beneficiaries eligible for grants**

1. In accordance with the second subparagraph of Article 128(1) of the Financial Regulation, grants to the national statistical authorities identified in Article 5(2) of Regulation (EC) No 223/2009 may be awarded without a call for proposals.

2. Collaborative networks may involve beneficiaries referred to in paragraph 1 and other bodies without a call for proposals in accordance with Article 128(1) of the Financial Regulation.

3. The operating grants referred to in Article 11(3) may be awarded to organisations which comply with both of the following criteria:

(a) they are non-profit making, are independent of industry, commercial and business or other conflicting interests, and have as their primary objectives and activities the promotion and support of the implementation of the Code of Practice and the implementation of new methods of production of European statistics aiming at efficiency gains and quality improvements at Union level; and

(b) they have provided the Commission with satisfactory accounts of their membership, internal rules and sources of funding.

#### *Article 13*

##### **Protection of the financial interests of the Union**

1. The Commission shall take appropriate measures to ensure that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by consistent and effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and deterrent penalties.

2. The Commission or its representatives and the Court of Auditors shall have the competence to audit, on the basis of documents and on-the-spot checks, all grant beneficiaries, contractors and subcontractors who have received funding within the framework of this Regulation.

The European Anti-Fraud Office (OLAF) shall, where appropriate, carry out on-the-spot checks and inspections of economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities<sup>(1)</sup>, 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 agreement, grant decision or contract funded pursuant to this Regulation.

Without prejudice to the first and second subparagraphs, cooperation agreements with third countries and international organisations, and grant agreements, grant decisions and contracts resulting from the implementation of this Regulation shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections.

#### Article 14

##### Participation in the programme by third countries

Participation in the programme shall be open to:

- (a) the EEA/EFTA countries, in accordance with the conditions established in the Agreement on the European Economic Area;
- (b) Switzerland, in accordance with the conditions established in the Agreement of 26 October 2004 between the European Community and the Swiss Confederation on cooperation in the field of statistics<sup>(2)</sup>; and

- (c) countries to which the European Neighbourhood Policy applies, countries which have applied for membership of the Union, candidate and acceding countries, and the western Balkan countries included in the stabilisation and association process, in accordance with the conditions laid down in the respective bilateral or multilateral agreements with those countries establishing the general principles for their participation in Union programmes.

#### Article 15

##### Evaluation and review of the programme

- 1. The Commission shall, after consulting the ESSC, submit an intermediate progress report on the implementation of the programme to the European Parliament and to the Council by 30 June 2015.
- 2. No later than 31 December 2016, the Commission may, on the basis of the intermediate progress report referred to in paragraph 1, and after consulting the ESSC, submit to the European Parliament and to the Council a proposal for the extension of the programme for the period from 2018 to 2020, while complying with the MFF 2014 to 2020.
- 3. By 31 December 2018, the Commission shall, after consulting the ESSC and the European Statistical Advisory Committee, submit a final evaluation report on the implementation of the programme to the European Parliament and to the Council.

#### Article 16

##### Entry into force

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

It shall apply from 1 January 2013.

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

Done at Strasbourg, 15 January 2013.

For the European Parliament  
The President  
M. SCHULZ

For the Council  
The President  
L. CREIGHTON

<sup>(1)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(2)</sup> OJ L 90, 28.3.2006, p. 2.

## ANNEX

**Statistical infrastructure and objectives of the European statistical programme 2013 to 2017****Introduction**

The implementation of Union policies requires high-quality, comparable and reliable statistical information about the economic, social and environmental situation in the Union and its components at national and regional level. European statistics are also indispensable for Europe, allowing the general public and European citizens to understand as well as to take part in the democratic process and debate about the present and future of the Union.

The European statistical programme provides the legislative framework for the development, production and dissemination of European statistics over the period 2013 to 2017.

European statistics are developed, produced and disseminated under that legislative framework through close and coordinated cooperation within the European Statistical System (ESS).

Statistics developed, produced and disseminated under the European statistical programme 2013 to 2017 ('the programme') contribute to the implementation of the Union's policies as reflected in the TFEU and Europe 2020 and its respective flagship initiatives and other policies set out in the Commission's strategic priorities.

Given the fact that the programme is a multiannual programme covering a period of five years, and that the ESS aims to maintain its role as a key player in the statistical field, the programme is ambitious in terms of scope and objectives, but the implementation of the programme will follow a step-wise approach. The development of an effective priority-setting and simplification mechanism will be an objective of the programme.

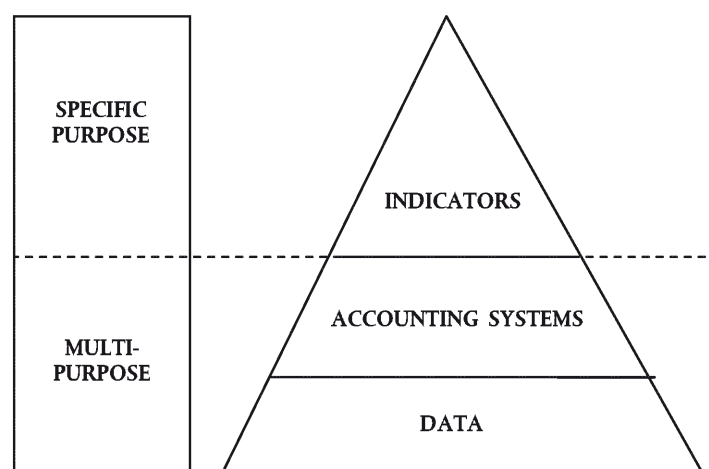
**Statistical infrastructure**

The programme will strive to establish a statistical information infrastructure. This infrastructure has to be prepared for the wide and intensive use of various applications.

Policy-making drives the decisions to produce European statistics. However, those statistics should also be available and easily accessible to other decision-makers, researchers, businesses and European citizens in general as they constitute a public good and are paid for by European citizens and businesses, who should benefit equally from the services provided. For the infrastructure to fulfil this role it has to be designed according to a sound conceptual framework which, on the one hand, ensures fitness for a range of purposes and, on the other hand, allows flexible adaptation to evolving users' needs in the years ahead.

The infrastructure of statistical information is presented below:

## STATISTICAL INFORMATION INFRASTRUCTURE

*Legend*

Data: information compiled by national statistical authorities, on the basis of traditional statistical activities (sample surveys, censuses, etc.) and data from other sources that are reused for statistical purposes. This information is tailored to serve needs in specific policy areas, e.g. the labour market, migration or agriculture.

The term also includes data collected for administrative purposes but used by national statistical authorities for statistical purposes (usually referred to as data from administrative sources).

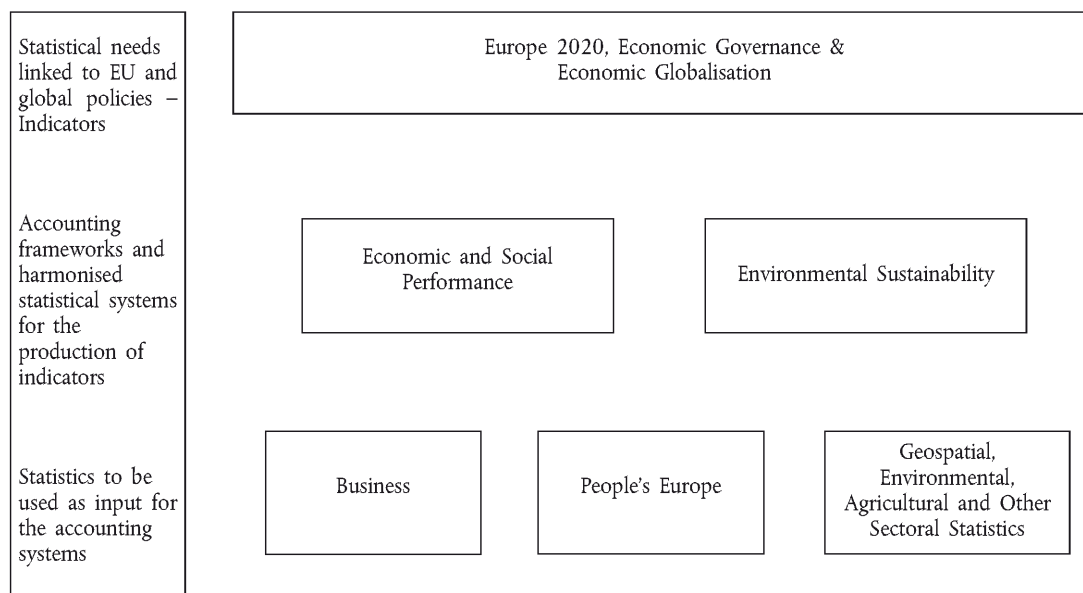
Accounting systems: coherent and integrated accounts, balance sheets and tables based on a set of internationally agreed rules. An accounting framework ensures a high profile of consistency and comparability; statistical data can be compiled and presented in a format that is designed for the purposes of analysis and policy-making.

