



EUROPEAN
COMMISSION

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Proposal for a

COUNCIL DECISION

**on the position to be taken on behalf of the European Union in the Convention for the
Protection of the Marine Environment of the North-East Atlantic at the OSPAR
Commission meeting of June 2026**

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Commission of the Convention for the protection of the marine environment of the North-East Atlantic (the 'OSPAR Commission') in connection with the envisaged adoption of the recommendation on the phasing out of dolly rope serving as chafing gear.

2. CONTEXT OF THE PROPOSAL

2.1. The OSPAR Convention

The Convention for the protection of the marine environment of the North-East Atlantic ('OSPAR Convention') aims to protect the North-East Atlantic maritime area against the adverse effects of human activities to safeguard human health, conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected. It has 16 Contracting Parties: Belgium, Denmark, the EU, Finland, France, Germany, Iceland, Ireland, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden the United Kingdom, and Switzerland. The OSPAR Convention entered into force on 25 March 1998.

2.2. The OSPAR Commission

The OSPAR Commission (established by Article 10 of the OSPAR Convention) is made up of representatives of each of the Contracting Parties; it meets at regular intervals and at any time deemed necessary due to special circumstances. Its duties include supervising the implementation of the Convention and reviewing the OSPAR priorities, the condition of the maritime area, the effectiveness of the measures being adopted, and the need for any additional or different measures. Pursuant to Article 10(3) of the OSPAR Convention, the OSPAR Commission has the power to adopt decisions and recommendations in accordance with Article 13 of the OSPAR Convention.

According to Article 20 of the Convention, each Contracting Party has one vote in the OSPAR Commission. The EU is entitled to a number of votes equal to the number of its Member States that are Contracting Parties to the Convention. The EU shall not exercise its right to vote when its Member States exercise theirs, and vice-versa (Article 20(2)). Pursuant to Article 13(1) of the OSPAR Convention, decisions and recommendations shall be adopted by unanimous vote of the Contracting Parties, or – if unanimity cannot be attained – by a three-quarters majority vote of the Contracting Parties.

2.3. The envisaged act of the OSPAR Commission

During its meeting of June 2026, the OSPAR Commission is set to adopt a recommendation on the phasing out of the use of dolly ropes serving as chafing gear in fisheries to substantially reduce marine litter from fishing gear ('the envisaged act'). Dolly ropes are made of plastic and as such contribute to plastic pollution and, in addition, pose lasting hazards to marine species due to entanglement.

The recommendation, which is not legally binding, encourages OSPAR Contracting Parties to adopt national measures to replace dolly ropes with environmentally appropriate alternatives and to support the testing and development of such alternatives. Furthermore, it advocates collective efforts to exchange information, overcome potential barriers, and promote legal measures once suitable alternatives are available.

The recommendation also promotes monitoring efforts to understand the impact of dolly ropes on the marine environment.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The position to be taken at the OSPAR Commission meeting in June 2026 is to support the adoption of the envisaged act. The recommendation is aligned with EU legislation pertaining to marine environmental protection, including Directive (EU) 2019/904, which addresses the reduction of the impact of certain plastic products on the environment, and Directive 2008/56/EC, which establishes a framework for community action in the field of marine environmental policy. A key element of the latter Directive notably involves taking measures to prevent marine litter from causing harm to the coastal and marine environment, which is an essential component in achieving good environmental status of marine waters.

Additionally, EU Regulation 2019/1241 sets provisions for the conservation of fisheries resources and protection of marine ecosystems. These pieces of EU legislation provide a coherent framework for the possible phasing out of dolly ropes to mitigate plastic pollution, aligning with the objectives of the envisaged OSPAR recommendation. A Union position on the envisaged recommendation is necessary since it will facilitate the implementation of EU policies and legislation and prevent damage to and improve protection of the marine environment. It is therefore proposed that the Union supports the adoption of the envisaged act.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing *‘the positions to be adopted on the Union’s behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.’*

The concept of *‘acts having legal effects’* includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are *‘capable of decisively influencing the content of the legislation adopted by the EU legislature’*¹.

4.1.2. Application to the present case

The OSPAR Commission is a body set up by an agreement, namely the OSPAR Convention.

The envisaged act constitutes an act having legal effects within the meaning of Article 218(9) TFEU, because the recommendation on the phasing out of dolly ropes serving as chafing gear in fisheries, even if it is not legally binding, generates legal effects under international law, given that the OSPAR Convention imposes an obligation of conduct on the contracting parties as regards the implementation of recommendations of the OSPAR Commission. .

In this context, reference should be made to Article 22 of the OSPAR Convention, which imposes a legal obligation on the contracting parties to report at regular intervals to the OSPAR Commission on *“(a) the legal, regulatory, or other measures taken by them for the implementation of the provisions of the Convention and of decisions and recommendations*

¹ Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

adopted thereunder, including in particular measures taken to prevent and punish conduct in contravention of those provisions [...]”. In addition, Article 23 of the OSPAR Convention provides that the OSPAR Commission shall “*assess their compliance with the Convention and the decisions and recommendations adopted thereunder*”

These provisions make clear that the OSPAR Convention establishes, in a legally binding manner, that the parties are expected to take measures to implement the recommendations of the OSPAR Commission and to report on those measures, and that their compliance with those recommendations shall be monitored by the OSPAR Commission, thus imposing an obligation of conduct on the parties as regards these recommendations. For this reason, OSPAR recommendations are considered to generate legal effects vis-à-vis the contracting parties, including the Union, within the meaning of Article 218(9) TFEU.

In the case of the recommendation on the phasing out of dolly rope serving as chafing gear, the existence of such legal effects is confirmed by the content of the recommendation. In this context, reference should be made to point 5 of the recommendation entitled ‘implementation reports’, which confirms that the parties are expected to implement the recommendation, and are obliged to report (‘shall be submitted’) on that implementation, using a specifically established reporting format set out in Annex I of the recommendation.

Therefore, the envisaged act has legal effects under international law for the Union, given that an obligation of conduct is imposed on the Union, as a contracting party to the OSPAR Convention, to implement the envisaged act and to report on that implementation. The envisaged act does not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to protection of the environment. Therefore, the substantive legal basis of the proposed decision is Article 192(1) TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 192(1), in conjunction with Article 218(9) TFEU.

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on the position to be taken on behalf of the European Union in the Convention for the Protection of the Marine Environment of the North-East Atlantic at the OSPAR Commission meeting of June 2026

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The OSPAR Convention ('the Convention') was concluded by the Union by means of Council Decision 98/249/EC of 7 October 1998.
- (2) Pursuant to Article 10(3) of the Convention, the Commission established by Article 10(1) of the Convention ("the OSPAR Commission") is able to adopt decisions and recommendations in accordance with Article 13 of the Convention.
- (3) The OSPAR Commission, during its 29th regular meeting starting on 22 June 2026, is scheduled to adopt a recommendation on the phasing out of dolly rope serving as chafing gear.
- (4) The recommendation on the phasing out of dolly rope serving as chafing gear of the OSPAR Commission will, if adopted, produce legal effects for the Union.
- (5) It is therefore appropriate to establish the position to be taken within the OSPAR Commission with regard to the recommendation on the phasing out of dolly rope serving as chafing gear.

HAS ADOPTED THIS DECISION:

Article 1

The Union shall agree to the adoption of the recommendation on the phasing out of dolly ropes serving as chafing gear within the OSPAR Commission.

Article 2

Minor technical changes to the position set out in Article 1 may be agreed upon without a further decision of the Council.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*