Enhanced Environmental Protection: The Baltic Sea Approach

UNCLOS

ENCLOSED OR SEMI-ENCLOSED SEAS
Part IX

Article 122. Definition

For the purposes of this Convention, 'enclosed or semi-enclosed sea' means a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.

Article 123. Co-operation of States bordering enclosed or semi- enclosed seas

States bordering an enclosed or semi-enclosed sea should co-operate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organization:

(a) to co-ordinate the management, conservation, exploration and exploitation of the living resources of the sea;

(b) to co-ordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment;

(c) to co-ordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area;

(d) to invite, as appropriate, other interested States or international organizations to co-operate with them in furtherance of the provisions of this article.

Art. 197 of the UNCLOS: stipulates the cooperation on a regional level.

The Baltic Sea is a designated Special Area and Particularly Sensitive Area under the International Maritime Organisation (2005), i.e. especially vulnerable to damage by shipping.

There is a clear link between the protection of marine environment as set out in the 1982 UNCLOS and the Helsinki Convention, e.g. the definition of pollution in both instruments identical and the UNCLOS deals with all sources of pollution in a holistic manner which is also a feature of the Helsinki Convention.

Geography of the Baltic Sea

The Baltic Sea is a brackish inland sea, perhaps the largest body of brackish water in the world, formed by glacial erosion during the last few ice ages.

The Baltic Sea is about 1,600 km (1,000 mi) long, an average of 193 km (120 mi) wide, and an average of 55 m (180 ft, 30 fathoms) deep. The maximum depth is 459 m (1506 ft) which is on the Swedish side of the center. The surface area is about 377,000 km² (145,522 sq mi) and the volume is about 20,000 km³ The total area of the Baltic is 370.000 KM2). The Baltic has very special environmental problems caused by:

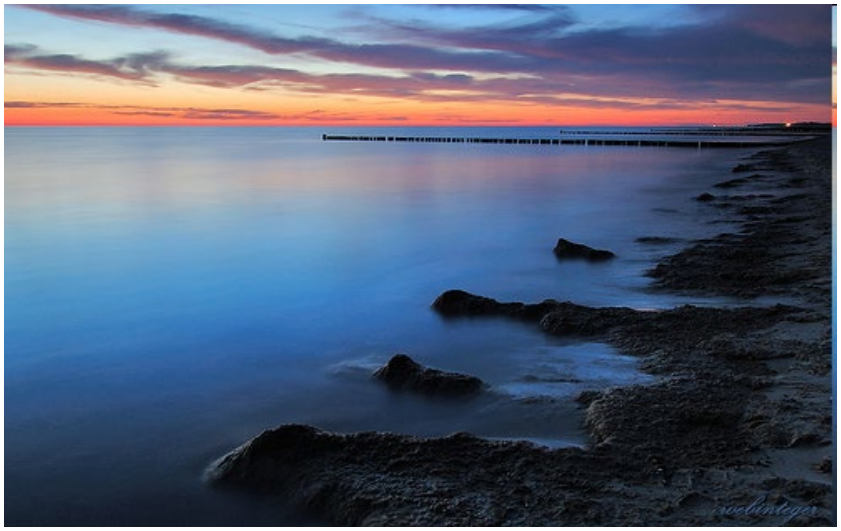
- Limitation of water exchange (it takes 25 years to exchange water in the Baltic);
- Differences in basins of which the Baltic consists;
- Great differences in temperatures in summers and winter

Coastal States:

Denmark, Estonia, Germany. Latvia, and Lithuania, Finland. Poland, Sweden, Russia (Kaliningrad Oblast).

The catchment are is bigger and includes such States, as Czech and Slovak Republics;

The traditional classification of the sources of pollution according to point sources, land-based diffuse sources, and atmospheric deposition is applicable to the Baltic Sea.There are several contaminant groups which originate mainly from minor industrial sources, agriculture with pesticides and fertilizers; households with their use of a great many consumer products; sludge, dump sites and waste deposition in landfills. Long-term emissions; from buildings and construction materials have also gained more attention recently. Diffuse emission are often channeled to the sea via, for example, storm waters and sewage water effluents.



