



Brussels, 17.5.2013
COM(2013) 300 final

2013/0153 (NLE)

Proposal for a

COUNCIL DECISION

**establishing the position to be taken in HELCOM and IMO concerning the designation
on the Baltic Sea as Nitrogen Oxide Emissions Control Area (NECA)**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The International Maritime Organisation (IMO) and its International Convention for the Prevention of Pollution from Ships (MARPOL, Annex VI) provide for the possibility to designate emission control areas, in order to reduce air pollution from shipping, at the request of the riparian States of the area concerned.

A North American NECA has already been agreed and in the EU, a Baltic Sea NECA application is ready for submission to the IMO, while work on preparing the North Sea NECA is progressing. NECA provisions will enter into force in 2016, and will apply only to ships built after that date entering a NECA.

As part of the NECA submission preparation, HELCOM performed a comprehensive analysis to estimate NOx emissions from ships operating in the Baltic and their impact.

The designation of the Baltic Sea as a NECA is expected to result in a reduction of 16% of NOx emissions from shipping in 2020 and 46% in 2030. It is expected that all ships will meet NECA requirements in the Baltic only around 2040-50, with a third equipped by 2030. The costs and benefits of the Baltic Sea NECA will therefore accrue gradually, due to the relatively slow replacement rate of ships, which varies by vessel type.

The Baltic NECA will be an important contribution to the reduction of air pollution, especially as several Member States in the Baltic Sea region do not meet the emission standards set by the Ambient Air Quality Directive. It will in addition result in health benefits and reduced eutrophication, one of the major environmental challenges faced by the Baltic Sea, as well as a diminished acidification and ozone formation.

Investment costs are mitigated due to some ship-owners having already opted to equip their new ships with NECA compliant engines to enable their ships to enter the North American NECA. In these cases, only additional operating costs arise, and will result in a gradual increase, until 2040-50, of costs of maritime transport in the Baltic Sea.

Further information on the costs and benefits of the Baltic Sea NECA for the EU stems from the Impact Assessment accompanying the Commission's 2010 proposal for the revision of Directive 1999/32 as regards sulphur content in marine fuels¹. According to this document, benefits associated with full IMO compliance are at least between €3 and €13 for every €1 spent². The benefit/cost ratio associated with the designation of the Baltic Sea as Emission Control Area is considered highly favourable.

Available technologies to reduce NOx emissions from shipping are exhaust gas recycling (EGR), LNG and specific catalytic reduction (SCR).

¹ SEC (2011) 919

² An ongoing study by DG ENV currently estimates cost benefit ratios for the Baltic NECA in a range of €2.3 to €8.6 for every €1 spent.

2. DEVELOPMENTS TO DATE

In 2010, the Ministerial meeting of the Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area (HELCOM) decided to "work towards submitting, preferably by 2011, a joint proposal by the Baltic Sea countries to the IMO applying for a NOx Emission Control Area (NECA) for the Baltic Sea".

In its meeting of 9-10 March 2011, the Baltic Marine Environment Protection Commission agreed that the Baltic Sea should be designated as a NECA. It noted however that some parties were not yet ready to take an immediate decision.

In its meeting of 6-7 March 2012, the Baltic Marine Environment Protection Commission agreed that the NECA application prepared in HELCOM fulfilled the IMO criteria.

In their meeting of 14-15 June 2012 the Heads of Delegation of HELCOM stressed that the only decision remaining was the timing of the submission to IMO.

In their meeting on 3-4 December 2012, the Heads of Delegation of HELCOM decided to organise a stakeholders meeting on the Baltic NECA application on 4 March 2013. They agreed that the final date of submission to IMO was to be taken prior to the October 2013 Ministerial Meeting. They agreed to report to the Ministers accordingly. A stakeholder meeting specifically targeted at the Baltic Sea shipping industry took place on March 4, 2013.

Once the date of submission has been agreed in HELCOM, the NECA submission will be transmitted for adoption to the IMO Marine Environmental Protection Committee (MEPC) by Baltic riparian States. IMO will then examine whether the requirements of a NOx Control Area under Annex VI of MARPOL are fulfilled. If so, the Baltic NECA will be agreed. However, no substantive discussion will take place at MEPC.

3. EU POSITION

The EU has supported in principle the designation of the Baltic Sea as a NECA, as agreed in the Council Shipping Working Party of 7 November 2011. The Working Party also considered that the designation of the Baltic Sea as a NECA was the most cost efficient measure to reduce NOx emissions, to meet ambient air quality standards and good environmental status regarding eutrophication as required under the Marine Strategy Framework Directive. It noted the request by the Shipping Working Party of 8th November 2010 for a detailed impact assessment, recognised that the further developed draft IMO submission for designing the Baltic Sea as a NECA included some elements on the risk of modal backshift but that in principle, a cost benefit analysis is not required by IMO when applying for an emission Control Area and that the economic analysis made in the application was sufficient to meet IMO requirements. On 17 October 2012, the shipping Working Party also took note of the progress on the Baltic Sea NECA and further noted that in case that IMO designates the Baltic Sea as a NECA, the Commission will assess the need to transpose this provision into EU legislation, and that this decision process might require further impact analysis.

