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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT, TO THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND TO THE COMMITTEE OF THE REGIONS**

Cooperation in the field of accidental or deliberate marine pollution after 2007

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(Text with EEA relevance)

1. INTRODUCTION

The actions taken by the Community in the field of accidental or deliberate marine pollution since 1978 have made it possible progressively to develop cooperation between the Member States and the Commission.

The Community framework for cooperation in the field of accidental or deliberate marine pollution¹, which draws on previous experience, was established in 2000 by Decision No 2850/2000/EC of the European Parliament and of the Council. It made it possible to simplify the measures already adopted while at the same time making them more consistent, by integrating them into a single framework for cooperation covering the period 1 January 2000 to 31 December 2006.

Preparedness and response to marine pollution are based on three pillars: the development of preparedness actions, a Community information system to facilitate the exchange of information between Member States, and improving the response via the Community civil protection mechanism².

Since its establishment, the Community framework for cooperation has been a unique forum for the exchange of good practice between Member States, contributing to a marked improvement in the preparedness of officials and actors in the fight against accidental or deliberate marine pollution in the Member States.

Today, 20 Member States, together with Norway and Iceland, play an active role in the Community framework for cooperation.

Since 2001, there have been new developments at Community level in terms of marine pollution prevention, preparedness and response, most notably the establishment of the European Maritime Safety Agency (EMSA)³.

¹ Decision No 2850/2000/EC of the European Parliament and of the Council of 20 December 2000 setting up a Community framework for cooperation in the field of accidental or deliberate marine pollution

² Council Decision 2001/792/EC establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions

³ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency

This Communication presents the current state of Community action in terms of marine pollution preparedness and response, and indicates how this will be followed up and developed from 2007 after the expiry of the Community framework for cooperation.

2. CURRENT STATE OF COMMUNITY ACTION IN TERMS OF THE RESPONSE TO MARINE POLLUTION

2.1 The Community framework for cooperation in the field of accidental or deliberate marine pollution

The Community framework for cooperation in the field of accidental or deliberate marine pollution, established in December 2000, is to a large extent based on previous experience in the field at Community level since 1978.

The purpose of the Community framework, based on Article 175 of the Treaty establishing the European Community, is to support and supplement the efforts of the Member States to protect the marine environment, coastlines and human health against the risks of accidental or deliberate pollution at sea, but excluding continuous streams of pollution originating from land-based sources. It concerns both accidental and deliberate pollution, whether it originates from ships, off-shore platforms, coastlines or estuaries, and includes discharges of harmful substances into the marine environment, including substances linked to the presence of dumped materials such as munitions.

More specifically, the Community framework for cooperation aims to contribute to and improve the capacity of Member States to intervene in the event of the spillage or imminent threat of spillage of oil or other harmful substances into the sea. It also contributes to risk prevention and aims to improve the conditions for effective mutual assistance between the Member States. Lastly, it is designed to promote cooperation between Member States in order to provide for compensation for damage in accordance with the polluter-pays principle.

The framework for cooperation is implemented via an annual action plan based in particular on the priorities drawn up each year together with the Member States. Actions may take the form of courses and seminars, exchanges of experts, exercises, or pilot projects intended to hone intervention and clean-up techniques and methods. Actions intended to assess the impact of an incident on the environment, or to learn from interventions in response to an accident have also been organised. The budget allocated for these actions was fixed initially at EUR 7 million for the period 2000-06.

In 2003, Parliament, recognising the importance of the Community framework, adjusted the reference amounts in order to take into account the enlargement of the EU. The budget was raised to EUR 12.6 million for the period.

The Community framework for cooperation also put in place a Community information system (CIS) on the Commission's internet site with a view to exchanging data between the Member States on intervention capacity and measures taken in the event of accidental or deliberate marine pollution. The Community information system includes a Community homepage and, on the national homepages, information on intervention methods available at the national level.