The main threats to the Baltic environment derive from eutrophication, hazardous substances, over-fishing and maritime transport. In fact, the Baltic is one of the most polluted marine areas in the world.

Radioactive pollution can persist in the Baltic for long periods due to the long residence time of its water. Levels of strontium-90 and cesium-137 are high compared with other seas. The artificial radionuclides in the Baltic originate from nuclear weapons testing, the 1986 Chernobyl accident, and European nuclear installations. Radionuclides have been closely monitored in the water, sediments, fish, aquatic plants and benthic animals of the Baltic Sea since 1984.

60% of cadmium, 84% of lead and 79% of mercury deposited into the Baltic Sea originate from distant sources outside the Baltic Sea catchment area (mainly the UK, France, Belgium and Czech Republic) Strategic and Ecological Goals for the Baltic are as follows:

Baltic Sea with life undisturbed by hazardous substances; Concentrations of hazardous substances close to natural levels; All fish safe to eat; Healthy wildlife; Radioactivity (radionuclides) at pre-Chernobyl level;

Legal Framework of the Baltic Sea Environmental Cooperation

1. The 1974 Convention on the Protection of the of the Marine Environment of the Baltic Sea Area (the Helsinki Convention). 1992 Convention (currently in force)

2. This Convention was superseded by the 1992 Convention on the Protection of the Marine Environment of the Baltic Sea Area.

Parties are: Denmark, Estonia, Germany; Latvia, Lithuania; Finland; Poland; Sweden; Russia (a very small portion in the region of Kaliningrad) and the EU.

According to the Commission decision in 2010 on the EU Baltic Sea Strategy External Action Programme in favour of the Russia Federation to be financed under Article 19 of the general budget of the EU, 20 million Euro) and the EU.

Helsinki Convention is a holistic treaty with all sources of pollution included.

The Convention covers the whole of the Baltic Sea area, including territorial sea and the Parties' internal waters as well as the water of the sea itself and the sea-bed. Measures are also taken in the whole catchment area of the Baltic Sea to reduce land-based pollution.

Basic principles:

The precautionary principle;

The polluter-pays-principle;

Best Environmental Practices and Best Available Technologies;

Monitoring;

Avoiding risks.

The following sources of marine pollution are covered by the HC:

Land-based pollution (art. 6);

Prevention of pollution from ships (art. 8);

Prohibition of incineration (art. Art.10);

Prohibition of dumping (art. 11); and

Pollution from exploration and exploitation of the seabed and its subsoil (art. 12).

HC also has a provision for the protection of marine biodiversity (art. 15). (actively implementing the Aichi Biodiversity targets in the Baltic Sea). It also established marine protected areas with several targets. Fisheries were added to the remit of the HELCOM (Fish-Pro II Programme).

The provisions concerning the pollution from ships and dumping incorporate those standards from MARPOL and the 1972 London Convention.

HC impose stricter standards than these 2 global conventions. Art. 11 of the HC includes a blanket prohibition on dumping in the Baltic (2 exceptions: dredged material; and for safety of human life or a threat to vessel of complete destruction or total loss)-therefore standards are even stricter than those of the 1966 Protocol to the London Convention.

Article 7 of the 1992 Helsinki Convention introduced
a new requirement for the parties obliging
them whenever it is required by international law or EU regulations to notify the Commission and any Contracting Party which may be affected about any activity that is likely to cause a significant adverse impact on the marine environment of the Baltic Sea area and to enter into consultations with any party which is likely to be affected by such transboundary impact.

The Baltic Marine Environment Protection Commission

Known as the Helsinki Commission, or HELCOM, works to protect the marine environment of the Baltic Sea from all sources of pollution.

