

DEVELOPMENT OF HELCOM MEASURES FOR HAZARDOUS SUBSTANCES

1. Basic principles for taking action with regard to hazardous substances

There are various physical, chemical and biological features which could increase the vulnerability of Baltic marine ecosystems to man-made chemicals. Furthermore, the different socio-economic factors might result in hazardous substances being used or traded in ways that significantly differ from practice within the rest of Europe. These specific conditions should be taken into account when measures are adopted for the protection of the Baltic Sea.

With the enlargement and development of new EU measures, there is a reduced need for corresponding HELCOM measures. There remain, nevertheless, continuing needs for identifying the specific problems of the Baltic marine environment and reviewing whether measures by the various organisations (Global organisations, EU, HELCOM or national) adequately cover the general obligations of the Helsinki Convention and the HELCOM Objective with regard to the cessation target for hazardous substances by 2020 in the whole catchment area. Particular care should be taken, that the interests of all HELCOM Contracting Parties are taken into account. This might generate the need for HELCOM to adopt own measures.

The focus of the work in HELCOM on hazardous substances at least in the nearest future should be the aim to ensure that existing requirements are implemented. This should be carried out by initiating projects on raising awareness, capacity building and assistance to countries at least in the nearest future.

2. Identification of threats

2.1 Threats identified from HELCOM data sources

Possible threats or hazards indicated e.g. from results of HELCOM monitoring and assessment programmes supported by source oriented data or by modelling or estimation methods should be addressed by evaluating the need for HELCOM action or measures to be taken in other fora. Special consideration should be given to the HELCOM Assessments of the State of the Baltic Marine Environment, the HELCOM Baltic Sea Pollution Load Compilations as well as the results from the Strategy of Hazardous Substances and other national/international surveys connected to the Baltic Sea.

The findings of the HELCOM project on data collection for hazardous substances to be finalised in 2005 could result in the identification of hazardous substances not covered by existing regulations for which further action should be considered.

2.2 Threats or necessary measures identified by international forums

Information by other international forums should be screened by HELCOM in order to ensure that the identified threats are addressed or that identified measures are adequately covering the Baltic Sea region. This includes the results of the selection and prioritization of hazardous substances as well as background documents produced on these priority substances, such as the Fact sheets produced under the EU Water Framework Directive (WFD) and OSPAR Background Documents.

3. Identification of fields of action and the need for measures

Following the identification of possible fields of HELCOM action, problem analysis should be carried out, including an evaluation of the reason and source of the problem. This should include the evaluation if the problem and the needed action is a matter of HELCOM

and to what sector the problem mainly relates (industry, municipalities, land use or products). There should also be a preliminary assessment of the discharge and emission levels from the most important sources using both monitoring data and modelling.

If the identified problem is caused by long range transboundary pollution global measures could be more relevant than the adoption of HELCOM recommendations or in case the problem is caused by emissions or discharges from only one country national measures could respectively be more relevant. In these cases, the role of HELCOM could be to address the need for further measures to be taken by an international organisation or a single Contracting Party to stimulate the respective parties or to initiate projects to tackle the issue.

4. Screening the coverage of existing international and national provisions

The coverage of existing regulations to address the identified problem under HELCOM and other international forums, such as UN Conventions, EU legislation and OSPAR Decisions and Recommendations as well as national regulations, should be assessed.

Existing and upcoming EU legislation as well as the Marine Strategy is playing an important role when considering new or revising existing HELCOM Recommendations. HELCOM has a role in participating and influencing the development of the European Marine Strategy to ensure concerted actions on all levels globally, regionally and nationally, and to ensure that the final strategy will complement the work to achieve the HELCOM objectives. The participation in this development is also one way to ensure that the interests of all Contracting Parties in the catchment area are taken into account.

5. Deciding whether to develop measures at international, regional or national level

5.1 Measures at international level

In cases where it is assessed that other forums are more relevant to address the identified problem, HELCOM should pursue measures to be adopted in these forums based on information on the status of the Baltic marine environment and pollution data by coordinating initiatives and positions. This could be the case when the hazardous substance originates from sources outside the catchment area via atmospheric deposition or the threat is a joint problem affecting also other regions. To influence international forums and EU work there are at least two possibilities:

- a. HELCOM communicates its position to the international organisation/EU to address an identified threat e.g. via a proposal to include the HELCOM priority substances in question to the EU priority list under the WFD for the adoption of measures at EU level.
- b. Contracting Parties also being members of the EU influence the EU work as individual Member Countries/ The Contracting Parties also being members of the an international organisation influence the work of the organisation in question.