The Commission is assisted by a management committee, the MCMP - Management Committee for Marine Pollution, which brings together experts from the administrations of the Member States (in the environmental, transport and coastguard fields). Aside from voting

on the annual priorities, the management committee acts as a unique European forum for the exchange of good practice between the Member States.

There are numerous regional agreements covering European seas (the Barcelona Convention, the Bonn Agreement, the Helsinki Convention), with the Commission playing a central role via its active participation in marine pollution response groups. However, the management committee is the only instrument at the Community level at which experts from all the regional areas are represented.

2.2 Response to marine pollution accidents

Since 2001, in the event of an accident, when the scale of the disaster is such that national reaction capacity is insufficient, the affected country may call on the services of the civil protection mechanism and the MIC (Monitoring and Information Centre).

The civil protection mechanism was established in 2001 to provide on-demand support in the event of emergencies and contribute to and improve the coordination of assistance provided by the Member States and the Community.

While there are several regional agreements on accidental marine pollution facilitating mutual assistance and cooperation between the Member States in this field, the civil protection mechanism is the reference tool at Community level for facilitating the mobilisation of assistance from the Member States in the event of a marine pollution accident.

In an incident such as the *Prestige* accident, the MIC responded immediately to the requests for assistance from the Spanish authorities, facilitating the dispatch of specialised vessels, floating barriers and surveillance planes to the scene. The Commission also quickly set up an observer mission in Galicia. In addition, it contributed to ensuring coordination between Spain, Portugal and France, so that sufficient resources were made available to each of the three countries affected by the accident. Finally, it disseminated satellite images of the disaster analysed by the Commission's Joint Research Centre.

During the summer of 2006, the MIC responded very quickly to the request for assistance from the Lebanese authorities to deal with the pollution affecting Lebanon. With hostilities still raging, the MIC deployed a team of experts to assess needs on the ground and to provide scientific and technical support to the local authorities. Via the MIC, specialised equipment originating from five different Member States was supplied to Lebanon. The MIC also distributed to the Member States its analysis of satellite images. Thanks to the informal network between Member States created under the aegis of the MCMP, it was easier to mount a global response in which States from different regions joined forces to send equipment to a third country.

2.3 The role played by the European Maritime Safety Agency (EMSA)

In 2002, the European Maritime Safety Agency (EMSA) was set up⁴ to assist in particular the Commission and the Member States in the implementation of Community legislation in the field of maritime safety and the prevention of ship-source pollution.

⁴ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency

In 2004, the Agency's mandate was expanded via Regulation (EC) No 724/2004, which assigned to the Agency specific obligations in the field of the fight against ship-sourced pollution in the Community.

Under that Regulation⁵, the Agency is required to provide the Member States and the Commission with technical and scientific assistance in relation to accidental or deliberate pollution by ships and to support, following a request for assistance, the pollution response mechanisms of Member States. It acts in support of the Community framework for cooperation in the field of accidental or deliberate marine pollution, and also in support of the Community mechanism.

In order to provide an overall framework for its activities in the field of the prevention of oil pollution and the fight against this kind of pollution, in October 2004 the Agency adopted an action plan for oil pollution preparedness and response (hereinafter the "action plan")⁶, as laid down in the Regulation.

Since March 2006, affected Member States have been able to call on the Agency to charter anti-pollution ships to supplement their efforts to combat pollution with additional resources. These ships were identified following an invitation to tender, and will be posted in four regions covering European seas. The ships chartered by the Agency will be made available to the Member States on request via the Community civil protection mechanism.

In 2005 the Agency considerably increased the size of its team dedicated to the response to marine pollution, which now totals almost 20 people.

3. ASSESSMENT OF ACTIONS UNDERTAKEN UNDER THE COMMUNITY FRAMEWORK FOR COOPERATION IN THE FIELD OF PREPAREDNESS

3.1 The Community framework has made it possible to carry out activities with a significant impact

Since 2000, more than 40 actions have been carried out, chiefly workshops, pilot projects and training courses. The European dimension of these projects has been promoted, with projects attended by two Member States or more encouraged.