Indicators: an indicator is a summary measure related to a key issue or phenomenon and derived from a series of observed facts. Indicators can be used to reveal relative positions or show positive or negative change. Indicators are usually a direct input into Union and global policies. In strategic policy fields they are important for setting targets and monitoring their achievement.

Within this overarching scheme, the programme will further distinguish three pillars of statistical information: Business; People's Europe; and Geospatial, Environmental, Agricultural and Other Sectoral Statistics.

Union and relevant global policies are the instruments that specify the statistical requirements to which the programme will respond through the re-engineered structure and corresponding production processes. Therefore, each individual Union and global policy is reflected in the different components of the statistical infrastructure and is covered by specific activities in the programme. New policies identified in the years ahead will be covered by establishing new derivation paths of indicators/accounts based on the statistical data produced within the three pillars.

#### STATISTICAL INFORMATION — STRUCTURE AND DYNAMICS



#### Objectives

The general objective of the programme is for the ESS to continue to be the leading provider of high-quality statistics on Europe.

Bearing in mind the available resources both at national and Union level as well as the response burden, the following specific objectives shall be pursued in statistical actions undertaken for the implementation of the programme:

- Objective 1: provide statistical information in a timely manner, to support the development, monitoring and evaluation of the policies of the Union properly reflecting priorities, while keeping a balance between economic, social and environmental fields and serving the needs of the wide range of users of European statistics, including other decision-makers, researchers, businesses and European citizens in general, in a cost-effective manner without unnecessary duplication of effort;
- Objective 2: implement new methods of production of European statistics aiming at efficiency gains and quality improvements;
- Objective 3: strengthen the partnership within the ESS and beyond in order to further enhance its productivity and its leading role in official statistics worldwide; and

- Objective 4: ensure that delivery of such statistics is kept consistent throughout the whole duration of the programme, provided that this does not interfere with the priority-setting mechanisms of the ESS.

Those specific objectives are split into different priority areas described below. Objectives 1 and 4 are covered by 'I. Statistical outputs', Objective 2 by 'II. Production methods of European statistics' and Objective 3 by 'III. Partnership'.

## I. STATISTICAL OUTPUTS

### 1. Indicators

#### 1.1. Europe 2020

The endorsement of Europe 2020 by the European Council of June 2010 has shaped to a large extent the strategic agenda for the Union and national policies in the years ahead. That agenda establishes a number of headline targets and flagship initiatives for which statistical indicators have to be delivered by the ESS in a number of areas (i.e. improving the conditions for innovation, research and development, promoting employment, meeting Union climate change and energy objectives, resource efficiency, improving education levels, including learning mobility, active and healthy ageing, and promoting social inclusion through the reduction of poverty).

##### Objective 1.1.1

Provide high-quality statistical information, which should be available in a timely manner, to monitor the implementation of Europe 2020. New indicators shall, to the extent possible, be based on available statistical data.

The objective will be implemented by the making available of:

- updated headline target indicators for Europe 2020 (in the areas of employment, research and development, innovation, energy/climate change, education, environment, social protection, social inclusion and poverty) on the Commission (Eurostat) website;
- statistics to support the monitoring of the implementation of Europe 2020 flagship initiatives;
- additional indicators as an input for the *ex-ante* and *ex-post* evaluations of the economic, social and environmental policies of the Union; and
- employment indicators distinguishing between part-time and full-time employment, as well as indicators on unemployment that take into account people in activation policies such as training.

#### 1.2. Economic governance

The crisis and the tensions in the financial markets have highlighted the need to strengthen the economic governance of the Union. Decisive steps in economic governance and coordination have already been taken by the Union, some of which will have major statistical implications, in addition to ongoing statistical activities.

##### Objective 1.2.1

Develop new and enhance existing statistical information relevant for Union decision-makers and the public at large in relation to the strengthened and integrated economic governance of the Union and the surveillance cycle integrating the Stability and Growth Pact and the economic policy.

The objective will be implemented by:

- providing statistical input for the macroeconomic imbalances scoreboard and the underlying analysis;
- providing statistical input for an enhanced Stability and Growth Pact specifically aimed at the production and provision of high-quality statistics on public debt;
- developing and producing a set of indicators to measure competitiveness; and
- implementing a robust quality management in the production chain, also covering upstream public finance data and the underlying workflows in Member States.

##### Objective 1.2.2

Provide Union decision-makers with reliable statistics and indicators for administrative and regulatory purposes and for monitoring specific Union policy commitments.



The objective will be implemented by:

- the definition of the scope of statistics for administrative and regulatory purposes and the agreement with users on such scope; and
- the definition, as appropriate, implementation and explanation of a robust quality management framework for those indicators.

### 1.3. *Economic globalisation*

The social, economic and other effects of the financial crisis, the increase in cross-border flows and the fragmentation of production processes have highlighted the need for a more coherent framework and enhanced measurement of globalised production.

#### Objective 1.3.1

Enhance the indicators and statistical information available on economic globalisation and global value chains for Union decision-makers and the public at large.

The objective will be implemented by:

- the updating of existing indicators on economic globalisation available on the Commission (Eurostat) website;
- the development of new indicators on global value chains, including flows of and dependency on natural resources;
- the analysis of the global value chains, possibly through appropriate input/output tables, and foreign trade and business statistics, including micro-data linking; and
- the examination of the need to reform the calculation and allocation of financial intermediation services.

## 2. **Accounting frameworks**

The Commission Communication of 20 August 2009 entitled 'GDP and beyond: Measuring progress in a changing world', and the publication of the Stiglitz-Sen-Fitoussi Report on the Measurement of Economic Performance and Social Progress have given new impetus to the key challenge for the ESS, namely how to achieve better statistics on cross-cutting issues and more integrated statistics to describe complex social, environmental and economic phenomena beyond the traditional measures of economic output. The European System of National and Regional Accounts (ESA) offers an integrated and consistent framework for all economic statistics that should be complemented by other indicators in order to provide more comprehensive information for policy- and decision-making.

### 2.1. *Economic and social performance*

The economic crisis has reinforced the need to have a set of high-quality macroeconomic indicators to better understand and analyse economic fluctuations and their effects on society, and thereby facilitate the decision-making process. Increasingly globalised production makes it necessary to develop a consistent framework that facilitates the interpretation and integration of statistics from different domains.

#### Objective 2.1.1

Supplement measurement of economic performance by different dimensions of globalisation, the quality of life, access to goods and services, environmental sustainability, health, well-being, social cohesion and social inclusion. Develop a framework for the analysis of globalised production.

The objective will be implemented by:

- the implementation and compilation of annual and quarterly national accounts as well as annual regional accounts in accordance with ESA;
- the production of indicators on income and consumption distribution across households (by reconciling national accounts aggregates with household survey data or administrative data);
- the compilation of timely and high-quality price statistics, notably the harmonised indices of consumer prices;
- the development of satellite accounts for new areas;
- the creation of a database for growth and productivity measurement, taking account of changes in productivity in the public sector as well as the private sector;

- the development of a conceptual framework for the analysis of globalised production;
- the development of a conceptual framework for the measurement of quality of life and well-being; and
- the alignment of the corresponding accounting and statistical concepts to the extent possible.

#### Objective 2.1.2

Provide key macroeconomic and social indicators and Principal European Economic Indicators (PEELs) as a coherent set of indicators addressing the Union and global statistical data requirements and adjust PEELs to meet evolving users' needs.

The objective will be implemented by:

- the coordinated development of the dashboards of key macroeconomic, social and sustainable development indicators;
- the availability of a harmonised methodology for key macroeconomic and social indicators and PEELs;
- the enhancement of international comparability of indicators;
- the provision of improved tools to facilitate the interpretation and communication of indicators; and
- the availability of harmonised housing and related statistics for all Member States.

#### 2.2. Environmental sustainability

Protecting, preserving and improving the environment for present and future generations, as well as combating the effects of climate change, are very high on the European agenda and are objectives of the Treaties. Efficient policies in those domains require statistical information across various areas.

#### Objective 2.2.1

Provide environmental accounts and climate change-related statistics, taking into account international developments in this area.

