

CONVENTION ON THE PROTECTION OF THE MARINE  
ENVIRONMENT OF THE BALTIC SEA AREA

HELSINKI COMMISSION - Baltic Marine HELCOM 16/17  
Environment Protection Commission Annex 17

16th Meeting  
Helsinki, 14-17 March 1995

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**HELCOM RECOMMENDATION 16/1**

Adopted 14 March 1995,  
having regard to Article 13, Paragraph b)  
of the Helsinki Convention

**STRENGTHENING THE COOPERATION IN INVESTIGATION OF VIOLATIONS OF ANTI-POLLUTION REGULATIONS AND  
ON BRINGING EVIDENCE TO COURT**

**THE COMMISSION,**

**RECALLING** Regulation 2 of Annex IV of the Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1974, (Helsinki Convention) concerning co-operation in investigating violations of the existing legislation on anti-pollution measures, which have occurred or are suspected to have occurred within the Baltic Sea Area by, inter alia, inspecting oil record books, cargo record books, log books and engine log books, and by taking oil samples for analytical identification purposes,

**RECALLING ALSO** Article 6 of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) concerning co-operation in detection of violations and enforcement of that Convention,

**RECOGNIZING** the need for the further improvement of the co-operation in the investigation of violations of anti-pollution regulations and on the prosecution of these violations,

**BEARING IN MIND** the 1992 Paris Memorandum of Understanding on Port State Control,

**NOTING** the preparation of a manual on evidence to court called "Oil Pollution at Sea - Securing Evidence on Discharges from Ships" within the Bonn Agreement,

**RECALLING** the Ministerial Decision made at HELCOM 15 on seeking intensified co-operation in investigations regarding violations of anti-pollution regulations, in harmonization of bringing evidence to court and in providing assistance in conducting such investigations,

**RECALLING ALSO** HELCOM Recommendations 6/13 and 10/8 concerning co-operation in investigating violations or suspected violations of discharge and related regulations for ships and dumping regulations,

**RECALLING FURTHER** HELCOM Recommendation 12/8 concerning airborne surveillance with remote sensing equipment in the Baltic Sea Area,

**RECOMMENDS** that the Governments of the Contracting Parties to the Helsinki Convention should:

- a) ensure that necessary emphasis is put on controls under MARPOL 73/78, on the quality of controls of the ship's technical aspects, on the control of ships' documents, such as the oil and cargo record books and on prosecuting infringements of the duty to keep these books properly;
- b) strengthen the co-operation in investigations of violations by, inter alia, developing and establishing more practical ways of exchanging evidence between states, including the use of an electronic mailbox system;
- c) promote the use of the manual "oil Pollution at Sea - Securing Evidence on Discharges from Ships", developed within the Bonn Agreement, explaining the gathering of evidence in cases of violations of anti-pollution regulations,

**RESOLVES** to develop a manual specifying the requirements for a conviction in cases of violations of anti-pollution regulations in the various Contracting States including, inter alia, the substantive items listed in the Attachment to this Recommendation.

## **ATTACHMENT**

HELCOM Recommendation 16/1

Tentative list of substantive items to be included, inter alia, in the manual specifying the requirements for a conviction in cases of violations of anti-pollution regulations in the various Contracting States:

1. General description of national regulations concerning the enforcement of MARPOL 73/78 and the Helsinki Convention (oil, chemicals in bulk, sewage, garbage) including maximum fines which can be imposed;
2. Person held responsible for the violation;
3. Findings accepted by the Flag State administration including the contents and the evidence provided by reports of the Port State administration (all practical evidence, findings and facts concerning a single case preliminarily gathered by the Port State administration);
4. Differences in the prosecution of offenses against discharge regulations and mere-breaches of obligations, like the duty to make complete and correct entries into the oil record book;
5. Differentiation between contraventions against the Penal Code and breaches of administrative regulations, court fines, fines imposed by the administration and administrative means;
6. Statutory period of limitation;
7. Requirements for the prosecution of contraventions by the ships under foreign flag
  - a) under the flag of the Contracting Parties to MARPOL 73/78 and/or the Helsinki Convention,
  - b) under the flag of Non-Contracting Parties.