The actions focused on a variety of subjects: research on environmental damage, the role of local authorities in preparedness and the response to marine pollution, activities relating to oil recovery, the treatment of petroleum waste, and the role of volunteers in major disasters.

Other reference measures were in response to more specific objectives within the Community framework for cooperation.

One project focused on the presence of munitions dumped at sea and methods of neutralisation. The conclusions of the project and the studies carried out within the framework

⁵ Regulation (EC) No 724/2004 of the European Parliament and of the Council of 31 March 2004 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency

⁶ The action plan was adopted by the board of the Agency at its 9th meeting, held in Lisbon on 21 and 22 October 2004 (internet link: <http://www.emsa.eu.int>)

of certain regional agreements (particularly HELCOM) enabled significant progress to be made on this issue.

As regards deliberate pollution, there were a number of activities promoting exchanges between Member States that focused on illicit operational spills from ships. In addition, an expert group dedicated to the satellite monitoring of oil pollution at sea (EGEMP) was set up at the Commission.

A number of actions with significant impact were carried out in relation to exchanges of experience at the European level, which represent the main value added of the Community action in the field of preparedness. In particular, a programme for exchanges of experts between Member States (EUMAREX) was launched in 2002 to promote training and the exchange of experience. Since the start of 2004, 111 people from 15 different countries have participated in the programme, which has been held in almost 20 countries.

Lastly, the Community information system (CIS) hosted on the Commission's internet site was constantly updated throughout the period 2000-06, particularly in order to take account of the enlargement of the EU. The CIS is frequently championed by the Member States as a unique tool that gives substance to Community cooperation in the field of marine pollution.

The mid-programme evaluation carried out in March 2004 and the overall evaluation of civil protection programmes carried out in July 2005 highlighted that preparedness actions had achieved encouraging results at the national, regional and local levels, including improvement in the level of information provided to the public and an increased awareness of the importance of preparedness. The actions also contributed to risk prevention. Lastly, the investment in training, exchanges of experience and preparation undertaken over the last few years have led to the emergence of a common culture in the field of accidental marine pollution.

3.2 The Community framework has led to the emergence of other legislative instruments

Since the adoption of the Community framework for cooperation, the initial objectives have in some cases been replaced by certain legislative instruments.

The framework for cooperation aims to *"promote cooperation between Member States in order to provide for compensation for damage in accordance with the polluter-pays principle"*. Workshops and pilot projects were organised, particularly after the *Prestige* accident. At the same time, the legislation on environmental damage was developed with the adoption of Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage. Although the Directive covers accidental marine pollution only very partially, it is nonetheless a first stage towards the establishment of a common framework for liability with a view to preventing environmental damage caused by accidents of this kind.

In its initial objectives, the Community framework seeks to enhance cooperation between the Member States with regard to deliberate pollution and illicit operational spills from ships. Directive 2005/35/EC of the European Parliament and of the Council on ship-source pollution and on the introduction of penalties for infringements, annexed to Council Framework Decision 2005/667/JHA to strengthen the criminal-law framework for the enforcement of the law against ship-source pollution, now provides a legal framework for such actions.

The Framework Decision requires the Member States to designate contact points and make provision for information obligations in the event of pollution likely to affect other Member States. It also includes provisions facilitating the choice of the criminal-law jurisdiction competent to enforce the law against ship-source pollution.

Other legislative instruments highlight the value added of Community cooperation in terms of preparedness and response.

The Thematic Strategy on the Protection and Conservation of the Marine Environment, adopted by the Commission on 24 October 2005⁷, establishes common objectives and principles at Community level, with implementation to be carried out at the level of the marine regions. Each region must define regional environmental objectives and draw up indicators and monitoring measures to evaluate progress towards these objectives. Actions and objectives specific to the field of preparedness for pollution are to be incorporated therein.

Lastly, on 7 June 2006 the Commission published a Green Paper entitled "Towards a future Maritime Policy for the Union: A European vision for the oceans and seas", which highlights the existing interactions and dependencies between marine-based industries, including in connection with preparedness and response to marine pollution.