(http://www.helcom.fi/helcom/en_GB/aboutus/)

HELCOM works as:

an environmental policy maker for the Baltic Sea area by developing common environmental objectives and actions;

an environmental focal point providing information about (i) the state of/trends in the marine environment; (ii) the efficiency of measures to protect it and (iii) common initiatives and positions which can form the basis for decision-making in other international fora;

a body for developing, according to the specific needs of the Baltic Sea, Recommendations of its own and Recommendations supplementary to measures imposed by other international organisations;

a supervisory body dedicated to ensuring that HELCOM environmental standards are fully implemented by all parties throughout the Baltic Sea and its catchment area; and

a co-ordinating and ascertaining multilateral response in case of major maritime incidents.

HELCOM's eight main groups implement policies and strategies and propose issues for discussion at the meetings of the Heads of Delegations, where decisions are made.

The five permanent groups address different aspects of HELCOM's work :

Group on the Implementation of the Ecosystem Approach (Gear)

Maritime Working Group (Maritime)

Working Group on Reduction of Pressures from the Baltic Sea Catchment Area (Pressure)

Response Working Group (Response)

Working Group on the State of the Environment and Nature Conservation (State and Conservation)

The following time-limited groups complement the work of the permanent groups:

Group on Sustainable Agricultural Practices (Agri)

Group on Ecosystem-based Sustainable Fisheries (Fish)

Joint HELCOM-VASAB Maritime Spatial Planning Working Group (HELCOM-VASAB MSP WG)

STRUCTURE OF HELCOM

The structure of the HELCOM reflects the HC holistic approach to the protection of the marine environment.

Achievements

Since the beginning of the 1980s the Helsinki Commission has been working to improve the Baltic marine environment, largely through some 200 HELCOM Recommendations.

Successes during this period include:

Lower discharges of organic pollutants and nutrients from point-sources.

20-25% overall reduction in emissions of oxygen-consuming substances (BOD) from 132 originally identified hot spots (since early 1990s), with about 50 hot spots deleted from the list.

Fewer beaches closed for bathing, thanks to improvements in the treatment of industrial and municipal wastewater.

Significant reductions in atmospheric nitrogen deposition.

Dramatic reductions in emissions of organo-halogen compounds such as toxic dioxins and furans.

National regulations banning hazardous substances like PCBs and DDT.

Stricter controls on industry (permits are now compulsory for industrial emissions).

Improved joint monitoring of the state of the marine environment.

The recovery of seal and white-tailed eagle populations.

Better special legislation to prevent the pollution of the Baltic Sea by shipping, developed together with the International Maritime Organization (IMO).

Measures to eliminate all illegal discharges by ships into the Baltic Sea.

A major international plan to combat marine pollution, with active co-operation involving all the Contracting Parties through HELCOM.

Every few years, HELCOM arranges a Ministerial Meeting, bringing together the responsible ministers of the Baltic Sea countries and the EU Commissioner for the Environment. The Ministerial Meetings are important fora for shared discussions and agreements on a high level.

HELCOM Ministerial meetings result in the adoption of political declarations, in which Contracting Parties set out further actions to protect the marine environment of the Baltic Sea and agree on the future agenda for HELCOM. The declarations complement the Helsinki Convention and HELCOM Recommendations.

Development of the Baltic Sea environmental protection is also effected through Ministerial Declarations (which are a soft law instruments but States parties to HC endavour to implement them nationally. HELCOM plays a pivotal role in the implementation of these Declarations.

MINISTERIAL DECLARATIONS

2020 Ministerial Declaration 'Our Baltic' Conference'

Declaration of the Ministers of Environment, Maritime Economy, Agriculture and Fisheries of Baltic Sea Member States and of the Commissioner for 'Environment, Oceans and Fisheries'

Climate change refers both to mitigation and adaptation and referring to Agenda 2030 Goal 14 and other water and ocean-related goals and targets the Baltic Sea as a NOX Nitrogen Oxides Emission Control Area and as a Special Sewage Area under MARPOL Convention;

2018 Brussels Declaration

is a response to the call for action in the Baltic Sea on the United Nations Agenda 2030 for Sustainable Development.

