



CCS under the London Protocol and the Helsinki Convention: status

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IOM Law at a glance

- Founded January 2017.
- Specialized in CO₂ capture, transport, use and storage, including negative emissions, with extensive experience from oil and gas, international law and climate change policy.
- Six team members, based in Son (Norway), Tasmania (Australia) and New York (U.S.)
- Formal education from Norway, England, France, Denmark, Belgium, Hong Kong, Japan, Australia and the United States.



The London Protocol

- Stand-alone agreement that supersedes the London Convention.
- Implements a general ban on the dumping of waste and other matter at sea, with the exception of the waste and other matter listed in Annex 1 (reverse list).
- CO₂ was added to Annex 1 in 2006, thereby creating the legal basis in international environmental law to regulate the storage of CO₂ in sub-seabed geological formations.
- Export prohibition (art. 6)
 - 2009 Amendment
- 2009 amendment is not yet in force.
 - 2019 Resolution

The London Protocol: 2009 Amendment

Notwithstanding paragraph 1, the export of carbon dioxide streams for disposal in accordance with annex 1 may occur, provided that an **agreement or arrangement** has been entered into by the countries concerned. Such an agreement or arrangement shall include:

- .1 **confirmation and allocation of permitting responsibilities** between the exporting and receiving countries, consistent with the provisions of this Protocol and other applicable international law; and
- .2 in the case of export to non-Contracting Parties, **provisions at a minimum equivalent to those contained in this Protocol**, including those relating to the issuance of permits and permit conditions for complying with the provisions of annex 2, **to ensure that the agreement or arrangement does not derogate from the obligations of Contracting Parties under this Protocol to protect and preserve the marine environment.**

A Contracting Party entering into such an agreement or arrangement shall notify it the IMO.

→ 2019 Resolution: Deposit a declaration of provisional application with the IMO to provisionally take the amendment into use.

The London Protocol: cross-border status

- Acceptance of 2009 Amendment: Belgium, Denmark, Estonia, Finland, Iran, South Korea, the Netherlands, Norway, Sweden, and the United Kingdom and Switzerland (11).
- Provisional application: Denmark, South Korea, the Netherlands, Norway, the United Kingdom, Belgium, Sweden, and Switzerland (8). Work underway in several other countries.
- Note: a Contracting Party does not have to accept the 2009 Amendment in order to provisionally apply it.

The London Protocol: cross-border status

1. Denmark-Belgium
2. Belgium-Netherlands
3. Netherlands-Denmark
4. Denmark-France
5. Denmark-Sweden
6. Denmark-Norway
7. Norway-Sweden
8. Norway-Belgium
9. Norway-the Netherlands

Some new additions: reference to national GHG inventory, annex 2 and the notification requirement

- Many more in the pipelines, e.g. Norway-Finland.
- Note: all European countries and Contracting Parties. Implications?

Regional Sea Conventions in Europe

- 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic (**OSPAR Convention**)
- 1992 Convention on the Protection of the Marine Environment of the Baltic Sea Area (**Helsinki Convention**)
- 1995 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (**Barcelona Convention**)
- 1994 Convention on the Protection of the Black Sea Against Pollution (**Bucharest Convention**)

all similar aim = protect the marine environment.

Regional Sea Conventions in Europe



Helsinki Convention

- Seeks to protect the Baltic sea from pollution from air, sea and land.
- Contracting Parties: Denmark, Estonia, the European Union, Finland, Germany, Latvia, Lithuania, Poland, Russia and Sweden.
- The Convention covers the whole of the Baltic Sea area, including inland waters.
- The Convention is amended whenever deemed necessary, such as to follow the developments in international environmental and maritime laws.

Helsinki Convention

Article 4 (a), «dumping» is defined as

- i) any deliberate disposal at sea or into the seabed of wastes or other matter from ships, other man-made structures at sea or aircraft;
- ii) any deliberate disposal at sea of ships, other man-made structures at sea or aircraft;

Article 11 prohibits dumping in the Baltic Sea Area.

- It provides one exception to the ban: **dredged material**.
 - Subject to a prior special permit issued in accordance with Annex V.
- CO₂ is not listed as an exception and storage is therefore prohibited.
- An amendment would be needed to allow for the storage of CO₂.

Helsinki Convention

Article 2, «pollution» is defined as

introduction by man, directly or indirectly, of substances or energy into the sea [...] which are liable to create hazards to human health, to harm living resources and marine ecosystems, to cause hindrance to legitimate uses of the sea including fishing, to impair the quality for use of sea water, and to lead to a reduction of amenities.

The future of the Helsinki Convention

- Strategic pause in HELCOM operations. This pause entails the postponement of the meetings of all official HELCOM bodies, with meetings being carried out as so-called informal consultation sessions involving H 9 participants only and Russian involvement restricted to correspondence procedures. The pause is continuing under the Lithuanian chairmanship.
- To amend an article of the Convention, all Parties need to accept the proposed amendment. Tacit acceptance for annexes.
- Ongoing regulatory assessment of the Helsinki Convention in the context of CCS.
- Willingness in the region to facilitate and deploy CCS.

Concluding remarks

- There are no barriers left under the London Protocol to the export and storage of CO₂.
- There are; however, some unanswered questions, for example when there are several states involved in a valuechain, and export to non-Contracting Parties.
- Currently, offshore storage in the Baltic Sea is prohibited (ref. Helsinki Convention art. 11). However, the Convention is amended whenever deemed necessary and it may be amended to facilitate and regulate storage. Thus while it is prohibited today, this may change in the future.
- As such, onshore storage or export is the only option for countries in the Baltic region today.



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