The objective will be implemented by:

- the development of a coherent system of environmental accounts as 'satellite accounts' to the main national accounts, providing information on atmospheric emissions, energy consumption, flows and reserves of material natural resources and water, trade in basic and in critical raw materials, environmental taxation and spending on environmental protection, possibly including green growth/procurement;
- the upgrading, development, production and dissemination of indicators that show secondary pressures, impacts of climate change, including on health, vulnerabilities and adaptation progress; and
- the development of a headline indicator measuring global environmental pressure.

### 3. Data

#### 3.1. Business

European enterprises are the focus of a large number of Union policies. In addition, they are responsible for the provision of basic data. Accordingly, business statistics in the broad sense are in heavy demand to support the decision-making process but also to help European citizens and businesses understand the impact of those policies, differentiating between large enterprises, mid-caps and small and medium-sized enterprises for which there is an increased need for detailed and harmonised statistics. There is simultaneously a need to reduce the administrative and reporting burden.

#### Objective 3.1.1

Increase the efficiency and effectiveness of statistical production processes. Provide high-quality statistics on key areas where enterprises are the centre of interest, such as business statistics, short-term indicators, their investment in human capital and skills, international transactions, globalisation, internal market monitoring, R & D and innovation, and tourism. Special attention should be paid to the availability of data in high value-added industrial or services sectors, in particular in the green, digital or social economy (such as health and education).

The objective will be implemented by:

- the reuse of data available in the statistical system or in society, and the production of a common infrastructure and of common tools;
- the provision of statistical information and indicators on business on an annual and infra-annual basis;
- the provision of statistical information describing the position of Europe in the world and the Union's relationships with the rest of the world;
- the provision of statistical information for the analysis of global value chains and the development of the euro Group Register as a backbone for collecting cross-domain information on globalisation;
- the rebalancing of statistical collections for trade in goods and trade in services with improved availability of data on services and actions to rebalance statistical information on services and goods;
- the development of internal market monitoring tools, such as the food price monitoring tool and related indicators;
- the provision of statistics on key areas of innovation and R & D performance through extended use of patent registers and extended research and statistical use of individual micro-data;
- the provision of statistics on tourism supply and demand through optimised data collection and better integrated data from tourism with other domains; and
- the provision of statistics on resource use and resource efficiency based to the extent possible on existing data collection.

### 3.2. *People's Europe*

European citizens are at the heart of Union policies. Consequently, social statistics in the broad sense are in heavy demand to support the decision-making process and to monitor the outcome of social policies, but also to help European citizens assess the impact of those policies on their lives and well-being.

#### Objective 3.2.1

Provide statistics on key areas of social policy where the citizen is the centre of interest, such as well-being, sustainability, social cohesion, poverty, inequalities, demographic challenges (in particular population ageing and migration), the labour market, education and training, including childhood education, adult learning, vocational training and learning mobility of young people, culture, physical activity, quality of life, safety, health, disability, consumption, free movement and the internal market, mobility of young people, technological innovation and new lifestyle choices. Those statistics shall be disaggregated by gender where appropriate, for groups that are of special interest to social policy makers. Priorities shall be set in accordance with Article 6.

The objective will be implemented by:

- the putting in place of a consolidated basic infrastructure for European Social Statistics, including survey and administrative-based data collections and a common set of core variables;
- the development of core social surveys providing data (including micro-data) on persons and households streamlined and complemented by additional and less frequent micro-data collections;
- the development of statistics provided on education and training, including a rationalisation and modernisation of the Adult Education Survey;
- the provision of statistics on inequalities of income, providing a comparable national headline indicator, as well as data on inequalities of access to basic goods and services;
- methodological work on physical activity and cultural statistics;
- the provision of statistics on safety from crime; health, as agreed under the framework Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work <sup>(1)</sup>; and disability;
- the implementation of actions of the work programme on mainstreaming of migration statistics;

<sup>(1)</sup> OJ L 354, 31.12.2008, p. 70.

- the provision of quality-of-life indicators to measure progress of societies; and
- the commencement of preparations of the next census round (scheduled for 2021).

### 3.3. *Geospatial, environmental, agricultural and other sectoral statistics*

The combination of statistics with spatially referenced data and geospatial analysis will offer new opportunities that the ESS will explore further. Specific issues, such as confidentiality and statistical validity of small area estimations, will need to be given particular attention.

Energy and transport statistics to support Europe 2020 and climate change policy will be of high importance in the future.

The significance of agriculture among the Union policies will remain during 2013-17. The statistical work will be strongly influenced by the outcome of the reflection on the Common Agricultural Policy after 2013. Focus will be on environmental, biodiversity/ecosystem-related, economic, human health and safety and social dimensions.

#### Objective 3.3.1

Support evidence-based policy-making by a more flexible and increased use of spatial information combined with social, economic and environmental statistical information.

The objective will be implemented by:

- the further development, maintenance and operation of the Infrastructure for Spatial Information in the European Community (INSPIRE), established by Directive 2007/2/EC of the European Parliament and of the Council <sup>(1)</sup>, and in particular by the Union's geo-portal;
- the making available of a range of geographic information through cooperation with Union programmes for land use surveys and remote sensing; and
- the integration of statistical data when relevant, thus creating a multisource flexible infrastructure for the provision of targeted spatio-temporal analysis.

#### Objective 3.3.2

Provide environmental statistics to support the policy-making process of the Union.

The objective will be implemented by:

- A set of key environmental statistics on resources, such as on waste and recycling, water, raw materials deposits, ecosystems services and biodiversity at national and where possible regional level, and a set of key climate change-related statistics to support mitigation and adaptation actions and policies at all relevant levels from local to Union level.

#### Objective 3.3.3

Provide energy and transport statistics to support the policies of the Union.

The objective will be implemented by the production and dissemination of statistics on:

- renewable energy;
- energy savings/energy efficiency; and
- transport safety, passenger mobility, road traffic measurement and intermodal freight transport.

#### Objective 3.3.4

Provide agriculture, fisheries and forestry statistics for the development and monitoring of the Common Agricultural and Fisheries Policies, reflecting key European strategic objectives related to sustainability as well as rural development by carrying out regular activities related to the development, production and dissemination of statistics.

<sup>(1)</sup> OJ L 108, 25.4.2007, p. 1.

The objective will be implemented by:

- the review and simplification of the agricultural data collection in line with the Common Agricultural Policy review post-2013;
- the redesign of agricultural data collection processes, in particular with the objective of improving quality and timeliness of the data provided;
- the thorough review of the land use/cover data management system and the elaboration and implementation of a new system on that basis;
- the implementation of the data collection system for coherent agri-environmental indicators, based on existing data where possible;
- the provision of appropriate breakdowns by region; and
- the implementation and dissemination of a set of key forestry data from Integrated Environmental and Economic Accounting for Forestry, such as forest area, volume and value of standing timber and economic accounts for forestry and logging.

## II. PRODUCTION METHODS OF EUROPEAN STATISTICS

The ESS is currently facing a number of challenges: increasing demand for high-quality statistics, a growing need for complex multidimensional statistics, the appearance of new actors on the information market, constraints on resources, the need to further reduce the statistical burden on respondents as well as the diversification of communication tools. This implies adapting the production and dissemination methods of European official statistics in a progressive way.

### 1. ESS quality management

#### Objective 1.1

Implement a quality management system in the ESS based on the Code of Practice.

Strengthen the sharing of good practices in the implementation of the Code of Practice and ensure that quality reporting is targeting different user needs.

The objective will be implemented by:

- the introduction of new monitoring mechanisms and a second round of peer reviews to assess compliance with the Code of Practice;
- the alignment of the quality assurance frameworks of the ESS and the European System of Central Banks (ESCB);
- the meeting of the needs of users for quality reporting; and
- the standardisation of quality reports in various statistical domains at Union level.

### 2. Priority-setting and simplification

The ESS is facing a major challenge: how to provide high-quality European statistics to satisfy increasing needs for statistics in a context of substantially reduced budgets of Member States and a zero-growth human resource policy at the Commission and in Member States which, for some bodies, will result in a real reduction in human resources. Given those resource constraints at European and national level, it is important to strengthen priority-setting and simplification measures, which require the commitment of all ESS partners. A priority-setting mechanism has been introduced as an integrated part of the preparation of annual work programmes and will be implemented throughout the duration of the programme. This involves, among other things, an annual review of existing statistical requirements, taking as its point of departure initiatives proposed by the Commission for reducing statistical requirements considering the interests of users, producers and respondents. The process should be pursued in close cooperation with users and producers of European statistics.

#### Objective 2.1

Implement a priority-setting mechanism for the ESS in order to simplify reporting requirements and to adjust to new needs for statistics while taking into account the constraints on the producers, the response burden and the needs of users.