2013 Copenhagen Ministerial Declaration: The responsible Ministers and the EU Commissioner assembled in Copenhagen, Denmark in 2013 to assess the progress made towards reaching a good environmental status in the Baltic Sea by 2021. -

2010 Moscow;

2003 Bremen Declaration;

2001 Declaration on the Safety of Navigation and Emergency Capacity in the Baltic Sea Area -Copenhagen Declaration;

1993 Declaration on Resource Mobilisation for the Baltic Sea Joint Comprehensive Environment Action Programme - Gdansk Declaration;

1992 Baltic Sea Environmental Declaration 1990 Baltic Sea Declaration – Ronneby Declaration ;

1988 Declaration on the Protection of the Environment of the Baltic Sea – Ministerial Declaration.

One of the most effective action was the Baltic Sea Joint Comprehensive Environmental Action Programme (JCP) established in 1992 to facilitate and monitor the elimination of the 132 most polluting sources within the Baltic Sea catchment area - known as "hot spots".

The 132 environmental hot spots were designated in 1992 by an international group of scientists, engineers, environmental managers, bankers and national representatives, according to practical economic considerations as well as the seriousness of their impact on the environment and human health.

Over two-thirds of the 132 serious pollution areas - so called hot spots - identified around the Baltic Sea since 1992 have been cleaned up. Total number of active Hot Spots: 54. JCP specifies a series of actions to be undertaken at "pollution hot spots" around the Baltic Sea drainage basin.

The most notorious hot spots are point sources such as municipal facilities and industrial plants, but the programme also covers pollution from agricultural areas and rural settlements, and sensitive areas such as coastal lagoons and wetlands where special environmental measures are needed.

One of the most important instruments was the 2007 HELCOM Baltic Sea Action Plan:

It incorporated the latest scientific knowledge and innovative management approaches into strategic policy implementation, and stimulating even closer, goal-oriented multilateral co-operation around the Baltic Sea to restore the good ecological status of the Baltic marine environment by 2021;

HELCOM already achieved a 40% reduction in nitrogen and phosphorus discharges and a 40% decrease in emissions of nitrogen to the air; it also halved discharges of about 50 hazardous substances. But in order to achieve “clear water”, which is one of the main objectives of the HELCOM Baltic Sea Action Plan, phosphorous and nitrogen inputs to the Baltic Sea must be further cut by about 42% and 18%, respectively.

EU Regulations in certain areas are implemented with stricter targets than in the rest of Europe (for example for phosphorous emissions) i.e. go beyond the ‘acquis Communautaire’

The plan is based on a clear set of ‘ecological objectives’ defined to reflect a jointly agreed vision of ‘a healthy marine environment, with diverse biological components functioning in balance, resulting in a good ecological status and supporting a wide range of sustainable human activities’.

Examples of objectives include clear water, an end to excessive algal blooms, and viable populations of species.

Targets for ‘good ecological status’ are based on the best available scientific knowledge.

The time-frame for reaching these targets is a political decision.

With the application of the ecosystem approach, the protection of the marine environment is no longer seen as an event-driven pollution reduction approach to be taken sector-by-sector. Instead, the starting point is the ecosystem itself, and a shared concept of a healthy sea with a good ecological status. This vision will determine the need for further reductions in pollution loads, as well as the extents of various human activities;

The innovative HELCOM action plan has served as a model example to be followed by the Regional Seas Conventions and Action Plans under the auspices of the United Nations Environmental Programme Regional Seas Programme.

HELCOM has taken into account the environmental provisions of the Maritime Doctrine of the Russian Federation. Close co-operation with Russia, which is the only HELCOM country outside the EU in the Baltic Sea region. HELCOM's innovative strategy is also instrumental to the implementation of the renewed Northern Dimension policy, the Baltic Sea regional aspects of the EU-Russian Environmental Dialogue, the Nordic Environmental Action Plan, and the European Maritime Policy.

