



Council of the  
European Union

Brussels, 13 March 2018  
(OR. en)

6698/18

LIMITE

JUR 95  
COMAR 3  
COJUR 3  
ENV 140

## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: COUNCIL DECISION authorising the opening of negotiations, on behalf of the European Union, on 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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**COUNCIL DECISION (EU) 2018/...**

**of ...**

**authorising the opening of negotiations,  
on behalf of the European Union,  
on 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**

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 (3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The Union concluded the United Nations Convention on the Law of the Sea (UNCLOS) by Council Decision 98/392/EC<sup>1</sup>, in respect of those matters for which competences have been transferred to the Union by its Member States. The Union is the only international organisation which is a party to that Convention within the meaning of Article 305(1)(f) and Article 1 of Annex IX of the UNCLOS to date.

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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).

- (2) As a party to the UNCLOS, the Union, alongside its Member States, participated in the UN Ad Hoc Open-ended Informal Working Group that met from 2006 to 2015 to study issues relating to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. The Union also participated, alongside its Member States, in the four sessions, in 2016 and 2017, of the Preparatory Committee which was mandated to make substantive recommendations to the General Assembly on the elements of a future international legally binding instrument under the UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (the 'instrument').<sup>1</sup>
- (3) The Preparatory Committee adopted its report on 21 July 2017 and recommended that the General Assembly consider the elements contained in its recommendation and that it take a decision, as soon as possible, on the convening of an intergovernmental conference, under the auspices of the United Nations, to consider the recommendations of the Preparatory Committee and to elaborate the text of an international legally binding instrument under the UNCLOS.

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<sup>1</sup> Council Decision (EU) 2016/455 of 22 March 2016 authorising the opening of negotiations on behalf of the European Union on the elements of a draft 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 (OJ L 79, 30.3.2016, p. 32).

- (4) On the basis of these recommendations, the United Nations General Assembly decided by Resolution A./RES/72/249 (the 'resolution') on 24 December 2017, to convene an intergovernmental conference to elaborate the text of an international legally binding instrument under the UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.
- (5) The Union and its Member States are parties to the UNCLOS. Alongside its Member States, the Union should participate in the negotiations of the instrument. The participation rights of the Union with regard to the meetings of the intergovernmental conference are covered in paragraph 11 of the resolution.
- (6) The matters covered by the negotiations may fall within the areas of Union competence as well as within the areas of Member States' competence,

HAS ADOPTED THIS DECISION:

### *Article 1*

The Commission is hereby authorised to open negotiations, on behalf of the Union, as regards matters falling within the Union's competence and in respect of which the Union has adopted rules, on 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.

### *Article 2*

The Commission shall conduct the negotiations on behalf of the Union, as regards matters falling within the Union's competence and in respect of which the Union has adopted rules, in line with the negotiating directives set out in the Addendum to this Decision. The negotiating directives cannot be read as affecting in any way the respective competences of the Union and the Member States.

### *Article 3*

The negotiations shall be conducted in consultation with the special committee provided for in Article 218 (4) TFEU. The special committee is the Law of the Sea Working Party (COMAR).

*Article 4*

To the extent that the subject matter of the negotiations falls within the competences of both the Union and of its Member States, the Commission and the Member States should cooperate closely during the negotiating process, with a view to ensuring unity in the international representation of the Union and its Member States.

*Article 5*

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council*  
*The President*

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