

Proposal for a Council Decision concerning the approval, on behalf of the Community, of  
OSPAR Decision 98/3 on the disposal of disused off-shore installations

(1999/C 158/03)

(Text with EEA relevance)

COM(1999) 190 final — 99/0097 (CNS)

(Submitted by the Commission on 26 April 1999)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130r(4), the first sentence of Article 228(2) and the first subparagraph of Article 228(3) thereof,

Having regard to the Commission proposal,

Having regard to the opinion of the European Parliament,

- (1) Whereas the Community is a Contracting Party to the Convention for the protection of the marine environment of the north-east Atlantic (OSPAR Convention) pursuant to Council Decision 98/249/EC of 7 October 1997<sup>(1)</sup>; whereas the aim of that Convention, which entered into force on 25 March 1998, is to prevent and eliminate pollution and to protect the maritime area against the harmful effects of human activities;
- (2) Whereas the executive body of the OSPAR Convention (the OSPAR Commission) may adopt measures in the fields covered by the Convention; whereas it has adopted OSPAR Decision 98/3 on the disposal of disused off-shore installations;
- (3) Whereas the European Commission has presented a communication to the Council and the European Parliament on the removal and disposal of disused off-shore oil and gas installations<sup>(2)</sup>; whereas the Council has welcomed that communication and adopted conclusions concerning negotiating directives for the Convention for the protection of the marine environment of the north-east Atlantic in which it recommends the adoption of an OSPAR

Decision on the disposal of disused off-shore installations which has the unanimous support of all the Contracting Parties to the OSPAR Convention;

- (4) Whereas the Commission has taken part in negotiating OSPAR Decision 98/3 in accordance with the Council Conclusions concerning negotiating directives for the Convention for the protection on the marine environment of the north-east Atlantic;
- (5) Whereas OSPAR Decision 98/3 contributes to the attainment of the objectives defined in Article 130r of the Treaty; whereas the Community should therefore approve this Decision,

HAS DECIDED AS FOLLOWS:

*Sole article*

1. OSPAR Decision 98/3 on the disposal of disused off-shore installations is hereby approved on behalf of the Community.

The text of the said Decision is attached to this Decision.

2. The Commission is authorised to notify this approval to the OSPAR Commission.

Done at ...

*For the Council*

...

*The President*

<sup>(1)</sup> OJ L 104, 3.4.1998, p. 1.

<sup>(2)</sup> COM(98) 49.

## OSPAR DECISION 98/3

## on the disposal of disused offshore installations

RECALLING the Convention for the protection of the marine environment of the North East Atlantic, in particular Articles 2 and 5 of that Convention,

RECALLING the relevant provisions of the United Nations Convention on the law of the sea,

RECOGNISING that an increasing number of offshore installations in the maritime area are approaching the end of their operational life-time,

AFFIRMING that the disposal of such installations should be governed by the precautionary principle, which takes account of potential effects on the environment,

RECOGNISING that reuse, recycling or final disposal on land will generally be the preferred option for the decommissioning of offshore installations in the maritime area,

ACKNOWLEDGING that the national legal and administrative systems of the relevant Contracting Parties need to make adequate provision for establishing and satisfying legal liabilities in respect of disused offshore installations,

THE CONTRACTING PARTIES TO THE CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC DECIDE THAT:

**Definitions**

1. For the purposes of this Decision,

‘concrete installation’ means a disused offshore installation constructed wholly or mainly of concrete;

‘disused offshore installation’ means an offshore installation, which is neither

- (a) serving the purpose of offshore activities for which it was originally placed within the maritime area, nor
- (b) serving another legitimate purpose in the maritime area authorised or regulated by the competent authority of the relevant Contracting Party;

but does not include:

- (c) any part of an offshore installation which is located below the surface of the sea-bed, or
- (d) any concrete anchor-base associated with a floating installation which does not, and is not likely to, result in interference with other legitimate uses of the sea;

‘relevant Contracting Party’ means the Contracting Party, which has jurisdiction over the offshore installation in question;

‘steel installation’ means a disused offshore installation, which is constructed wholly or mainly of steel;

‘topsides’ means those parts of an entire offshore installation which are not part of the substructure and includes modular support frames and decks where their removal would not endanger the structural stability of the substructure;

‘footings’ means those parts of a steel installation which:

- (i) are below the highest point of the piles which connect the installation to the sea bed;

- (ii) in the case of an installation built without piling, form the foundation of the installation and contain amounts of cement grouting similar to those found in footings as defined in point 3(a); or
- (iii) are so closely connected to the parts mentioned in (i) and (ii) of this definition as to present major engineering problems in severing them from those parts.

