



CCUS ZEN WP2 Workshop 1 on legal and regulatory aspects

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Agenda



The presentation will focus on international and regional instruments with bearing on CCS operations. The subsequent discussions will then focus on more hubs and clusters-related issues. The intention here is to hear from you what you perceive the legal obstacles and issues to be (could be related to e.g., monitoring, verification, accounting, responsibility, liability and commercial contracts).

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
- Seven team members, based in Son (Norway), Tasmania (Australia) and Copenhagen (Denmark)
- Formal education from Norway, England, Denmark, Belgium, Turkey, Hong Kong, Japan, Australia and the United States



Agenda

- The London Protocol: background & status
- Regional Sea Conventions
 - Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention)
 - Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention)
 - Convention for the Protection of the Mediterranean Sea Against Pollution (Barcelona Convention)
 - Convention on the Protection of the Black Sea against Pollution (Bucharest Convention)
- Helsinki Convention
- Barcelona Convention
- Concluding remarks and way forward
- Workshop

London Protocol

- 1972 London Convention – “black” and “grey” list approach
- Recognising the need for a more precautionary and preventative approach, the Contracting Parties undertook a full review → London Protocol
- New system, “reverse list” approach (= annex 1)
- CO₂ not included on that list

London Protocol – 2006 Amendment

- Amendment to Annex 1 to allow for storage in sub-seabed geological formations

Carbon dioxide streams referred to in paragraph 1.8 may only be considered for dumping, if:

*1 disposal is into a sub-seabed **geological formation**; and*

*2 they consist **overwhelmingly of carbon dioxide**. They may contain incidental associated substances derived from the source material and the capture and sequestration processes used; and*

*3 **no** wastes or other matter are **added** for the purpose of disposing of those wastes or other matter.*

London Protocol – 2009 Amendment

- Export prohibition
- 2009 Amendment (not in force)
 - New art. 6.2
 - Provides criteria for export of CO₂ for storage
 - 10 states have accepted the amendment: Norway, Estonia, Finland, Islamic Republic of Iran, The Netherlands, Belgium, Sweden and the United Kingdom (France and Germany in the process)

London Protocol – 2009 Amendment

- Art. 6.2

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 serve the marine environment.*

London Protocol – 2019 Resolution

- The Netherlands, Norway, the United Kingdom, Republic of Korea, Belgium, Denmark and Sweden have deposited declarations of provisional application
- Belgium-Denmark
- Belgium-Norway

MEMORANDUM OF UNDERSTANDING (MoU)
BETWEEN
THE MINISTER FOR ENVIRONMENT OF THE FLEMISH REGION
AND
THE FEDERAL MINISTER FOR THE NORTH SEA OF BELGIUM
AND
THE MINISTER FOR CLIMATE, ENERGY AND UTILITIES OF DENMARK
ON CROSS BORDER TRANSPORTATION OF CO₂ WITH THE PURPOSE OF
PERMANENT GEOLOGICAL STORAGE

The Minister for Environment of the Flemish Region, the Federal Minister for the North Sea of Belgium, and the Minister for Climate, Energy and Utilities of Denmark (hereinafter referred to individually as a "Participant" and collectively as the "Participants");

Bearing in mind the MoU between the Participants on cooperation on carbon capture utilisation and storage (CCUS), particularly section 2b on the intent of the Participants to consider and prepare a bilateral agreement or arrangement between the Participants enabling cross-border transportation and storage of CO₂;

Have reached the following understanding:

Section 1 – Scope

This MoU is an arrangement in the sense of Article 6 paragraph 2 of the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972, as amended by Resolution LP. 3(4). Any definitions used should be understood as they are understood in the context of the London Protocol and applicable European Union law.

This MoU applies to cross border transportation of CO₂ between the Participants with the purpose of permanent geological storage.

Section 2 – Allocation of permits

The Participants recognise that all necessary permit responsibilities will be allocated to the relevant authorities of each Participant's country in accordance with the London Protocol. A non-exhaustive list of relevant permitting authorities are as follows;

For Denmark:

- The Danish Energy Agency (Energistyrelsen) is responsible for the issuance of CO₂ storage permits as well as ETS permits:

Danish Energy Agency (Energistyrelsen) Carsten Niebuhrs Gade 43 1577 København V	Danish Energy Agency (Energistyrelsen), Esbjerg Niels Bohrs Vej 8D 6700 Esbjerg
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Tlf: 33 92 67 00

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Regional Sea Conventions

- OSPAR (North-East Atlantic Sea)
 - **Helsinki Convention (Baltic Sea)**
 - Bucharest Convention (Black Sea)
 - **Barcelona Convention (Mediterranean Sea)**
-
- All have a similar aim: protect the marine environment from human activities

Helsinki Convention

- Originally signed in 1974, updated in 1994 and entered into force in 2000
- The Convention is amended whenever deemed necessary, such as to follow the developments in international environmental and maritime laws.
- The Helsinki Convention includes the protection of the Baltic Sea from all sources of pollution from land, air and sea. It also commits the signatories to take measures on conserving habitats and biological diversity and for the sustainable use of marine resources
- The Convention covers the whole of the Baltic Sea area, including inland waters as well as the water of the sea itself and the seabed

Helsinki Convention : the barrier

- Article 11: Prevention of dumping

*1. The Contracting Parties shall, subject to exemptions set forth in paragraphs 2 and 4 of this Article, **prohibit dumping in the Baltic Sea Area.***

*2. **Dumping of dredged material** shall be subject to a prior special permit issued by the appropriate national authority in accordance with the provisions of Annex V.*

- Annex V: Exceptions from the general prohibition of dumping of waste and other matter in the Baltic Sea Area. → **Dredged material is the only exception, meaning storage of CO₂ is prohibited**

Barcelona Convention

- Adopted in 1976, entered into force 1978 ; amended and renamed in 1995, entered into force in 2004
- 7 Protocols; some of which are particularly relevant to CCS operations, e.g.: the Dumping protocol
- Dumping protocol amended in 1995: not in force!

- 22 Contracting Parties, including : Greece, Italy, Spain, Türkiye and the EU

Moving forward

- White paper
- IOM Law will continue working with WP 3 and 4: more focused legal analysis on e.g., national framework, risk, liability, contractual issues, etc.



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