HELCOM action plan is considered a joint regional policy, with common objectives, actions, and obligations.

Another highlight of the elaboration of the HELCOM Baltic Sea Action Plan has been the active participation of all major stakeholder groups in the region. Such participation ensures that the plan is truly relevant and can be effectively implemented in practice. The choices that we make reflect the choices of society as a whole. For this reason, the common vision of the healthy Baltic Sea has been defined together with all participating stakeholders – from governments, through industry and NGOs, right down to individual citizens, including older and younger generations, and organisations in both the private and the public sectors. In this way the plan promotes employment and other aspects of sustainable socio-economic development, as well as ecological sustainability and a healthy environment.

The concept of the HELCOM Baltic Sea Action Plan was supported by politicians and heralded as a pilot project for European seas in the context of the proposed EU Marine Strategy Directive. The European Community has described HELCOM's plan as a cornerstone for further action in the Baltic Sea region, emphasizing that the plan is instrumental to the successful implementation of the proposed EU Marine Strategy Directive in the region. The proposed EU Marine Strategy Directive foresees such an action plan for each eco-region, including the Baltic. HELCOM is in a unique position to deliver this already, given its embracing of all the countries in the Baltic Sea catchment area. HELCOM is also in a unique position to ensure that the special characteristics of the Baltic Sea are fully accounted for in European policies.

Baltic Sea Surveillance

Oil spills

The HELCOM States endeavour to fly - as a minimum - twice per week over regular traffic zones, including approaches to major sea ports as well as in regions with regular offshore activities, and once per week over the regions with sporadic traffic and fishing activities.

Twice a year, several Baltic Sea states jointly organize surveillance flights (24 to 36-hours) - one covering the southern part of the Baltic Sea, and another flight over waters further north. HELCOM facilitates these CEPCO flights (Co-ordinated Extended Pollution Control Operation) in order to:

- assess the amounts of oil being discharged into the Baltic Sea

- give aircrafts and crews of different nationalities experience working together, which could be valuable in the event of a major accident

- find illegal spills of oil or other substances and possibly identify the polluting ships

In 2009, a Super CEPCO operation, which lasted for six days, was organized for the first time in the Baltic Sea, involving aircrafts from a number of HELCOM countries a(nd countries outside the Baltic Sea.

Baltic Sea Monitoring

Regional implementation of the EU Marine Strategy Framework Directive (EU MSFD) in the Baltic Sea.

Ministers agreed that this work should be based on common principles, as for example "joint coordinated monitoring providing the necessary data for regular assessment of the status of the Baltic Sea and of pressures and impacts affecting the status".

It was also agreed that HELCOM Monitoring programmes should be "adapted to support the assessing of progress towards the achievement of the environmental objectives and targets" (i.e. Good Ecological Status).

Emissions from ships

Within 2000-2006, shipping in the Baltic was the second largest contributor (9%) to the deposition of nitrogen oxide, and the fifth greatest contributor (5%) to the total nitrogen deposition to the Baltic Sea.

In addition to SOx and NOx shipping also contributes to the emission of greenhouse gases (mainly CO2), ozone-depleting substances and volatile organic compounds (VOC), which are mainly generated during tanker loading operations in ports.

Climate Change: MARPOL and the Baltic Sea

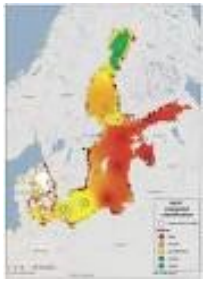
Globally air pollution from ships is regulated by Annex VI of the IMO's **MARPOL 73/78** on "**Regulations for the Prevention of Air Pollution from Ships**".

Annex VI of MARPOL makes the Baltic a "SOx emission control area" ("SECA"), demanding as of 19 May 2006 all ships either to use fuel oil with sulphur content not exceeding 1.5% or emission-cleaning systems reaching equivalent standards.