#### **Programmes and measures**

2. The dumping, and the leaving wholly or partly in place, of disused offshore installations within the maritime area is prohibited.
3. By way of derogation from point 2, if the competent authority of the relevant Contracting Party is satisfied that an assessment in accordance with Annex 2 shows that there are significant reasons why an alternative disposal mentioned below is preferable to reuse or recycling or final disposal on land, it may issue a permit for
  - (a) all or part of the footings of a steel installation in a category listed in Annex 1, placed in the maritime area before 9 February 1999, to be left in place;
  - (b) a concrete installation in a category listed in Annex 1 or constituting a concrete anchor base, to be dumped or left wholly or partly in place;
  - (c) any other disused offshore installation to be dumped or left wholly or partly in place, when exceptional and unforeseen circumstances resulting from structural damage or deterioration, or from some other cause presenting equivalent difficulties, can be demonstrated.
4. Before a decision is taken to issue a permit under point 3, the relevant Contracting Party shall first consult the other Contracting Parties in accordance with Annex 3.
5. Any permit for a disused offshore installation to be dumped or permanently left wholly or partly in place shall accord with the requirements of Annex 4.
6. Contracting Parties shall report to the Commission by 31 December 1999 and every two years thereafter, relevant information on the offshore installations within their jurisdiction including, when appropriate, information on their disposal for inclusion in the inventory to be maintained by the Commission.
7. In the light of experience in decommissioning offshore installations, in particular those in categories listed in Annex 1, and in the light of relevant research and exchange of information, the Commission shall endeavour to achieve unanimous support for amendments to that Annex in order to reduce the scope of possible derogations under paragraph 3. The preparation of such amendments shall be considered by the Commission at its meeting in 2003 and at regular intervals thereafter.

#### **Entry into force**

8. This Decision enters into force on 9 February 1999, and shall then replace Decision 95/1 of the Oslo Commission concerning the disposal of offshore installations.

#### **Implementation reports**

9. If any Contracting Party decides to issue a permit for a disused offshore installation to be dumped or left wholly or partly in place within the maritime area, it shall submit to the Commission at the time of the issue of the permit a report in accordance with point 3 of Annex 4.
10. If any disused offshore installation is dumped or left wholly or partly in place within the maritime area, the relevant Contracting Party shall submit to the Commission, within six months of the disposal, a report in accordance with point 4 of Annex 4.

*ANNEX 1***CATEGORIES OF DISUSED OFFSHORE INSTALLATION WHERE DEROGATIONS MAY BE CONSIDERED**

The following categories of disused offshore installations, excluding their topsides, are identified for the purpose of point 3:

- (a) steel installations weighing more than ten thousand tonnes in air;
  - (b) gravity based concrete installations;
  - (c) floating concrete installations;
  - (d) any concrete anchor-base which results, or is likely to result, in interference with other legitimate uses of the sea.
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## ANNEX 2

**FRAMEWORK FOR THE ASSESSMENT OF PROPOSALS FOR THE DISPOSAL AT SEA OF  
DISUSED OFFSHORE INSTALLATIONS****General provisions**

1. This framework shall apply to the assessment by the competent authority of the relevant Contracting Party of proposals for the issue of a permit under point 3 of this Decision.
2. The assessment shall consider the potential impacts of the proposed disposal of the installation on the environment and on other legitimate uses of the sea. The assessment shall also consider the practical availability of re-use, recycling and disposal options for the decommissioning of the installation.

**Information required**

3. The assessment of a proposal for disposal at sea of a disused offshore installation shall be based on descriptions of:
  - (a) the characteristics of the installation, including the substances contained within it; if the proposed disposal method includes the removal of hazardous substances from the installation, the removal process to be employed, and the results to be achieved, should also be described; the description should indicate the form in which the substances will be present and the extent to which they may escape from the installation during, or after, the disposal;
  - (b) the proposed disposal site; for example, the physical and chemical nature of the sea bed and water column and the biological composition of their associated ecosystems; this information should be included even if the proposal is to leave the installation wholly or partly in place;
  - (c) the proposed method and timing of the disposal.
4. The descriptions of the installation, the proposed disposal site and the proposed disposal method should be sufficient to assess the impacts of the proposed disposal, and how they would compare to the impacts of other options.

