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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the conservation and sustainable use of marine biological diversity of areas beyond
national jurisdiction**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Tackling biological diversity loss and the degradation of marine ecosystems has been internationally recognised as a top priority. The conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction ('BBNJ') is also a key priority for the European Union (EU). In line with the objectives under the European Green Deal and the Joint Communication on the EU's international ocean governance agenda, the EU was an active participant in negotiating 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 BBNJ Agreement' or 'the Agreement'). Negotiations were concluded in June 2023.

The BBNJ Agreement is open for signature by States and regional economic integration organizations from 20 September 2023 until 20 September 2025. The EU and all its Member States have signed it. The EU adopted Council Decision (EU) 2024/1830 to conclude the Agreement in June 2024¹, but the EU has not yet deposited its instrument of approval at the time of adoption of this proposal. Pursuant to Article 68(1) of the Agreement, it will enter into force 120 days after the date on which the sixtieth instrument of ratification, approval, acceptance or accession is deposited. This proposal for a directive of the European Parliament and the Council will meet the EU's legal obligation to effectively implement the BBNJ Agreement.

The BBNJ Agreement is an implementing agreement to the United Nations Convention on the Law of the Sea² ('UNCLOS'), which is the legal framework governing all activities in the oceans and seas, and of which the EU and all its Member States are parties. The BBNJ Agreement will bring UNCLOS up to speed with developments and challenges related to marine biodiversity since the Convention was adopted in 1982. It will also support work to achieve the 2030 UN Agenda for Sustainable Development goals, in particular Goal 14 (life below water).

The Union and its Member States are also parties to the Convention on Biological Diversity³. This states that biodiversity is to be valued, conserved, restored and wisely used, maintaining ecosystem services, sustaining a healthy planet and delivering benefits essential for all people. The BBNJ Agreement will help reach the goals and targets set under the Kunming-Montreal Global Biodiversity Framework, adopted at the fifteenth meeting of the Conference of the Parties to the Convention on Biological Diversity on 7-19 December 2022. In particular, it will support action to meet the target of effective conservation and management of at least 30% of the world's lands, inland waters, coastal areas and oceans by 2030, and the target to increase benefit sharing from genetic resources and digital sequence information. The EU has adopted its own biodiversity strategy for 2030, which pursues several objectives including the aim to restore the good environmental status of marine ecosystems.

¹ [Decision - EU - 2024/1830 - EN - EUR-Lex](#)

² United Nations Convention on the Law of the Sea, adopted 10 December 1982, entered into force 16 November 1994, 1833 UNTS 396:
https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=en

³ [OJ L 309, 13.12.1993, p. 3.](#)

Furthermore, the BBNJ Agreement will support implementation of the United Nations Framework Convention on Climate Change (UNFCCC)⁴ and the Paris Agreement⁵.

The BBNJ Agreement applies to areas beyond national jurisdiction as defined under Article 1(1) of that Agreement. The general objective is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, both at present and in the long term, by effectively implementing the relevant provisions of UNCLOS and by engaging in international cooperation and coordination.

To this end, the BBNJ Agreement:

- 1) allows parties to agree on area-based management tools, including MPAs, in areas beyond national jurisdiction;
- 2) for the first time, provides for a comprehensive environmental impact assessment process for new and unregulated activities in the high seas by all parties to ensure transparency, accountability and broad public participation;
- 3) sets provisions for the fair and equitable sharing of benefits arising from activities with respect to marine genetic resources (and digital sequence information) of areas beyond national jurisdiction, including a mechanism for sharing monetary and non-monetary benefits; and
- 4) sets the conditions to support developing countries in their participation in and implementation of the Agreement by a strong capacity-building and marine technology transfer component, funded from a variety of public and private sources and by an equitable mechanism for sharing the potential benefits of marine genetic resources collected in the high seas.

The aim of this legislative proposal is to implement the provisions of the BBNJ Agreement concerning environmental protection and marine genetic resources.

The Council has adopted Council Decision (EU) 2024/1830 concluding the BBNJ Agreement on behalf of the Union, but the Union has – at the time of adoption of this proposal – not yet deposited its instrument of approval of the BBNJ Agreement. Pursuant to Article 68(1), the Agreement will enter into force 120 days after the date on which the sixtieth instrument of ratification is deposited. Hence, the provisions of the BBNJ Agreement that need further implementation into EU law must be in place when the Agreement enters into force. This proposal therefore aims to implement the BBNJ Agreement in the EU in a uniform manner transposing into EU law the obligations arising from the Agreement in the areas related to environmental protection and marine genetic resources.

- **Consistency with existing policy provisions in the policy area**

The objectives of this proposal are consistent with the following policy and legislative provisions:

⁴ United Nations Framework Convention on Climate Change (UNFCCC) (the ‘Paris Agreement’), entered into force on 4 November 2016.

⁵ The Paris Agreement, adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) (the ‘Paris Agreement’), entered into force on 4 November 2016.