The objective will be implemented by:

- the definition of priorities and the allocation of resources in accordance with those priorities;
- the definition of priorities for the ESS as part of the annual work programme referred to in Article 9;

- the taking into account of the results of user and producer consultations in the annual work programme; and
- the communication to users of the statistical areas to be simplified and of the data collection to be reduced/discontinued.

### **3. Multi-purpose statistics and efficiency gains in production**

#### **Objective 3.1**

Put in place gradually, taking into account costs generated in the ESS by implementation, an ESS business architecture allowing more integrated production of European statistics; harmonise and standardise statistical production methods and metadata; enhance the horizontal (across statistical domains) and vertical (across ESS partners) integration of statistical production processes in the ESS in respect of the principle of subsidiarity; use and integrate multiple data sources; produce multi-purpose statistics. Particular attention will be given to confidentiality issues that will arise with increased use, reuse and exchange of micro-data and administrative records.

The objective will be implemented by:

- the greater use of appropriate administrative data in all statistical areas;
- the identification and use of new data sources for European statistics;
- the increased involvement of the Commission (Eurostat), and national statistical authorities in the design of administrative records;
- the wider use of statistical matching and data linking techniques for increasing the offer of European statistics;
- the use of the European approach to statistics for quick policy response in specific and duly justified cases;
- greater integration of European statistics production processes through ESS coordinated actions;
- further harmonisation of statistical concepts across statistical domains;
- the development and implementation of flexible IT reference infrastructure and technical standards for improving interoperability, sharing of data and metadata, and common data modelling;
- the use of standard IT tools across statistical business processes;
- the development of methodological standards in order to increase use and availability of harmonised methodologies (including mixed-mode approaches to data collection) and harmonised metadata;
- the strengthening of the role of statistical business registers as the place where the statistical units for all business-related statistics are maintained and used as a source for national accounts; and
- the improvement of the provision of metadata, namely background information on how data are collected, the quality of data and how to render data more readily understandable to users.

#### **Objective 3.2**

Ensure the good functioning and coherence of the ESS through effective collaboration and communication.

The objective will be implemented by:

- the effective and efficient support for partnership within the ESS;
- the definition and implementation of processes for burden and work sharing within the ESS; and
- the further development and making operational of collaborative networks.

### **4. Dissemination and communication**

#### **Objective 4.1**

Make the ESS the first data source on European statistics for all users and, in particular, for public and private decision-makers, by providing a high-quality statistical information service based on the principles of free and easy access to European statistics.



Intensifying and extending the dialogue between users and producers of statistics to meet user needs for high-quality statistics. An early involvement of users in new developments is key to improving the effectiveness and efficiency of the ESS.

Extend and rationalise the range of dissemination products to meet the needs of users using new technologies.

Set up a cost-efficient, integrated and secure infrastructure within the ESS for access to confidential data for scientific purposes.

The objective will be implemented by:

- the recognition of the ESS as the first reference point for users of European statistics;
- the putting in place of an integrated secure infrastructure for access to Union micro-data;
- the putting in place of a system to address users' requests for immediate access and advice in interpretation of statistical information;
- the adjustment of dissemination products to the users' needs using new technologies;
- an increased number of statistical outputs on cross-cutting issues;
- the increased use of new communication and dissemination technologies (e.g. SDMX-based);
- an increased offer of micro-data sets for statistical research purposes in accordance with Union and national law on data confidentiality;
- the preparation of data sets to facilitate the use of statistical data for educational and research purposes.

## **5. Training, innovation and research**

### **Objective 5.1**

Satisfy learning and development needs in the ESS based on a combination of training courses and learning and development opportunities.

Improve the collaboration between ESS members for the transfer of knowledge and sharing and implementation of best practices and common innovative approaches in the production of statistics.

Organise the activities, participation and contribution of the research communities in the improvement of the statistical production chains and of the quality of official statistical information.

The objective will be implemented by:

- the development of a postgraduate degree (e.g. Master in Official Statistics);
- the provision of training programmes addressing the user's and other citizen's needs;
- the wider application of results of research projects in statistical production and dissemination;
- the recognition of the ESS as a reference point for the statistical research communities;
- the extensive involvement of the research communities in research activities in official statistics; and
- the putting in place of adequate instruments for the exchange of practices and implementation of common solutions in the ESS.

## **III. PARTNERSHIP**

### **1. Partnership within the ESS and beyond**

In the spirit of partnership, the national statistical authorities and the Commission (Eurostat) are responsible for the development, production and dissemination of European statistics.

#### Objective 1.1

Implement the enhanced ESS governance framework.

The objective will be implemented by the implementation of the revision of Regulation (EC) No 223/2009 and of Commission Decision 2012/504/EU of 17 September 2012 on Eurostat <sup>(1)</sup>;

#### Objective 1.2

Enhance the coordinating role of the Commission (Eurostat) as the European Union's Statistical Office.

The objective will be implemented by:

- the association of the Commission (Eurostat) with all Commission initiatives with regard to statistical aspects at an early stage; and
- regular stakeholder dialogues at top management level.

#### Objective 1.3

Strengthen the cooperation with the ESCB and the European and international organisations involved in the production of data for statistical or administrative purposes through common projects and coordinated developments. Ensure consistency between Union and international standards.

The objective will be implemented by:

- implementing a common quality framework for the ESS and the ESCB;
- increasing involvement of the Commission (Eurostat) in international advisory groups;
- defining and implementing new ways of cooperation to ensure that statistical developments are well coordinated between international organisations and that work is allocated efficiently; and
- implementing the new United Nations System of National Accounts, ESA, the United Nations System of Environmental and Economic Accounts, the European Environmental Economic Accounts and the Balance of Payments manuals.

#### Objective 1.4

Promote and implement statistical advisory and statistical assistance activities in countries outside the Union in line with the priorities of the foreign policy of the Union, with particular emphasis on enlargement and the European Neighbourhood Policy.

The objective will be implemented by:

- exercising ESS leadership in the international arena;
- delivering data for Union foreign policy purposes;
- supporting Commission services for the implementation of development and international cooperation policies, in their relations with international organisations and in matters of common statistical interest with third-country regions or third countries;
- disseminating relevant statistical data to support the enlargement process and negotiations;
- minimising requests for derogations from new Member States leading to unavailability of data;
- establishing agreements and Memoranda of Understanding with third countries;
- designing and implementing technical cooperation programmes;
- focusing technical assistance on data harmonisation and delivery; and
- improving cooperation and coordination activities among the members of the ESS.

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<sup>(1)</sup> OJ L 251, 18.9.2012, p. 49.

**REGULATION (EU) No 100/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 15 January 2013**  
**amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency**  
**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

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

Whereas:

(1) Regulation (EC) No 1406/2002 of the European Parliament and of the Council <sup>(3)</sup>, which was adopted in response to the 'Erika' oil tanker incident, 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) After the 'Prestige' oil tanker incident in 2002, Regulation (EC) No 1406/2002 was modified to give the Agency more tasks with regard to pollution response.

(3) It is necessary to clarify which types of marine pollution should fall within the objectives of Regulation (EC) No 1406/2002. Thus, marine pollution caused by oil and gas installations should be understood as pollution by oil or 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.

(4) Acting in accordance with Article 22 of Regulation (EC) No 1406/2002, the Administrative Board of the Agency (the 'Administrative Board') in 2007 commissioned an independent external evaluation on the implementation of that Regulation. Based on that evaluation, in June 2008, it issued recommendations regarding changes to the functioning of the Agency, to its areas of competence and to its working practices.

(5) Based on the findings of the external evaluation, and on the recommendations, and on the multiannual strategy adopted by the Administrative Board in March 2010, some provisions of Regulation (EC) No 1406/2002 should be clarified and updated. While focusing on its priority tasks in the area of maritime safety, the Agency should receive a number of new core and ancillary tasks reflecting the development of maritime safety policy at Union and international level. Given the budget constraints facing the Union, considerable screening and redeployment efforts are necessary to guarantee cost and budget efficiency and to avoid any overlapping. Staffing needs for the new core and ancillary tasks should, as a matter of principle, be covered through internal redeployment by the Agency. At the same time, the Agency should receive, where appropriate, funding from other parts of the Union budget, in particular from the European Neighbourhood Policy instrument. The delivery of any new core and ancillary tasks by the Agency will be undertaken within the limits of the current Financial Perspective and the Agency's budget without prejudice to the negotiations and decisions on the future multiannual financial framework. As this Regulation is not a financing decision, the Budgetary Authority should decide on resources for the Agency in the framework of the annual budgetary procedure.

