

# Coalition Clean Baltic

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To

HELCOM 31<sup>st</sup> Meeting of the Commission

## **CCB proposals on development of Criteria for HELCOM Agricultural Hot Spots related to the Polish positions on the requirement for manure storage in Annex III to the Helsinki Convention**

Facing particularly difficult and precedent case, which occurred in connection with the apparent dissonance between the signed (April 9, 1992) and ratified (24 June 1999, entry into force - 5 February 2000) by the Polish party the *The Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1992* and binding legal status in Poland (non-implementation of aforementioned document), *Coalition Clean Baltic*, *Green Federation GAJA* and *Polish Ecological Club* wish to express the deepest concern about the existing situation and to draw attention to the absolute necessity of a solution consistent with the international law. This is necessary to unblock the process of establishing criteria for inclusion and deletion of agricultural, point-source HELCOM's Hot Spots.

At the moment, Polish regulations concerning the storage and use of animal fertilizers have not been accommodated to requirements ensuing from the fully adapted to the requirements in the revised *Annex III* to the *Helsinki Convention* (the simplest example is the question of the capacity of liquid manure tanks: minimum requirements for manure storage is 6 months storage capacity). The *Annex III* of the *Helsinki Convention* will not be in force in Poland until its publication/proclamation in the *Journal Of Laws* of the Republic of Poland. This results with Poland having in force two equivalent (within the meaning of international law) and dissonant acts on natural fertilizers.

This discrepancy represents a significant obstacle to the recognition by Poland of the criteria proposed by HELCOM on including and deleting of agricultural Hot Spots. Proposal to resolve the situation was expressed by Poland in the *Position of the Ministry of Agriculture and Rural Development regarding the document of HELCOM 30/2009 2.17/Rev.1/Add.2 considering criteria for inclusion/ removal of agricultural "hot spots"* from March 2009, in which it seeks a further consultation in this area and to postpone the entry into force those criteria in Poland. The main reason stated is lack of possibility to accept the criteria for "it will be extremely difficult to amend the existing regulations and that actions related to the extension of the existing organic manure storage facilities is complicated legally and organisationally and requires significant financial outlays". This fact is even more surprising that at the time of signing the *Baltic Sea Action Plan* – in November 2007 – both the Polish *Ministry of Agriculture* and the *Ministry of Environment* were aware of the binding legal status. The requirement for six months manure storage capacity stems back to year 2000, and the decision by the 21<sup>st</sup> meeting of the Helsinki Commission. A new part 2 of Annex III dealing with "Prevention of pollution from Agriculture" including the requirement on minimum six months storage capacity was adopted, and entered into force on 31 December 2000. The new HELCOM regulation also stated that "Specified requirement levels shall be considered to be a minimum base for national legislation". This implies that Poland has had a 10-year period for implementation of the requirement for six months manure storage capacity, but obviously not started its implementation.

At the same time this position interferes with the Article 32 of the *Helsinki Convention* regarding amendments to the annexes and the adoption of annexes in accordance with whom the amended *Annex III* entered into force for the Polish party. At the same time, repeatedly cited in the abovementioned letter of Polish *Ministry of Agriculture and Rural Development's* argument, that *"the fulfilment of the Polish law requirements guarantees that the organic manure management is appropriate and there is no risk of a negative impact on the environment"* stands in apparent contradiction with the findings of the Polish *Supreme Chamber of Control*, which in the course of inspection of large

scale pig farms carried out in the years 2006 – 2007, negatively assessed the activities of government institutions/agencies in developing and implementing the state policy towards large scale pig breeding, as well as the monitoring system of the government administration on large scale livestock sector, while demonstrating great number of cases of shortcomings in this area. The results of this audit were probably not known the author of described *Position of the Ministry of Agriculture and Rural Development on the HELCOM 30/2009 2.17/Rev.1/Add.2 document on the criteria for inclusion/removal of agricultural "hot spots"* since he states among other things that *"Poland consistently argues that the problem of water pollution cannot be solved by regulation of the storage capacity of containers or slabs but by the determination and monitoring of the method of storage and application on the field"*.

In light of the facts quoted *Coalition Clean Baltic, Green Federation GAJA* and *Polish Ecological Club* hold a position that the Polish party should first declare the amended text of the *Helsinki Convention* in the *Journal Of Law* of the Republic of Poland, which will allow work on its full implementation, thus eliminating discrepancies between the national law and the *Helsinki Convention* and thus repress the obstacles that prevent the application of the criteria for inclusion/deletion of agricultural Hot Spots in Poland, without blocking the development of criteria in the entire basin of the Baltic Sea. Secondly Poland should seek possibilities to allocate EU agricultural subsidies to implement the HELCOM requirements for organic manure storage.

Our proposal to the Polish government are:

- publish the amended text of the Annex III of the *Helsinki Convention* in the *Journal Of Law* of the Republic of Poland, so legal national requirements will be consistent with the international law, already signed by the Polish government

- to find financial means to implement *Helsinki Convention* requirements, e.g. on organic manure storage, Poland should allocate more of the EU agricultural subsidies, Axis 1 for Rural Development Plans, to improve the environmental standards on farms, e.g. for manure storage facilities, so HELCOM requirements can be fully implemented until 2012

This position paper has been developed by CCB in cooperation with Green Federation GAIA, Poland; Polish Green Network and Polish Ecological Club (PKE).

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Attached to this position is the *Expertise statement on law regulations for the storage/disposal and use of animal fertilizers (slurry and manure)*, compiled by Dr. Zbigniew Bukowski from the law firm *Jendrośka Jerzmański Bar & Partners. Environmental Lawyers*, who is a recognized expert in the field of environmental law in the area of agricultural activity.