4. THE ENHANCEMENT AND CONTINUATION OF PREPAREDNESS AND RESPONSE FROM 1 JANUARY 2007

4.1 Improving preparedness after 2007

Improving the consistency of Community policy in the field of marine pollution preparedness

The actions carried out so far have had a significant impact. They have contributed to the emergence of certain legislative instruments.

At the same time, the Commission, aware of the importance of this issue, has sought to continue and enhance existing measures, while also proposing an increased role for the European Maritime Safety Agency in terms of marine pollution preparedness and response.

The Commission encourages greater consistency in Community policy in the field; the Community framework for cooperation will not be renewed in its current form, but preparedness actions will continue and will be expanded in the most appropriate framework.

The European Maritime Safety Agency intends to continue and develop preparedness actions

The role of the European Maritime Safety Agency has expanded considerably in the field of marine pollution preparedness.

Regulation (EC) No 1406/2002 establishing the Agency, amended by Regulation (EC) No 724/2004, made it possible to implement certain preparedness actions. As indicated in the action plan for oil pollution preparedness and response (see point 2.3), the Agency also

⁷ Thematic strategy on the protection and conservation of the marine environment COM(2005) 504 of 24 October 2005

undertakes, within the framework of the Regulation, preparedness actions for the setting up of effective intervention operations.

In 2005, EMSA organised workshops on marine pollution response, and published a study into the use of dispersants. In 2006, EMSA continued to organised workshops on the response to chemical pollution and on satellite observation of pollution.

According to the action plan, the draft Regulation of the European Parliament and of the Council on the multiannual funding for the action of the Agency⁸, which is currently under discussion⁹, states that the Agency will continue with "supporting activities concerning the areas of information, coordination and cooperation".

Its work programme for 2007, the Agency indicates that it intends to continue to organise such workshops and studies in the future. Even if the means of funding these actions differ (invitation to tender or organised directly by the Agency, rather than via part financing), they will still respond to objectives that are markedly similar to those in the Community framework for cooperation.

Other Community programmes will respond to specific objectives

Within the framework of other Community programmes, particularly under cohesion and research policy, specific actions are underway in the field of preparedness for accidental or deliberate pollution and these will continue from 2007 onwards.

It is likely that these programmes will implement actions responding to certain of the objectives of the Community framework for cooperation for which EMSA does not have responsibility: cooperation with relevant local bodies and nature protection bodies as regards risk prevention and response; environmental impact assessments and the cleaning of beaches.

Under the European Regional Development Fund (ERDF), it is currently possible to part-finance, via Interreg transnational cooperation programmes, preventative measures concerning for example the monitoring of maritime traffic, the protection of coastal areas, risk management strategies and plans, databases and models. In addition, under Objectives 1 and 2 of the Cohesion Policy, the ERDF and the Cohesion Fund may be used to part-finance port investments to reduce the risk of accidents and also equipment for rapid intervention and waste treatment in the event of a pollution incident. All of this part-financing may continue during the period 2007-13, in application of the three ERDF Objectives (convergence, regional competitiveness and employment, territorial cooperation) and the areas of activity of the Cohesion Fund. However, in application of the polluter-pays principle, regional policy in this field cannot replace the International Oil Pollution Compensation Fund (IOPCF).

Similarly, marine pollution is one of the priorities of the "sustainable surface transport" programme within the 5th and 6th research framework programmes.

⁸ Proposal for a European Parliament and Council regulation on multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and amending Regulation (EC) No 1406/2002

⁹ This draft Regulation was already approved by the Council in June 2006 and by Parliament in September 2006

Almost 17 actions dedicated to marine pollution were launched under the 6th framework programme and are continuing. These actions concern among other things the development of risk analysis methodologies, tools for decision-making aids, detection systems and oil recovery systems. Other research projects aim to define the current state of affairs concerning the use of satellites. The 7th research framework programme (2007-13) will continue with the development of reference actions in the field of marine pollution. In addition, the Joint Research Centre intends to launch an institutional action dedicated to maritime monitoring (MASURE).