(6) The Agency's tasks should be described clearly and precisely, and any duplication of tasks should be avoided.

(7) The Agency has shown that certain tasks can be undertaken more efficiently at European level, which might, in certain cases, offer Member States savings on their national budgets and, where demonstrated, represent genuine European added value.

(8) Some provisions regarding the specific governance of the Agency should be clarified. Taking into account the special responsibility of the Commission for the implementation of Union policies enshrined by the Treaty on the Functioning of the European Union, the Commission should provide policy guidance to the Agency in the performance of its tasks while fully respecting the legal

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

<sup>(2)</sup> Position of the European Parliament of 15 December 2011 (not yet published on the Official Journal) and position of the Council at first reading of 4 October 2012 (OJ C 352 E, 16.11.2012, p. 1). Position of the European Parliament of 13 December 2012.

<sup>(3)</sup> OJ L 208, 5.8.2002, p. 1.

status of the Agency and the independence of its Executive Director as established by Regulation (EC) No 1406/2002.

- (9) When appointing members of the Administrative Board, electing the Chairperson and Deputy Chairperson of the Administrative Board and appointing Heads of Department, the importance of ensuring balanced gender representation should be fully taken into account.
- (10) Any reference to relevant legal acts of the Union should be understood to refer to acts in the field of maritime safety, maritime security, prevention of, and response to, pollution caused by ships as well as response to marine pollution caused by oil and gas installations.
- (11) For the purposes of this Regulation, 'maritime security' is to be understood — in accordance with Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security<sup>(1)</sup> — as the combined preventive measures intended to protect shipping and port facilities against threats of intentional unlawful acts. The security objective should be achieved by adopting appropriate measures in the field of maritime transport policy, without prejudice to the rules of the Member States in the field of national security, defence and public security, and in combating financial crimes against the State.
- (12) The Agency should act in the interests of the Union. This should include the situation when the Agency is tasked to act outside the territory of the Member States in its fields of competence and to provide technical assistance to relevant third countries, in promoting the Union's maritime safety policy.
- (13) The Agency should provide technical assistance to Member States which should facilitate the establishment of the necessary national capacity to implement the Union *acquis*.
- (14) The Agency should provide operational assistance to the Member States and the Commission. This should include services such as the Union Maritime Information and Exchange System (SafeSeaNet), the European Satellite Oil Monitoring Service (CleanSeaNet), the European Union Long Range Identification and Tracking Data Centre (EU LRIT Data Centre) and the EU Port State Control inspection data base (Thetis).
- (15) The Agency's expertise in electronic data transmission and in maritime information exchange systems should be used to simplify reporting formalities for ships with a view to the elimination of barriers to maritime transport and the establishment of a European Maritime Transport Space without Barriers. In particular, the Agency should support Member States in the implementation of Directive 2010/65/EU of the European

Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States<sup>(2)</sup>.

- (16) The Agency should enhance its assistance to the Commission regarding research activities related to its fields of competences. However, duplication of work as regards the existing Union research framework should be avoided. In particular, the Agency should not be in charge of the management of research projects.
- (17) In the light of the development of new innovative applications and services and the improvement of the existing applications and services, and with a view to implementing a European Maritime Transport Space without Barriers, the Agency should make full use of the potential offered by the European satellite navigation programmes (EGNOS and Galileo) and by the Global Monitoring for Environment and Security programme (GMES).
- (18) After the expiry of the Union 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<sup>(3)</sup>, the Agency should continue some of the activities previously carried out under that framework by drawing in particular on the expertise within the Consultative Technical Group for Marine Pollution Preparedness and Response. 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.
- (19) Upon request, the Agency provides Member States with detailed information about potential cases of pollution by ships through CleanSeaNet to enable them to fulfil their responsibilities under Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements<sup>(4)</sup>. However, the effectiveness of enforcement varies greatly despite such pollution having the potential to end up in other national waters. In its next report under Article 12 of that Directive, the Commission should therefore provide information to the European Parliament and to the Council about the effectiveness and the consistency of the enforcement of that Directive and other relevant information about its application.
- (20) Requests from affected States for the mobilisation of anti-pollution actions by the Agency should be relayed through the EU Civil Protection Mechanism established by Council Decision 2007/779/EC, Euratom<sup>(5)</sup>. However, the Commission may consider that in circumstances other than requests for mobilisation of stand-by anti-pollution ships and equipment, alternative means of

<sup>(1)</sup> OJ L 129, 29.4.2004, p. 6.

<sup>(2)</sup> OJ L 283, 29.10.2010, p. 1.

<sup>(3)</sup> OJ L 332, 28.12.2000, p. 1.

<sup>(4)</sup> OJ L 255, 30.9.2005, p. 11.

<sup>(5)</sup> OJ L 314, 1.12.2007, p. 9.

communication using advanced information technology may be more appropriate and, thus, may inform the requesting Member State.

- (21) Recent events highlighted the risks of offshore oil and gas exploration and production activities to maritime transport and the marine environment. The Agency's response capabilities for oil pollution and its expertise in the field of pollution by hazardous and noxious substances should be used to cover response to pollution originating from such activities, at the request of an affected State.
- (22) In particular, CleanSeaNet, which is currently used to provide evidence of oil spills from ships, should also be used by the Agency to detect and report oil spills from offshore oil and gas exploration and production activities, without causing any detrimental effects to the service provided for maritime transport.
- (23) The Agency has established and recognised valuable expertise and tools in the fields of maritime safety, maritime security, prevention of, and response to, pollution caused by ships. This expertise and these tools can be relevant for other Union activities related to the Union maritime transport policy. The Agency should therefore assist the Commission and the Member States upon request in the development and implementation of such Union activities provided that the Administrative Board has approved this in the context of the Agency's annual work programme. Such assistance should be subject to a detailed cost/benefit analysis and should not be detrimental to the Agency's core tasks.
- (24) Through the technical assistance that the Agency provides,, it also contributes to the development of more environment-friendly maritime transport.
- (25) As regards classification societies, most classification societies deal with both seagoing and inland waterway vessels. Based on the Agency's experience with classification societies for seagoing vessels, the Agency could provide relevant information to the Commission with regard to classification societies for inland waterway vessels and thus allow for efficiency gains.
- (26) As regards the interface between transport information systems, the Agency should assist the Commission and the Member States by exploring, together with competent authorities for the River Information Services System, the possibility of sharing information between such systems.
- (27) Without prejudice to the responsibility of the competent authorities, the Agency should assist the Commission and the Member States in the development and implementation of the future e-Maritime initiative, which aims at improving the efficiency of the European maritime transport sector by facilitating the use of advanced information technologies.
- (28) With a view to achieving the single market and a European Maritime Transport Space without Barriers, administrative burdens on shipping should be reduced, thereby inter alia encouraging short sea shipping. In this context, the 'Blue Belt' concept and e-Maritime could potentially be used as a means of reducing reporting formalities required from commercial vessels on entering or leaving ports in the Member States.
- (29) It is recalled that according to the case-law of the Court of Justice of the European Union, and in order to respect the principle of institutional balance, the power to adopt decisions of general application may not be conferred on an agency.
- (30) Without prejudice to the objectives and tasks laid down in Regulation (EC) No 1406/2002, the Commission should prepare and submit, within one year of the date of entry into force of this Regulation, in close cooperation with relevant stakeholders, a feasibility study with a view to evaluate and identify the possibilities of enhancing coordination and cooperation of different coastguard functions. That study should take into account the existing legal framework and relevant recommendations from the appropriate Union fora as well as the current development of the Common Information Sharing Environment (CISE) and should fully respect the principles of subsidiarity and proportionality, making clear the costs and benefits to the European Parliament and the Council.
- (31) Attracting well trained European seafarers is important for the competitiveness of the Union maritime clusters. Therefore, in light of the current and future demand in the Union for highly qualified seafarers, the Agency should, if appropriate, support Member States and the Commission in promoting maritime training by facilitating the voluntary exchange of best practice and by providing information on Union exchange programmes on maritime training. This could include assisting competent European stakeholders in pursuing excellence for maritime education and training on a voluntary basis, while fully respecting the responsibility of the Member States for the content and organisation of maritime training.
- (32) In order to counter the growing risk of piracy, the Agency should continue, where appropriate, to forward to competent national authorities and other relevant bodies, including operations such as EU Naval Force operation Atalanta, detailed information about the position of vessels flying the flag of Member States and transiting through areas, which are classified as very dangerous. Furthermore, the Agency has at its disposal means that could be useful, notably in the context of the development of the CISE. It is therefore appropriate that the Agency should provide, upon request, relevant vessel positioning and Earth observation data to competent national authorities and Union bodies, such as Frontex and Europol, to facilitate preventive measures against intentional unlawful acts as understood in relevant Union law without prejudice to the rights and obligations of Member States and in accordance with the applicable



national and Union law, in particular regarding those bodies requesting data. The provision of long-range identification and tracking of ships (LRIT) data should be subject to the consent of the flag State concerned, in accordance with procedures to be established by the Administrative Board.