It is now necessary for the Council to adopt the position to be expressed by the EU on the date at which the Baltic NECA submission will be transmitted to the MEPC, in line with article 218 (9) TFEU, before the next meeting of the HELCOM Heads of Delegation on 17 June 2013.

The applicable IMO rules³ foresee that NECA rules will apply as of 2016, independent of the date of submission of a proposal to designate an area as NECA. A rapid submission is therefore in the interest of the shipping industry and engine manufacturers, which need sufficient lead time to adapt and avoid possible higher retrofitting costs. .

In view of the above, the Union should support the submission to IMO of the HELCOM proposal to designate the Baltic Sea as an Emission Control Area for Nitrogen Oxide, by Baltic Sea riparian states at the latest by the 66th meeting of the IMO Marine Environment Protection Committee in March 2014. It is therefore necessary for the Council to also adopt the Union's position to be expressed by the EU Member States in IMO, in line with Article 218(9) TFEU.

³ IMO Revised MARPOL Annex VI, regulation 13.

Proposal for a

COUNCIL DECISION

establishing the position to be taken in HELCOM and IMO concerning the designation on the Baltic Sea as Nitrogen Oxide Emissions Control Area (NECA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 191, in conjunction with Article 218 (9), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The International Maritime Organisation (IMO) and its International Convention for the Prevention of Pollution from Ships (MARPOL, Annex VI) provide for the possibility to designate, at the request of the riparian states concerned, emission control areas (NECAs) in order to prevent, reduce and control emissions of Nitrogen Oxide (NO_x) from ships.
- (2) The European Union is a party to the Convention on the Protection of the Marine Environment of the Baltic Sea Area (HELCOM) which is the forum discussing the submission of a proposal for the Baltic Sea as NO_x Emissions Control Area to IMO.
- (3) Preparatory work has been undertaken under the auspices of HELCOM with regard to a draft submission to the IMO proposing the designation of a NECA in the Baltic Sea. Once the date of a NECA submission has been agreed in HELCOM, it will be transmitted for adoption to the IMO Marine Environmental Protection Committee (MEPC) by the Baltic riparian states. IMO will then examine whether the requirements of a NO_x Control Area under Annex VI of MARPOL are fulfilled. If so, the Baltic NECA will be agreed. However, no substantive discussion will take place at MEPC.
- (4) The EU ambient air quality directive 2008/50/EC and the NEC directive (2001/81/EC) set emission standards for air pollutants. In particular, directive 2001/81/EC provides that the Commission and Member States, as appropriate, shall, without prejudice to Article 218 of the TFEU, pursue bilateral and multilateral cooperation with third countries and relevant international organisations such as the International Maritime Organization (IMO) with the aim of improving the basis for the facilitation of emission reductions.
- (5) The HELCOM Baltic Sea Ministerial Declaration of 2010 agreed to designate the Baltic Sea NECA, preferably by 2011.

- (6) The Shipping Working Party of 8th November 2010 requested a detailed impact assessment as it recognised that the draft IMO submission for designing the Baltic Sea as a NECA included some elements on the risk of modal backshift. However, it acknowledged that a cost benefit analysis similar to preparatory work for future EU legislation is not required by IMO when applying for an Emission Control Area and that the economic analysis made in the application was sufficient to meet IMO requirements. In its meeting of 9-10 March 2011, the Baltic Marine Environment Protection Commission agreed that the Baltic Sea should be designated as a NECA. It noted however that some parties were not yet ready to take an immediate decision.
- (7) In its meeting of 6-7 March 2012, the Baltic Marine Environment Protection Commission agreed that the NECA application prepared in HELCOM fulfilled the IMO criteria.
- (8) In their meeting of 14-15 June 2012 the Heads of Delegation of HELCOM stressed that the only decision remaining was the timing of the submission to IMO.
- (9) In their meeting of 3-4 December 2012, the Heads of Delegation of HELCOM agreed that the final date of submission to IMO was to be taken prior to the October 2013 Ministerial Meeting.
- (10) If the decision is taken in HELCOM to submit a proposal to IMO to designate the Baltic Sea as an Emission Control Area for Nitrogen Oxide, the EU Member States should support the proposed designation of the Baltic Sea as an Emission control Area for Nitrogen Oxide.
- (11) IMO Tier III obligations for NECA will enter into force as of 2016, it is important to give economic operators sufficient time to adapt.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union in HELCOM shall be to support the submission by the Baltic riparian States to IMO of the HELCOM proposal to designate the Baltic Sea as an Emission Control Area for Nitrogen Oxide, at the latest by the 66th meeting of the IMO Marine Environment Protection Committee.

Article 2

Following adoption of the decision in HELCOM referred to in Article 1, it shall be presented and supported in the IMO by the Member States acting jointly in the interest of the European Union

Done at Brussels,

*For the Council
The President*