Council of the European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the signing, on behalf of the European Union, of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

COUNCIL DECISION (EU) 2023/…

of …

on the signing, on behalf of the European Union,
of the Agreement under the United Nations Convention
on the Law of the Sea on the conservation and sustainable use
of marine biological diversity of areas beyond national jurisdiction

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(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By way of Council Decision 98/392/EC[1], the European Community concluded the United Nations Convention of 10 December 1982 on the Law of the Sea ('UNCLOS') and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof in respect of those matters governed by it for which competence has been transferred to the Community by its Member States. The Union is thus far the only international organisation which is a Party to UNCLOS within the meaning of Article 305(1)(f) of UNCLOS and Article 1 of Annex IX thereto.

(2) In its resolution 72/249 of 24 December 2017, the UN General Assembly decided to convene an intergovernmental conference, under the auspices of the United Nations, to elaborate the text of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction.

(3) On 19 March 2018, the Council authorised the Commission to negotiate, on behalf of the Union, as regards matters falling within the Union's competence and in respect of which the Union has adopted rules, an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

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[1] Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

(4) Both the Union and its Member States are parties to UNCLOS and have competence in the fields covered by the negotiations; the Union therefore participated in the negotiations of the text of that Instrument alongside its Member States.

(5) The negotiations were successfully completed, at the further resumed fifth session of the intergovernmental conference that took place in New York from 19 to 20 June 2023 where the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction ('BBNJ Agreement') was adopted.

(6) The Union and its Member States took an active part in the successful outcome of the negotiations.

(7) The BBNJ Agreement covers four areas: marine genetic resources including the fair and equitable sharing of benefits (Part II of the BBNJ Agreement), measures such as area-based management tools, including marine protected areas (Part III of the BBNJ Agreement), environmental impact assessments; (Part IV of the BBNJ Agreement), as well as capacity building and the transfer of marine technology (Part V of the BBNJ Agreement). The BBNJ Agreement will further support the achievement of the 2030 UN Agenda for Sustainable Development, in particular its Sustainable Development Goal 14 ("Life Below Water") and contribute to meeting the goals and targets of the Kunming-Montreal Global Biodiversity Framework.

(8) The BBNJ Agreement is in conformity with the environmental objectives of the Union as referred to in Article 191 of the Treaty on the Functioning of the European Union, namely preserving, protecting and improving the quality of environment; protecting human health; prudent and rational utilisation of natural resources; and promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

(9) In accordance with Article 65 of the BBNJ Agreement, the agreement is open for signature by the Union.

(10) The signing of the Agreement on behalf of the Union does not affect the allocation of competences between the Union and its Member States. This Decision should not be interpreted as making use of the possibility for the Union to exercise its external competence with regard to areas covered by the Agreement falling within shared competence to the extent that such competence has not yet been exercised internally by the Union.

(11) The Union should become a Party to the BBNJ Agreement alongside its Member States, since both have competences in the areas covered by the agreement. This Decision is without prejudice to the signature of the agreement by the Member States, in accordance with their internal procedures.

(12) This Decision is without prejudice to any arrangements of the Union and its Member States on their respective responsibilities for the performance of their obligations under the BBNJ Agreement to be taken pursuant to Article 67 of the BBNJ Agreement.

(13) This Decision is without prejudice to the sovereignty, sovereign rights, and jurisdiction of Member States in accordance with UNCLOS.

(14) The BBNJ Agreement should be signed,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (the 'Agreement') is hereby authorised, subject to the conclusion of the said Agreement[1].

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 3

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

Done at Brussels,

For the Council
The President

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[1] The text of the Agreement will be published together with the decision on its conclusion.