- (33) When publishing information in accordance with Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control<sup>(1)</sup>, the Commission and the Agency should build upon the expertise and experience gained under the Paris Memorandum of Understanding on Port State Control ('Paris MoU') to ensure consistency.
- (34) The assistance of the Agency to the Member States and to the Commission with regard to the relevant work of international and regional organisations should be without prejudice to the relationship between those organisations and the Member States resulting from Member States' membership of those organisations.
- (35) The Union has acceded to the following instruments, establishing regional organisations, whose activities are also covered by the Agency's objectives: the Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention as revised in 1992)<sup>(2)</sup>; the Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona Convention)<sup>(3)</sup>, and its 1995 revision<sup>(4)</sup> and to a number of protocols thereto; the Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances (Bonn Agreement)<sup>(5)</sup>; the Convention for the protection of the marine environment of the North-East Atlantic (OSPAR Convention)<sup>(6)</sup>; the Cooperation Agreement for the protection of the coasts and waters of the north-east Atlantic against pollution, signed on 17 October 1990 (Lisbon Agreement)<sup>(7)</sup>, with the Additional Protocol thereto, signed on 20 May 2008, which have not yet entered into force<sup>(8)</sup>. The Union is also negotiating accession to the Convention on the Protection of the Black Sea Against Pollution, signed in April 1992 (Bucharest Convention). The Agency should therefore provide technical assistance to Member States and the Commission to take part in the relevant work of those regional organisations.
- (36) In addition to those regional organisations, a number of other regional, sub-regional and bilateral coordination and cooperation arrangements exist with regard to pollution response. When providing assistance with

regard to pollution response to third countries sharing a regional sea basin with the Union, the Agency should act, taking into account those arrangements.

- (37) The Union shares the regional sea basins of the Mediterranean Sea, the Black Sea and the Baltic Sea with neighbouring countries. Upon request by the Commission, the Agency should provide assistance with regard to pollution response to those countries.
- (38) In order to maximise efficiency, the Agency should cooperate as closely as possible in the context of the Paris MoU. The Commission and Member States should continue to examine any options for further efficiency gains, which could be proposed for consideration within the framework of the Paris MoU.
- (39) In order to ensure that the binding legal acts of the Union in the fields of maritime safety and the prevention of pollution caused by ships are correctly implemented in practice, the Agency should assist the Commission by carrying out visits to Member States. These visits to the national administrations should allow the Agency to gather all necessary information to present a comprehensive report to the Commission for its further assessment. The visits should be conducted in the spirit of the principles referred to in Article 4(3) of the Treaty on European Union and should be conducted in such a way so as to minimise the administrative burden upon the national maritime administrations. Furthermore the visits should be carried out in accordance with a set procedure including a standard methodology as adopted by the Administrative Board.
- (40) The Agency should assist the Commission by carrying out inspections of recognised organisations in accordance with 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<sup>(9)</sup>. These inspections may also take place in third countries. The Commission and the Agency should ensure that the Member States concerned are duly informed. The Agency should also carry out the inspection tasks with regard to the training and certification of seafarers in third countries pursuant to Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers<sup>(10)</sup>, which the Commission has delegated to the Agency. Details of the technical assistance provided by the Agency to the maritime security inspections carried out by the Commission in accordance with Commission Regulation (EC) No 324/2008 of 9 April 2008 laying down revised

<sup>(1)</sup> OJ L 131, 28.5.2009, p. 57.

<sup>(2)</sup> Council Decision 94/157/EC (OJ L 73, 16.3.1994, p. 19).

<sup>(3)</sup> Council Decision 77/585/EEC (OJ L 240, 19.9.1977, p. 1).

<sup>(4)</sup> Council Decision 1999/802/EC (OJ L 322, 14.12.1999, p. 32).

<sup>(5)</sup> Council Decision 84/358/EEC (OJ L 188, 16.7.1984, p. 7).

<sup>(6)</sup> Council Decision 98/249/EC (OJ L 104, 3.4.1998, p. 1).

<sup>(7)</sup> Council Decision 93/550/EEC (OJ L 267, 28.10.1993, p. 20).

<sup>(8)</sup> Council Decision 2010/655/EU (OJ L 285, 30.10.2010, p. 1).

<sup>(9)</sup> OJ L 131, 28.5.2009, p. 11.

<sup>(10)</sup> OJ L 323, 3.12.2008, p. 33.



procedures for conducting Commission inspections in the field of maritime security <sup>(1)</sup> should not be covered by Regulation (EC) No 1406/2002.

prevention of pollution from offshore oil and gas installations, taking into account the Agency's established and recognised expertise and tools.

(41) In order to ensure coherence with the policy objectives and the institutional set-up of the Union as well as with the applicable administrative and financial procedures, the Commission should issue formal advice in the form of a written opinion on the Agency's draft multiannual strategy and draft annual work programmes, which the Administrative Board should take into account before adopting those documents.

(45) The Agency's activities should, where appropriate, also contribute to the establishment of a genuine European Maritime Transport Space without Barriers.

(42) In order to ensure a fair and transparent procedure for the appointment of the Executive Director, the selection procedure to be followed should be in accordance with the Commission guidelines for the selection and nomination of Directors for agencies of the Union. These guidelines provide that nationals of any Member State can submit an application. For the same reasons, the Administrative Board should be represented by an observer in the pre-selection committee. The observer should be kept informed during the further stages of the selection procedure. At the time that the Administrative Board takes its decision on appointment, its members should be able to address questions to the Commission on the selection procedure. Furthermore, the Administrative Board should have the opportunity to interview the shortlisted candidates, in line with standard practice. At all stages of the selection procedure and appointment for the post of the Executive Director of the Agency, all parties involved should ensure that the personal data of the candidates are processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(2)</sup>.

(46) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union <sup>(3)</sup>, and in particular Article 208 thereof, should be taken into account.

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

HAVE ADOPTED THIS REGULATION:

#### Article 1

#### Amendments to Regulation (EC) No 1406/2002

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

(1) Articles 1 to 3 are replaced by the following:

#### 'Article 1

#### Objectives

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, prevention of, and response to, pollution caused by ships as well as response to marine pollution caused by oil and gas installations.

2. To that end, the Agency shall cooperate with the Member States and the Commission and provide them with technical, operational and scientific assistance in the fields mentioned in paragraph 1 of this Article within the limits of the core tasks set out in Article 2 and, as and when applicable, the ancillary tasks set out in Article 2a, in particular in order to help the Member States and the Commission to apply the relevant legal acts of the Union properly. As regards the field of response to pollution, the Agency shall provide operational assistance only upon the request of the affected State(s).

3. By providing the assistance referred to in paragraph 2, the Agency shall, where appropriate, contribute to the overall efficiency of maritime traffic and maritime transport as set out in this Regulation, so as to facilitate the establishment of a European Maritime Transport Space without Barriers.

(43) While the Agency is mainly financed through a contribution from the Union, it also has revenues resulting from fees and charges relating to its services. Those fees and charges relate in particular to the operation of the EU LRIT Data Centre and are applied in accordance with the Council Resolution adopted on 1 and 2 October 2007 and 9 December 2008 related to the establishment of the EU LRIT Data Centre and in particular with the paragraphs related to the financing of LRIT reports.

(44) In the framework of the progress report provided for pursuant to Regulation (EC) No 1406/2002, the Commission should also examine the Agency's potential contribution to the implementation of a future legislative act on the safety of offshore oil and gas prospecting, exploration and production activities, which is currently being examined by the European Parliament and the Council, with regard to the

<sup>(1)</sup> OJ L 98, 10.4.2008, p. 5.

<sup>(2)</sup> OJ L 8, 12.1.2001, p. 1.

<sup>(3)</sup> OJ L 298, 26.10.2012, p. 1.

*Article 2***Core tasks of the Agency**

1. In order to ensure that the objectives set out in Article 1 are met in the appropriate manner, the Agency shall perform the core tasks listed in this Article.

