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## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Declaration of Competence of the European Union made in accordance with Article 67(2) 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

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Declaration of Competence of the European Union  
made in accordance with Article 67(2)  
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

1. The European Union ('the Union') submits, in accordance with Article 67(2) 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'), the following Declaration of Competence in respect of matters governed by the Agreement.
2. The Union Member States are the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Republic of Croatia, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden.

3. Pursuant to Articles 3 and 4 of the Treaty on the Functioning of the European Union (TFEU), in some matters the Union has exclusive competence, and in other matters competence is shared between the Union and its Member States. Pursuant to Article 4(1) of the Treaty on European Union (TEU), the Member States remain solely competent for all matters in respect of which no competence has been conferred upon the Union in the Treaties.
4. In this regard, the Union declares, firstly, that it is competent to enter into international agreements, and to implement the obligations resulting therefrom, which are related to the area of environment, a shared competence with the Member States pursuant to Article 4(2), point (e), TFEU. This concerns namely the following objectives, in accordance with Article 191 TFEU:
- preserving, protecting and improving the quality of the environment;
  - protecting human health;
  - prudent and rational utilisation of natural resources;
  - promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

As regards matters for which Union rules have been adopted, the Union has exclusive competence in respect of matters governed by the Agreement only to the extent that provisions of the Agreement or decisions of the Conference of the Parties to the Agreement may affect common rules or alter their scope within the meaning of Article 3(2) TFEU. In this regard, the conclusion of the Agreement, on behalf of the Union, does not affect the attribution of competences between the Union and its Member States according to the Treaties. In particular, this Declaration 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. 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.

Accordingly, the extent of the Union's competence must be assessed on the basis of a comprehensive and detailed analysis of the relationship between the Agreement and the precise provisions of each measure of Union law, on a case-by-case basis. The scope and the exercise of such Union competences are, by their nature, subject to continuous development.

5. Secondly, the Union declares that it has a parallel competence to carry out activities in the following areas:

- research and technological development;
- development cooperation.

In accordance with Article 4(3) and (4) TFEU, the exercise of the Union's parallel competence is not to result in Member States being prevented from exercising their competences.

6. Thirdly, the Union declares that it has exclusive competence as regards the conservation of marine biological resources under the common fisheries policy, in accordance with Article 3(1), point (d), TFEU.

7. The Union and its Member States are therefore competent to conclude the Agreement. The Union's conclusion of the Agreement is without prejudice to the Member States' competence as regards the ratification, acceptance or approval of the Agreement.

8. As regards measures to be adopted under the Agreement, the area of competence of the Union within which the measure falls, will depend on an internal assessment of the main purpose or component of the measure to be adopted under the Agreement as well as the objectives and components more specific to the position to be established by the Union. Accordingly, the Union and its Member States have decided on their respective responsibilities for the performance of their obligations under the Agreement, in accordance with Article 67(1) of the Agreement.
9. Finally, as regards the competences transferred to the Union, this Declaration is without prejudice to the territorial scope of application of the Treaties, and shall be applied under the conditions laid down in the Treaties, in particular Article 355 TFEU. Pursuant to Article 355 TFEU, this Declaration is not applicable to the overseas countries and territories of the Member States in which the Treaties do not apply, and is without prejudice to such acts or positions as may be adopted under the Agreement by the Member States concerned on behalf of and in the interest of those overseas countries and territories.
10. The Union will inform the depositary of any relevant modification of the extent of its competence, in accordance with Article 67(2) of the Agreement.
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