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### LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union in the Preparatory Commission and at the first Conference of the Parties to 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

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**COUNCIL DECISION (EU) 2026/...**

**of ...**

**on the position to be taken on behalf of the European Union  
in the Preparatory Commission and at the first Conference of the Parties to 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(9), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By virtue of Council Decision 98/392/EC<sup>1</sup>, the European Community approved the United Nations Convention on the Law of the Sea of 10 December 1982 ('UNCLOS') and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof.
- (2) By virtue of Council Decision 2024/1830<sup>2</sup>, the Union approved 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'). The Agreement entered into force on 17 January 2026.
- (3) Pursuant to Article 66 of the Agreement, the Agreement is subject to ratification, approval or acceptance by States and regional economic integration organisations, such as the Union.

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<sup>1</sup> 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, ELI: <http://data.europa.eu/eli/dec/1998/392/oj>).

<sup>2</sup> Council Decision (EU) 2024/1830 of 17 June 2024 on the conclusion, 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 (OJ L, 2024/1830, 19.7.2024, ELI: <http://data.europa.eu/eli/dec/2024/1830/oj>).

- (4) The Conference of the Parties to the Agreement (the ‘Conference of the Parties’) has been established by Article 47(1) of the Agreement. Pursuant to Article 47(4) of the Agreement, the Conference of the Parties is to adopt by consensus, at its first meeting, the rules of procedure for itself (the ‘rules of procedure’) and the financial rules governing its funding and the funding of the secretariat and any subsidiary bodies (the ‘financial rules’).
- (5) In Resolution 78/272<sup>3</sup> adopted by it on 24 April 2024, the General Assembly of the United Nations (UNGA) decided to establish a preparatory commission (the ‘preparatory commission’) to prepare for the entry into force of the Agreement and to prepare for the convening of the first meeting of the Conference of the Parties to the Agreement, at the conclusion of which the preparatory commission will cease to exist.
- (6) Pursuant to paragraph 9 of UNGA Resolution 78/272, it is envisaged that the preparatory commission is to take decisions at its final meeting on recommendations to the Conference of the Parties on the rules of procedure and on the financial rules.

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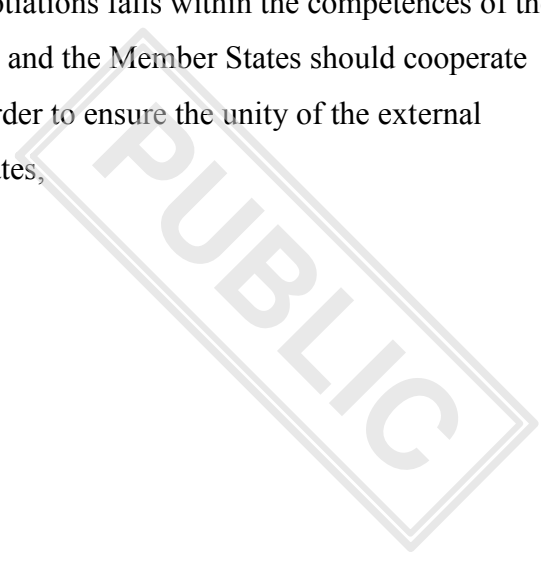
<sup>3</sup> UNGA Resolution 78/272 adopted on 24 April 2024 on the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction.

- (7) On the basis of the recommendations made, the preparatory commission will prepare the decisions to be adopted by the Conference of the Parties which will have legal effects within the meaning of Article 218(9) of the Treaty on the Functioning of the European Union, as the adoption of the rules of procedure and the financial rules will be legally binding on the Union. The recommendations made by the preparatory commission will define the substance and the scope of the possible future decisions to be taken by the Conference of the Parties that will have legal effects. As the substantial and specific elements of the future decisions of the Conference of the Parties will already be determined at a preliminary stage by the recommendations to be adopted by the preparatory commission at its final meeting, those recommendations should also be covered by this Decision.
- (8) The decisions to be adopted will fall within areas of Union competence as well as areas of Member States' competence. As regards matters falling within the Union's competence, it is therefore necessary to establish the position to be taken on the Union's behalf at the final meeting of the preparatory commission and the first Conference of the Parties to ensure the effective implementation of the Agreement. The Union should support rules of procedure that provide for the efficient, cost effective, transparent and orderly functioning and organisation of meetings of the Conference of the Parties, and that allow for the full participation of the Union as a Party in accordance with the Agreement.

- (9) To ensure that the Agreement's functioning and implementation is correctly funded, the Union should support the adoption of financial rules and the operationalisation of a financial mechanism that establish a fair and transparent process which is responsive to the circumstances of each Party to the Agreement, with a view to ensuring that each Party contributes to the financial sustainability of the Agreement and its implementation in a manner that is equitable and consistent with each Party's ability to contribute. The operationalisation of the financial mechanism established by the Agreement should also ensure the provision of assistance to developing States Parties in their efforts to implement the Agreement.
- (10) This Decision cannot be read as affecting in any way the respective competences of the Union and its Member States. It 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. In the area of shared competences, the Member States retain their competence insofar as the Agreement does not affect common rules or alter the scope thereof, including their foreseeable future development.

- (11) To the extent that the subject matter of the negotiations falls within the competences of the Union and the Member States, the Commission and the Member States should cooperate closely throughout the negotiating process in order to ensure the unity of the external representation of the Union and its Member States,

HAS ADOPTED THIS DECISION:



## *Article 1*

The position to be taken on the Union's behalf at the final meeting of the preparatory commission and the first meeting of the Conference of the Parties to 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') shall be the following:

- (1) the Union shall support the adoption of rules of procedure that provide for the efficient, cost effective, transparent and orderly functioning and organisation of meetings of the Conference of the Parties to the Agreement, and that allow for the full participation of the Union as a Party in accordance with the Agreement;
- (2) the Union shall support the adoption of financial rules and the operationalisation of a financial mechanism that establish a fair and transparent process which is responsive to the circumstances of each Party to the Agreement, with a view to ensuring that each Party contributes to the financial sustainability of the Agreement and its implementation in a manner that is equitable and consistent with each Party's ability to contribute, and which also ensures the provision of assistance to developing States Parties in their efforts to implement the Agreement.

*Article 2*

The Commission and the Member States shall cooperate closely during the final meeting of the preparatory commission and in the period between that meeting and the first meeting of the Conference of the Parties to the Agreement, with a view to ensuring unity in the external representation of the Union and its Member States. The Union position shall be consistent with the position laid down in this Decision and with its underlying principles.

*Article 3*

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

Done at ...,

*For the Council*

*The President*

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