2. The Agency shall assist the Commission:

- (a) in the preparatory work for updating and developing relevant legal acts of the Union, in particular in line with the development of international legislation;
- (b) in the effective implementation of relevant binding legal acts of the Union, in particular by carrying-out visits and inspections as referred to in Article 3 of this Regulation and by providing technical assistance to the Commission in the performance of the inspection tasks assigned to it pursuant to Article 9(4) of Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security (\*). In this regard, it may address suggestions to the Commission for any possible improvements of those binding legal acts;
- (c) in the analysis of ongoing and completed research projects relevant to the objectives of the Agency; this may include the identification of possible follow-up measures resulting from specific research projects;
- (d) in the performance of any other task assigned to the Commission in legislative acts of the Union regarding the objectives of the Agency.

3. The Agency shall work with the Member States to:

- (a) organise, where appropriate, relevant training activities in fields which are the responsibility of the Member States;
- (b) develop technical solutions, including the provision of relevant operational services, and provide technical assistance, to the building up of the necessary national capacity for the implementation of relevant legal acts of the Union;
- (c) provide, at the request of a Member State, appropriate information resulting from the inspections referred to in Article 3 in order to support the monitoring of the recognised organisations that carry out certification tasks on behalf of the Member States in accordance with Article 9 of Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (\*\*) without prejudice to the rights and obligations of the flag State;

- (d) support with additional means in a cost efficient way pollution response actions in case of pollution caused by ships as well as marine pollution caused by oil and gas installations, when a request has been presented by the affected Member State under the authority of which the cleaning operations are conducted, without prejudice to the responsibility of coastal States to have appropriate pollution response mechanisms in place while respecting existing cooperation between Member States in this field. As appropriate, requests for mobilisation of anti-pollution actions shall be relayed through the EU Civil Protection Mechanism established by Council Decision 2007/779/EC, Euratom (\*\*).

4. The Agency shall facilitate cooperation between the Member States and the Commission:

- (a) 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 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 International Maritime Organisation ("IMO");
- (b) by providing, upon request and without prejudice to national and Union law, relevant vessel positioning and Earth observation data to 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 Administrative Board or 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;
- (c) in the field of the investigation of marine casualties and incidents in accordance with Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector (\*\*\*\*); the Agency shall, if requested by the relevant Member States and assuming that no conflict of interest arises, provide operational support to these Member States concerning investigations related to serious or very serious casualties and it shall carry out analysis of safety investigation reports with a view to identify added value at Union level in terms of any relevant lessons to be drawn. On the basis of data provided by the Member States, in accordance with Article 17 of that Directive, the Agency shall compile a yearly overview of marine casualties and incidents;

- (d) in providing 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 collection, recording and evaluation of technical data, the systematic exploitation of existing databases, including their cross-fertilisation, and, where appropriate, the development of additional databases. On the basis of the data collected, the Agency shall assist the Commission in the publication of information relating to ships pursuant to Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (\*\*\*\*);
- (e) in gathering and analysing data on seafarers provided and used in accordance with Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (\*\*\*\*\*);
- (f) in improving the identification and pursuit of ships making unlawful discharges in accordance with 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 (\*\*\*\*\*);
- (g) regarding marine oil pollution caused by oil and gas installations, by using the European Satellite Oil Monitoring Service (CleanSeaNet) to monitor the extent and environmental impact of such pollution;
- (h) in providing technical assistance necessary for the Member States and the Commission 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;
- (i) with regard to the implementation of Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States (\*\*\*\*\*), in particular by facilitating the electronic transmission of data through SafeSeaNet and by supporting the development of the single window.

5. 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.

The Agency may also provide assistance in case of pollution caused by ships as well as marine pollution caused by oil and gas installations affecting those third countries sharing a regional sea basin with the Union, in line with the EU Civil Protection Mechanism established by Decision 2007/779/EC, Euratom, and by analogy with the

conditions applicable to Member States as referred to in paragraph (3)(d) of this Article. These tasks shall be coordinated with the existing regional cooperation arrangements related to marine pollution.

#### Article 2a

#### Ancillary tasks of the Agency

1. Without prejudice to the core tasks referred to in Article 2, the Agency shall assist the Commission and the Member States, as appropriate, in the development and implementation of the Union activities set out in paragraphs 2 and 3 of this Article related to the Agency's objectives, in so far as the Agency has established and recognised expertise and tools. The ancillary tasks set out in this Article shall:

- (a) create substantiated added value;
- (b) avoid duplication of efforts;
- (c) be in the interest of the Union maritime transport policy;
- (d) not be detrimental to the Agency's core tasks; and
- (e) not infringe upon Member States' rights and obligations, in particular as flag States, port States and coastal States.

2. The Agency shall assist the Commission:

- (a) in the context of the implementation of Directive 2008/56/EC of the European Parliament and of the Council (Marine Strategy Framework Directive) (\*\*\*\*\*), 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 SafeSeaNet and CleanSeaNet;
- (b) providing technical assistance in relation to greenhouse gas emissions from ships, in particular in following up ongoing international developments;
- (c) as concerns the Global Monitoring for Environment and Security programme (GMES), in promoting the use of GMES data and services for maritime purposes, within the GMES governance framework;
- (d) in the development of a Common Information Sharing Environment for the EU maritime domain;
- (e) with respect to mobile offshore oil and gas installations, in examining IMO requirements and in gathering basic information on potential threats to maritime transport and the marine environment;
- (f) by providing relevant information with regard to classification societies for inland waterway vessels in accordance with Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical

requirements for inland waterway vessels (\*\*\*\*\*). This information shall also be part of the reports referred to in Article 3(4) and (5) of this Regulation.

3. The Agency shall assist the Commission and the Member States:

- (a) in the examination of the feasibility and the implementation of policies and projects supporting the establishment of the European Maritime Transport Space without Barriers, such as the Blue Belt concept and e-Maritime, as well as Motorways of the Sea. This shall be done in particular by exploring additional functionalities to SafeSeaNet, without prejudice to the role of the High Level Steering Group established in accordance with Directive 2002/59/EC;
- (b) by exploring with competent authorities for the River Information Services System the possibility of sharing information between this system and maritime transport information systems on the basis of the report provided for in Article 15 of Directive 2010/65/EU;
- (c) by facilitating voluntary exchange of best practices in maritime training and education in the Union and by providing information on Union exchange programmes relevant to maritime training while fully respecting Article 166 of the Treaty on the Functioning of the European Union (TFEU).

### Article 3

#### Visits to Member States and inspections

1. In order to perform the tasks entrusted to it and 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 the methodology established by the Administrative Board.

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 shall 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 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (\*\*\*\*\*), and regarding the training and certification of seafarers in third countries in accordance with Directive 2008/106/EC.

4. 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.

5. 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.

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(\*) OJ L 129, 29.4.2004, p. 6.

(\*\*) OJ L 131, 28.5.2009, p. 47.

(\*\*\*) OJ L 314, 1.12.2007, p. 9.

(\*\*\*\*) OJ L 131, 28.5.2009, p. 114.

(\*\*\*\*\*) OJ L 131, 28.5.2009, p. 57.

(\*\*\*\*\*) OJ L 323, 3.12.2008, p. 33.

(\*\*\*\*\*) OJ L 255, 30.9.2005, p. 11.

(\*\*\*\*\*) OJ L 283, 29.10.2010, p. 1.

(\*\*\*\*\*) OJ L 164, 25.6.2008, p. 19.

(\*\*\*\*\*) OJ L 389, 30.12.2006, p. 1.

(\*\*\*\*\*) OJ L 131, 28.5.2009, p. 11.;

- (2) in Article 4, paragraphs 3 and 4 are replaced by the following:

‘3. The Administrative Board shall adopt the practical arrangements for the application of paragraphs 1 and 2, including, where appropriate, arrangements regarding consultation with Member States before the publication of information.

4. The information collected and processed in accordance with this Regulation by the Commission and the Agency shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (\*) and the Agency shall take the necessary measures to ensure the safe handling and processing of confidential information.

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(\*) OJ L 8, 12.1.2001, p. 1.;

- (3) in Article 5, paragraph 3 is replaced by the following:

‘3. At the request of the Commission, the Administrative 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 the regional centres 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 Administrative 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.’



(4) in Article 10, paragraph 2 is amended as follows:

(a) point (b) is replaced by the following:

‘(b) adopt the annual report on the Agency’s activities and forward it each year by 15 June to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States.

