

**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**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) together with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The Union formally 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 governed by the UNCLOS for which competence has been transferred to the Union by its Member States; the Union being thus far the only international organisation which is a party to that Convention within the meaning of Article 305(1)(f) of the UNCLOS and Article 1 of Annex IX thereto.
- (2) As a party to the UNCLOS, the Union, alongside its Member States, has participated in the UN Ad Hoc Open-ended Informal Working Group (the 'Working Group') to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. At the last meeting of the Working Group, it was recommended that an international legally binding instrument under the UNCLOS on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (the 'Instrument') should be developed.
- (3) Following the recommendations adopted by the Working Group on 23 January 2015, the UN General Assembly adopted, on 19 June 2015, Resolution 69/292 which establishes, prior to holding an intergovernmental conference, a Preparatory Committee, open to all States Members of the UN, members of specialised agencies and parties to the UNCLOS, to make substantive recommendations to the UN General Assembly on the elements of a draft Instrument. The Preparatory Committee will start its work in 2016 and, by the end of 2017, report on its progress to the Assembly which will decide on the convening and on the starting date of an intergovernmental conference to consider the recommendations of the Preparatory Committee on the elements and to elaborate the text of an international legally binding instrument under the UNCLOS.
- (4) The Union and its Member States are parties to the UNCLOS. Alongside its Member States, the Union should participate in the negotiations on the elements of a draft Instrument to be developed by the Preparatory Committee. The participation rights of the Union with regard to the meeting of this Committee are covered by paragraph 1(j) of Resolution 69/292.
- (5) This decision to open the negotiations and its Negotiating Directives may be followed at a later stage by a further decision with Negotiating Directives for the participation in any intergovernmental conference.
- (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 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, 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 at meetings of the UN Preparatory Committee established under UN General Assembly Resolution 69/292.

<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).

*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 Commission shall conduct these negotiations in consultation with a special committee that is hereby established. 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 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, 22 March 2016.

*For the Council*  
*The President*  
A.G. KOENDERS

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