**Assessment of disposal**

5. The assessment of the proposal for disposal at sea of a disused offshore installation shall follow the broad approach set out below.
6. The assessment shall cover not only the proposed disposal, but also the practical availability and potential impacts of other options. The options to be considered shall include:
  - (a) re-use of all or part of the installation;
  - (b) recycling of all or part of the installation;
  - (c) final disposal on land of all or part of the installation;
  - (d) other options for disposal at sea.

**Matters to be taken into account in assessing disposal options**

7. The information collated in the assessment shall be sufficiently comprehensive to enable a reasoned judgement on the practicability of each of the disposal options, and to allow for an authoritative comparative evaluation. In particular, the assessment shall demonstrate how the requirements of point 3 of this Decision are met.

8. The assessment of the disposal options shall take into account, but need not be restricted to:
  - (a) technical and engineering aspects of the option, including re-use and recycling and the impacts associated with cleaning, or removing chemicals from, the installation while it is offshore;
  - (b) the timing of the decommissioning;
  - (c) safety considerations associated with removal and disposal, taking into account methods for assessing health and safety at work;
  - (d) impacts on the marine environment, including exposure of biota to contaminants associated with the installation, other biological impacts arising from physical effects, conflicts with the conservation of species, with the protection of their habitats, or with mariculture, and interference with other legitimate uses of the sea;
  - (e) impacts on other environmental compartments, including emissions to the atmosphere, leaching to groundwater, discharges to surface fresh water and effects on the soil;
  - (f) consumption of natural resources and energy associated with re-use or recycling;
  - (g) other consequences to the physical environment which may be expected to result from the options;
  - (h) impacts on amenities, the activities of communities and on future uses of the environment; and
  - (i) economic aspects.
9. In assessing the energy and raw material consumption, as well as any discharges or emissions to the environmental compartments (air, land or water), from the decommissioning process through to the re-use, recycling or final disposal of the installation, the techniques developed for environmental life cycle assessment may be useful and, if so, should be applied. In doing so, internationally agreed principles for environmental life cycle assessments should be followed.
10. The assessment shall take into account the inherent uncertainties associated with each option, and shall be based upon conservative assumptions about potential impacts. Cumulative effects from the disposal of installations in the maritime area and existing stresses on the marine environment arising from other human activities shall also be taken into account.
11. The assessment shall also consider what management measures might be required to prevent or mitigate adverse consequences of the disposal at sea, and shall indicate the scope and scale of any monitoring that would be required after the disposal at sea.

#### Overall assessment

12. The assessment shall be sufficient to enable the competent authority of the relevant Contracting Party to draw reasoned conclusions on whether or not to issue a permit under point 3 of this Decision and, if such a permit is thought justified, on what conditions to attach to it. These conclusions shall be recorded in a summary of the assessment which shall also contain a concise summary of the facts which underpin the conclusions, including a description of any significant expected or potential impacts from the disposal at sea of the installation on the marine environment or its uses. The conclusions shall be based on scientific principles and the summary shall enable the conclusions to be linked back to the supporting evidence and arguments. Documentation shall identify the origins of the data used, together with any relevant information on the quality assurance of that data.
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## ANNEX 3