The Agency shall forward annually to the budgetary authority all information regarding the outcome of the evaluation procedures;’

(b) point (c) is replaced by the following:

‘(c) examine and approve, in the framework of the preparation of the work programme, requests for assistance to the Commission, as referred to in Article 2(2)(d), requests from Member States for technical assistance, as referred to in Article 2(3), and requests for technical assistance, as referred to in Article 2(5) as well as requests for assistance as referred to in Article 2a;

(ca) examine and adopt a multiannual strategy for the Agency for a period of five years taking the written opinion of the Commission into account;

(cb) examine and adopt the multiannual staff policy plan of the Agency;

(cc) consider draft administrative arrangements, as referred to in Article 15(2)(ba);’

(c) point (g) is replaced by the following:

‘(g) establish the methodology for the visits to be carried out pursuant to Article 3. In the event that the Commission expresses, within 15 days from the date of adoption of the methodology, its disagreement, the Administrative 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;’

(d) point (h) is replaced by the following:

‘(h) perform its duties in relation to the Agency’s budget pursuant to Articles 18, 19 and 21 and monitor and ensure adequate follow-up to the findings and recommendations stemming from various audit reports and evaluations, whether internal or external;’

(e) point (i) is replaced by the following:

‘(i) exercise disciplinary authority over the Executive Director and the Heads of Department referred to in Article 16;’

(f) point (l) is replaced by the following:

‘(l) review the financial execution of the detailed plan referred to in point (k) of this paragraph and the budgetary commitments provided for in Regulation (EC) No 2038/2006 of the European Parliament and of the Council of 18 December 2006 on multi-annual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships (\*);

(\*) OJ L 394, 30.12.2006, p. 1.’;

(g) the following point is added:

‘(m) appoint an observer from amongst its members to follow the selection procedure by the Commission for the appointment of the Executive Director.’;

(5) Article 11 is amended as follows:

(a) in paragraph 1, the second subparagraph is replaced by the following:

‘Administrative Board members shall be appointed on the basis of their degree of relevant experience and expertise in the fields referred to in Article 1. The Member States and the Commission shall each strive for a balanced representation between men and women on the Administrative Board.’;

(b) paragraph 3 is replaced by the following:

‘3. The duration of the term of office shall be four years. The term of office may be renewed.’;

(6) in Article 13, paragraph 4 is replaced by the following:

‘4. When there is a matter of confidentiality or conflict of interest, the Administrative Board may decide to examine specific items of its agenda without the presence of the members concerned. Detailed rules for the application of this provision shall be laid down in the rules of procedure.’;

(7) Article 15 is amended as follows:

(a) in paragraph 2, points (a) and (b) are replaced by the following:

‘(a) he/she shall prepare the multiannual strategy of the Agency and submit it to the Administrative Board after consultation of the Commission at least eight weeks before the relevant Administrative Board meeting, taking into account views and suggestions made by members of the Administrative Board;

(aa) he/she shall prepare the multiannual staff policy plan of the Agency and submit it to the Administrative Board after consultation of the Commission at least four weeks before the relevant Administrative Board meeting;

- (ab) he/she shall prepare the annual work programme, with an indication of the expected human and financial resources allocated to each activity, and the detailed plan for the Agency's pollution preparedness and response activities, and submit them to the Administrative Board after consultation of the Commission at least eight weeks before the relevant Board meeting, taking into account views and suggestions made by members of the Administrative Board. He/she shall take the necessary steps for their implementation. He/she shall respond to any requests for assistance from a Member State in accordance with Article 10(2)(c);
- (b) he/she shall decide to carry out the visits and inspections provided for in Article 3, after consultation of the Commission and following the methodology for visits established by the Administrative Board in accordance with Article 10(2)(g);
- (ba) he/she may enter into administrative arrangements with other bodies working in the Agency's fields of activities provided that the draft arrangement has been submitted for consultation to the Administrative Board and provided that the Administrative Board does not object within four weeks.;
- (b) in paragraph 2, point (d) is replaced by the following:
  - '(d) he/she shall organise an effective monitoring system in order to be able to compare the Agency's achievements with its objectives and tasks as laid down in this Regulation. To this end, he/she shall establish, in agreement with the Commission and the Administrative Board, tailored performance indicators allowing for an effective assessment of the results achieved. He/she shall ensure that the Agency's organisational structure will be regularly adapted to the evolving needs within the available financial and human resources. On this basis the Executive Director shall prepare a draft general report each year and submit it for consideration by the Administrative Board. The report shall include a dedicated section concerning the financial execution of the detailed plan for the Agency's pollution preparedness and response activities and give an update of the status of all actions funded under that plan. He/she shall establish regular evaluation procedures that meet recognised professional standards.;
- (c) in paragraph 2, point (g) is deleted;
- (d) paragraph 3 is replaced by the following:
  - '3. The Executive Director shall, as appropriate, report to the European Parliament and the Council on the carrying out of his/her tasks.

In particular, he/she shall present the state of play with regard to the preparation of the multiannual strategy and the annual work programme.;

- (8) Article 16 is replaced by the following:

#### 'Article 16

#### **Appointment and dismissal of the Executive Director and the Heads of Department**

1. The Executive Director shall be appointed and dismissed by the Administrative Board. The appointment shall be made for a period of five years on grounds of merit and documented administrative and managerial competence, as well as documented experience in the fields referred to in Article 1 after hearing the opinion of the observer as referred to in Article 10. The Executive Director shall be appointed from a list of at least three candidates proposed by the Commission after an open competition, following publication of the post in the *Official Journal of the European Union*, and elsewhere, of a call for expression of interest. The candidate selected by the Administrative Board may be invited to make a statement before the competent committee of the European Parliament and answer questions put by its members. The Administrative Board shall deliberate on dismissal at the request of the Commission or of one third of its members. The Administrative Board shall take its decisions on appointment or dismissal by a four-fifths majority of all members with the right to vote.

2. The Administrative Board, acting on a proposal from the Commission, taking into account the evaluation report may extend once the term of office of the Executive Director for not more than four years. The Administrative Board shall take its decision by a four-fifths majority of all members with the right to vote. The Administrative Board shall inform the European Parliament about its intention to extend the Executive Director's term of office. Within a month before the extension of his/her term of office, the Executive Director may be invited to make a statement before the competent committee of the European Parliament and answer questions put by its members. If the term of office is not extended, the Executive Director shall remain in office until the appointment of his/her successor.

3. The Executive Director may be assisted by one or more Heads of Department. If the Executive Director is absent or indisposed, one of the Heads of Department shall take his/her place.

4. The Heads of Department shall be appointed on grounds of merit and documented administrative and managerial skills, as well as professional competence and experience in the fields referred to in Article 1. The Heads of Department shall be appointed or dismissed by the Executive Director after having received a positive opinion of the Administrative Board.;

- (9) Article 18 is amended as follows:

- (a) in paragraph 1, point (c) is replaced by the following:

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



(b) paragraph 3 is replaced by the following:

‘3. The Executive Director shall draw up a draft statement of estimates of the Agency’s revenue and expenditure for the following year, on the basis of activity-based budgeting, and shall forward it to the Administrative Board, together with a draft establishment plan.’;

(c) paragraphs 7 and 8 are replaced by the following:

‘7. The statement of estimates shall be forwarded by the Commission to the European Parliament and the Council (the “budgetary authority”) together with the draft general budget of the European Union.

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

(d) paragraph 10 is replaced by the following:

‘10. The budget shall be adopted by the Administrative Board. It shall become final following final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly, together with the annual work programme.’;

(10) Article 22 is replaced by the following:

‘Article 22

#### **Evaluation**

1. At regular intervals and at least every five years, the Administrative Board shall commission an independent external evaluation on the implementation of this

Regulation. The Commission shall make available to the Agency any information the latter considers relevant to that evaluation.

2. The evaluation shall assess the impact of this Regulation as well as the utility, relevance, achieved added value and effectiveness of the Agency and its working practices. The evaluation shall take into account the views of stakeholders, at both European and national level. It shall, in particular, address the possible need to modify the Agency’s tasks. The Administrative Board shall issue specific terms of reference in agreement with the Commission, following consultations with the parties involved.

3. The Administrative Board shall receive the evaluation and issue recommendations regarding changes to this Regulation, the Agency and its working practices to the Commission. Both the evaluation findings and recommendations shall be forwarded by the Commission to the European Parliament and to the Council and shall be made public. An action plan with a timetable shall be included, if appropriate.’;

(11) the following Article is inserted:

‘Article 22a

#### **Progress report**

By 2 March 2018, and taking into account the evaluation report referred to in Article 22, the Commission shall submit a report to the European Parliament and the Council setting out how the Agency has undertaken the additional responsibilities assigned by this Regulation with a view to identifying further efficiency gains and, if necessary, the case for modifying its objectives and tasks.’;

(12) Article 23 is deleted.

Article 2

#### **Entry into force**

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

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

Done at Strasbourg, 15 January 2013.

For the European Parliament  
The President  
M. SCHULZ

For the Council  
The President  
L. CREIGHTON



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