The exchange of good practice at Community level will continue

Since the Community framework for cooperation will not be renewed, the management committee (MCMP) will not continue in its current form. However, the Commission is convinced that the existence of such a forum for the exchange of good practice contributes to improving accident response at the European level.

The Commission will therefore continue to organise specific meetings at least once year to bring together those responsible for preparedness and response in the Member States. These meetings, which could for example be given over to the feedback of experience in the wake of accidents, will be held in appropriate contexts, or under the aegis of EMSA.

4.2 Enhancing the response to accidental marine pollution after 2007

Greater consistency in the response at the European level

Since 2002, the Community civil protection mechanism has been the reference tool at the Community level for the response to marine pollution accidents. The effectiveness of the civil protection mechanism has been demonstrated by the response under the mechanism to the *Prestige* accident and to the pollution that has affected the Lebanese coastline.

In its Resolution on improving safety at sea, adopted on 27 April 2004 following the work of the Temporary Committee on Improving safety at sea (MARE), the European Parliament stressed the importance of transnational cooperation in the response to accidents and the need for effective coordination.

The Community civil protection mechanism will continue to be the reference tool for the response to marine pollution accidents from 2007 onwards. With the use of the civil protection mechanism by EMSA for the provision of anti-pollution ships in the event of a request for assistance from a Member State, the Mechanism will have an enhanced role.

In this context, the Commission intends to develop coordination between the Monitoring and Information Centre (MIC) and the marine pollution response unit of EMSA in order to ensure a response to disasters that is as effective and consistent as possible. As was demonstrated in the case of the pollution that affected the Lebanese coastline, the Agency is able to provide technical assistance to the Commission in the event of disasters; Agency staff members with specific experience are able to support the MIC and/or the affected State, while the Agency can assist the Member States and the Commission with the supply and analysis of satellite imagery.

The Agency and the MIC have formalised working arrangements in order to facilitate coordination: these relate *inter alia* to the development of a mutual alert system, the

integration of EMSA into the Common Emergency Communication and Information System (CECIS) set up under the civil protection mechanism, and EMSA's participation in missions on the ground by teams of experts. These arrangements will be regularly updated in the future.

Improving operational support to the Member States

The Commission wants to enhance the operational support provided to the Member States, particularly in the form of the mobilisation of expertise in emergency situations, and by the dissemination among the Member States of the expertise acquired in such situations.

The mechanism, thanks to its network providing a 24-hour link between the administrations of the Member States, will continue to provide useful operational assistance, particularly in the form of exchanges of information on existing needs. The Commission wants to improve data collection in the event of an accident and the dissemination of regular updates to participating countries.

The Commission will continue its collaboration with the other international organisations involved in accident response, such the regional agreements and the agencies of the United Nations, as was the case during the pollution that affected Lebanon.

The Community information system (CIS) incorporates the resources made available by EMSA. The Commission will continue in the future to manage the Community information system, which occupies a central place in the framework for cooperation.

5. CONCLUSION

For almost thirty years, Community action in the field of accidental or deliberate marine pollution has been expanding: cooperation between Member States, initially on an informal level, rests mainly on the civil protection mechanism, the reference tool at the European level for facilitating response. The experience of recent disasters has demonstrated that Europe's response, coordinated together with international bodies with competence in the field of marine pollution and with the support of EMSA, was both rapid and effective.

The marine pollution accidents that have taken place in the past have had a significant impact on the environment. The European Union must do everything in its power to ensure that such disasters are not repeated. For this reason, preparedness actions to deal with such occurrences are more necessary than ever. Despite the expiry of the Community framework for cooperation, the Commission intends to continue and promote its actions in the field of the fight against ship-source pollution from 2007 onwards. The European Maritime Safety Agency will play an increased role in this field. From 2007, Community action will be even more effective, as a result.