## CONSULTATION PROCEDURE

1. A relevant Contracting Party which is considering whether to issue a permit under point 3 of this Decision shall start this consultation procedure at least 32 weeks before any planned date of a decision on that question by sending to the Executive Secretary a notification containing:
  - (a) an assessment prepared in accordance with Annex 2 to this Decision, including the summary in accordance with point 12 of that Annex;
  - (b) an explanation why the relevant Contracting Party considers that the requirements of paragraph 3 of this Decision may be satisfied;
  - (c) any further information necessary to enable other Contracting Parties to consider the impacts and practical availability of options for re-use, recycling and disposal.
2. The Executive Secretary shall immediately send copies of the notification to all Contracting Parties.
3. If a Contracting Party wishes to object to, or comment on, the issue of the permit, it shall inform the Contracting Party which is considering the issue of the permit not later than the end of 16 weeks from the date on which the Executive Secretary circulated the notification to the Contracting Parties, and shall send a copy of the objection or comment to the Executive Secretary. Any objection shall explain why the Contracting Party which is objecting considers that the case put forward fails to satisfy the requirements of point 3 of this Decision. That explanation shall be supported by scientific and technical arguments. The Executive Secretary shall circulate any objection or comment to the other Contracting Parties.
4. Contracting Parties shall seek to resolve by mutual consultations any objections made under the previous paragraph. As soon as possible after such consultations, and in any event not later than the end of 22 weeks from the date on which the Executive Secretary circulated the notification to the Contracting Parties, the Contracting Party proposing to issue the permit shall inform the Executive Secretary of the outcome of the consultations. The Executive Secretary shall forward the information immediately to all other Contracting Parties.
5. If such consultations do not resolve the objection, the Contracting Party which objected may, with the support of at least two other Contracting Parties, request the Executive Secretary to arrange a special consultative meeting to discuss the objections raised. Such a request shall be made not later than the end of 24 weeks from the date on which the Executive Secretary circulated the notification to the Contracting Parties.
6. The Executive Secretary shall arrange for such a special consultative meeting to be held within six weeks of the request for it, unless the Contracting Party considering the issue of a permit agrees to an extension. The meeting shall be open to all Contracting Parties, the operator of the installation in question and all observers to the Commission. The meeting shall focus on the information provided in accordance with points 1 and 3 and during the consultations under point 4. The chairman of the meeting shall be the Chairman of the Commission or a person appointed by the Chairman of the Commission. Any questions about the arrangements for the meeting shall be resolved by the chairman of the meeting.
7. The chairman of the meeting shall prepare a report of the views expressed at the meeting and any conclusions reached. That report shall be sent to all Contracting Parties within two weeks of the meeting.
8. The competent authority of the relevant Contracting Party may take a decision to issue a permit at any time after:
  - (a) the end of 16 weeks from the date of despatch of the copies under point 2, if there are no objections at the end of that period;

- (b) the end of 22 weeks from the date of despatch of the copies under point 2, if any objections have been settled by mutual consultation under point 4;
  - (c) the end of 24 weeks from the date of despatch of the copies under point 2, if there is no request for a special consultative meeting under point 5;
  - (d) receiving the report of the special consultative meeting from the chairman of that meeting.
9. Before making a decision with regard to any permit under point 3 of this Decision, the competent authority of the relevant Contracting Party shall consider both the views and any conclusions recorded in the report of the special consultative meeting, and any views expressed by Contracting Parties in the course of this procedure.
10. Copies of all the documents which are to be sent to all Contracting Parties in accordance with this procedure shall also be sent to those observers to the Commission who have made a standing request for this to the Executive Secretary.
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## ANNEX 4

## PERMIT CONDITIONS AND REPORTS

1. Every permit issued in accordance with paragraph 3 of this Decision shall specify the terms and conditions under which the disposal at sea may take place, and shall provide a framework for assessing and ensuring compliance.
  2. In particular, every permit shall:
    - (a) specify the procedures to be adopted for the disposal of the installation;
    - (b) require independent verification that the condition of the installation before the disposal operation starts is consistent both with the terms of the permit and with the information upon which the assessment of the proposed disposal was based;
    - (c) specify any management measures that are required to prevent or mitigate adverse consequences of the disposal at sea;
    - (d) require arrangements to be made, in accordance with any relevant international guidance, for indicating the presence of the installation on nautical charts, for advising mariners and appropriate hydrographic services of the change in the status of the installation, for marking the installation with any necessary aids to navigation and fisheries and for the maintenance of any such aids;
    - (e) require arrangements to be made for any necessary monitoring of the condition of the installation, of the outcome of any management measures and of the impact of its disposal on the marine environment and for the publication of the results of such monitoring;
    - (f) specify the responsibility for carrying out any management measures and monitoring activities required and for publishing reports on the results of any such monitoring;
    - (g) specify the owner of the parts of the installation remaining in the maritime area and the person liable for meeting claims for future damage caused by those parts (if different from the owner) and the arrangements under which such claims can be pursued against the person liable.
  3. Every report under paragraph 9 of this Decision shall set out:
    - (a) the reasons for the decision to issue a permit under paragraph 3;
    - (b) the extent to which the views recorded in the report of the special consultative meeting under paragraph 7 of Annex 3 to this Decision, or expressed by other Contracting Parties during the procedure under that Annex, were accepted by the competent authority of the relevant Contracting Party;
    - (c) the permit issued.
  4. Every report under point 10 of this Decision shall set out:
    - (a) the steps by which the disposal at sea was carried out;
    - (b) any immediate consequences of the disposal at sea which have been observed;
    - (c) any further information available on how any management measures, monitoring or publication required by the permit will be carried out.
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