According to the recently revised Annex VI, the sulphur content of any fuel oil used onboard ships within the Baltic SECA will be further decreased, to 1.0 % m/m during 2010 and to as little as 0.1 % m/m in 2015.

The HELCOM Contracting States have established a Correspondence Group to collect the necessary information to propose to the IMO designation of the Baltic Sea as a **NOx Emission Control Area ("NECA"), whereby ships constructed on or after 1 January 2016** and operating within a NECA would be required to reduce their NOx emissions by 80% in comparison to the current situation around 7000 tn annually).

To support the work of the Correspondence Group, a HELCOM study on economic impact of the Baltic NECA (2010) has been carried out. The application to IMO has not yet been submitted, (http://www.helcom.fi/shipping/emissions/en_GB/emisions/?u4.highlight=greenhouse%20gases)



The Baltic Sea costal States also implement EU Directives.
In principle HELCOM Recommendations are harmonised with the provisions of EU Directives, as well as OSPAR decisions and recommendations, Apart from Russia, the Parties to the HELCOM are bound by the EU Marine Strategy Framework Directive. Russian Federation implements the Marine Doctrine of the Russian Federation.

Nature conservation and monitoring of the Baltic Sea's ecosystem were the focus of attention during the Ninth Meeting of the HELCOM Working Group on the State of the Environment and Nature Conservation .

During the event, it was agreed to broaden the workplan for the HELCOM State & Conservation group, notably on the follow-up of Baltic Sea Action Plan (BSAP) measures, red-listed species and their link to specific habitat features, and non-indigenous species, among others.

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The aim of the coastal and marine Baltic Sea protected areas (HELCOM MPAs)* is to protect valuable marine and coastal habitats in the Baltic Sea. This is done by designating sites with particular nature values as protected areas, and by managing human activities within those areas. Each site has its unique management plan. Today there are 176 HELCOM MPAs in the Baltic Sea.

The updated Baltic Sea Action Plan 2021 is expected to maintain and adapt the current structure and segments that seek to reflect the pressures stemming from land (“Eutrophication” and “Hazardous substances and litter”) and from our activities at sea (“Sea-based activities”) as well as the state of the environment (“Biodiversity and ecosystems”). The updated plan is due to feature a segment on horizontal actions having an incidence on the four main segments. These are climate change, monitoring, maritime spatial planning, economic and social analysis, and financing. Furthermore, all measures and actions contained in the new plan are intended to be implemented by 2030 at the latest. With its set of targets for protecting biodiversity and reducing the pressures affecting the Baltic, as well as its number of concrete measures, the BSAP remains one of the most effective instruments for achieving the HELCOM ecological objectives, offering a long-term vision and strategic orientation for attaining good environmental status in the Baltic.

The priorities of the current Latvian Chairmanship will focus on:

HELCOM as an effective and well-functioning organisation of regional cooperation which is capable of action, including in unforeseen and force majeure situations.

Implementation of the updated Baltic Sea Action Plan (BSAP 2021), with particular attention paid to:

protection of marine biodiversity

advancing ecosystem based sustainable marine management by integration of environmental objectives with socio-economic goals

Strengthening the role of regional cooperation in the context of international ocean governance.

Therefore the Baltic Sea is subject to the following legal regimes:

I. General Maritime Conventions by: MARPOL and London Convention;
II. EU legislation;
III. Regional Legislation (HELCOM recommendations).

Conclusions

(a) The Baltic Sea is an interesting area of cooperation between coastal States of semi-enclosed sea which are all with an exception of Russia members of the EU;

(b) The Helsinki Convention and HELCOM fleshed out the provisions of the UNCLOS in relation to the semi-enclosed seas;

(c) through HELCOM recommendations some of the EU legislation is also applied by Russia;

(d) It may be stated that the Baltic Sea cooperation is a success (considering the state of its environment before the 1992 Helsinki Convention).