5.2 Measures at regional level

5.2.1 General

In cases where an identified problem specific for the Baltic area is not adequately addressed by measures adopted by HELCOM or other forums, actions (HELCOM Recommendations or initiation of projects etc.) should be taken to cover the problem or to supplement those imposed by other international organisations. This would secure that measures are adopted addressing all countries in the whole catchment area.

However, HELCOM Contracting Parties also being EU members have some limitations to go further than the European Community legislation with regard to requirements on chemicals. HELCOM recommendations on non-regulated substances can be drafted without legal restrictions for Baltic EU Member States if they do not provide restrictions to the EC Common Market or against any other basic rules and legislation of the EC Treaties.

5.2.2 Point sources

Existing HELCOM Recommendations for industrial sectors lay down specific requirements for controlling emissions, discharges and losses of hazardous substances. The main instrument for including new requirements and BAT information for hazardous substances for industry is the proposal for a new HELCOM umbrella Recommendation for the effective use of BAT for industry. The recommendation could be considered to cover largely pollution issues from these sectors within the catchment area of the Contracting Parties. The draft recommendation contains the general permitting principles of the IPPC Directive supplementing the present requirements on permitting in the Helsinki convention. The draft Recommendation also provides concise information on BAT and the achievable emission levels, with the specific aim to facilitate the identification of effective BAT for the control of emissions and discharges of Hazardous Substances (identified by HELCOM for priority action) in relevant industrial sectors. The aim is also to provide information on substitution of hazardous substances by less- or non-hazardous substances. The recommendation supplements the requirements in the existing HELCOM recommendations for industrial sectors.

The draft umbrella recommendation even broadens the scope of the IPPC directive as it is not limited to the IPPC sectors and does not contain any thresholds and is hence applicable to smaller industries than the IPPC Directive and applicable in the whole catchment area.

As the recommendation enables the addition of information from all kind of sources possible more stringent measures for the Baltic Sea can be pinpointed in the recommendation for specific hazardous substances not adequately covered by the IPPC Directive. For sectors not covered by the IPPC Directive specific HELCOM Recommendations could be developed when needed if actions under this HELCOM umbrella recommendation are not considered to be sufficient.

5.2.3 Diffuse sources

HELCOM Recommendations on Best environmental Practice (BEP) on how to use a substance aiming at the reduction of discharges, emissions and losses can be developed without restrictions for Baltic EU Member States for non-regulated substances.

In some cases HELCOM could give input to the EU work by coordinating positions of the Contracting Parties when need for more stringent measures is identified based on scientific evidence of particular sensitiveness of the Baltic marine environment to certain substances.

In this case there are different options for HELCOM how to either influence restrictions on substances to be taken at EU level or to apply more stringent measures in HELCOM Contracting Parties being also EU member states:

a. Input to risk assessment

HELCOM could give input to the EU work on risk assessment and risk reduction strategies.

b. Amendment procedure of EU regulations

For certain substances/ group of substances that are regulated under the Directives on e.g. Plant Protection Products or Biocides any further or more stringent measure have to undergo the formal amendment procedures of these regulations proposed by EU Member States. HELCOM's role could be to coordinate its position of the Baltic EU Member States to be communicated to the EU. Applying more stringent measures to eliminate/reduce the

emissions, discharges and losses of hazardous substances based on the application of the precautionary principle requires justifications with respect to the protection goals of the Helsinki Convention.

3. Notification procedure for legal measure in a Contracting Party

If HELCOM demonstrates that the Baltic Sea is particularly sensitive to certain substances the affected EU Member States could ask for a derogation to apply more stringent measures in the affected area(s). This requires a notification to the EU Commission including a justification, normally in form of a risk assessment.

5.3 Measures at national level

In cases where the threat is originating mainly from one Contracting Party the result should be communicated to the Contracting Party in question for actions to be taken nationally. For EU members this could mean that measures for these identified substances are taken e.g. by establishing quality standards according to the procedure described in Annex V of the WFD in order to achieve the objectives of the Directive. The initiative to start projects to address the issue could also be taken by HELCOM.

5.4 Better implementation of existing measures

One possible field of HELCOM action is the assessment of the effectiveness of existing measures including also other than HELCOM Recommendations with regard to the specific need of the Baltic Sea. One result could be that the relevant measures are in place but that these are not properly implemented. Hence establishment of projects e.g. raising the awareness of the authorities or of the producers could be more relevant than adopting new measures.