The Commission ensured that the outcome of the negotiations on the text of the BBNJ Agreement is fully consistent with EU rules and policies in the area of EU environmental policy. In particular, it ensures that the BBNJ Agreement does not undermine and is coherent with the framework for environmental assessments at EU level and with the multilateral environmental agreements to which the EU and its Member States are parties. These include the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention)⁶ and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention)⁷. The provisions on environmental impact assessments in the BBNJ Agreement aim to achieve a coherent environmental impact assessment framework for activities in areas beyond national jurisdiction. These provisions establish a system of global collaboration on environmental impact assessments with corresponding legal instruments, frameworks and bodies, and aim to ensure that they are equivalent, in line with Article 29(4) of the BBNJ Agreement. They are coherent with EU law in this area and are coherent with and complement other international commitments undertaken by the EU, such as those relating to the environment, fisheries and shipping. Therefore, the proposed Directive implementing the BBNJ agreement in EU law will not add any additional burden.

The rules and obligations concerning benefit sharing from marine genetic resources and digital sequence information derived from marine genetic resources set by the BBNJ Agreement apply to genetic resources collected in areas beyond national jurisdiction. They do not overlap with the benefit sharing obligations and rules deriving from the Nagoya Protocol on the fair and equitable sharing of benefits from the use of genetic resources and the Convention on Biological Diversity, as these two instruments apply to genetic resources within national jurisdiction. This implies that there will be no duplication of obligations between the EU measures needed to implement the benefit sharing provisions of the BBNJ Agreement and Regulation (EU) No 511/2014 on measures of compliance for users of genetic resources in the EU (which implements the Nagoya Protocol).

The benefit sharing provisions of the BBNJ Agreement are coherent with EU law on this subject. They are coherent with and complement other international commitments undertaken by the EU in this field (such as those under the Convention on Biological Diversity). However, the BBNJ Agreement provides for retroactive application of benefit sharing obligations. The EU lodged an exception under Article 70 in conjunction with Article 10(1) 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 [2024/1833]⁸ on the retroactive effects as set out in the second sentence of Article 10(1). This means that the provisions of the Agreement will apply for the EU only to activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction collected and generated after this Agreement enters into force in the EU. This will ensure coherence with the approach under the Nagoya Protocol and the EU ABS Regulation, which apply when they enter into force.

The BBNJ Agreement is in line with EU rules and policies in the area of the common fisheries policy (CFP). It does not undermine the work undertaken in Regional Fisheries Management Organisations (RFMOs) and other relevant international framework and bodies.

⁶ [Text of the Convention | UNECE](#)

⁷ [Text of the Convention | UNECE](#)

⁸ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401833

Likewise, this proposal is consistent with the CFP and with the EU's commitments under the RFMOs.

- **Consistency with other Union policies**

The Commission ensured that the outcome of the negotiations on the text of the BBNJ Agreement is fully consistent with EU rules and policies in related areas, such as maritime transport policy, maritime security, energy policy, internal market policy, common commercial policy, research and technological development policy, climate policy and others. In addition, the provisions of the BBNJ Agreement are consistent with related bilateral and multilateral agreements to which the EU is a party.

Since the BBNJ Agreement is an implementing agreement under UNCLOS and this Convention is already part of EU law, the BBNJ Agreement also is coherent with the rights and obligations enshrined in UNCLOS and reflected in EU law. This proposal is therefore also consistent with UNCLOS.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for this initiative is Article 192(1) TFEU. This was also the legal basis underpinning the adoption of Council Decision (EU) 2024/1830 on the conclusion of the BBNJ Agreement on behalf of the EU.

In accordance with Article 191 in conjunction with 192(1) TFEU, the EU is required to contribute to the pursuit of the following objectives: preserving, protecting and improving the quality of the 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.

Considering the substantive provisions of the BBNJ Agreement, including its objectives, the environmental legal basis is the right basis for the implementation of the relevant provisions of the BBNJ Agreement.

- **Subsidiarity (for non-exclusive competence)**

The BBNJ Agreement provides for an obligation to screen and assess the impacts of planned activities in the areas beyond national jurisdiction. In addition, it provides for a framework to govern the activities with respect to marine genetic resources and arrangements for information sharing and benefit sharing of marine genetic resources utilisation.

In both these fields, a harmonised EU approach is central to creating a level playing field between stakeholders operating from the EU. The aim of the proposed directive is to set out a framework for a uniform implementation of the BBNJ Agreement in the EU and to avoid forum shopping in the EU, leading to faster permitting and administrative simplification. It is crucial to ensure that provisions on environmental assessments concerning planned activities in areas beyond national jurisdiction are coherent across the EU. It is also critical to ensure that EU researchers, notably those working in teams across the EU on marine genetic resources of areas beyond national jurisdiction are not faced with unnecessary legal burden potentially arising from uneven implementation of international obligations under the BBNJ Agreement in the EU. It is important to ensure consistency between implementation of the Nagoya Protocol to the Convention on Biological Diversity and the provisions of the BBNJ

Agreement related to marine genetic resources, as well as ensure a level playing field in the Single Market.

An EU approach to implementation will also be important to ensure coherence between obligations governing environmental impact assessments for activities carried out in EU waters under Directive 2011/92/EU⁹ ('the EIA Directive') and other relevant EU law that contains provisions related to environment assessments for planned activities, and under the BBNJ Agreement. Moreover, the initiative will ensure the BBNJ Agreement is coherent with EU environmental law. Activities in areas beyond national jurisdiction may also affect the management of marine biological resources and may have an impact on the common fisheries policy. In such cases, EU competences under Articles 3(d) and 4(d) of the TFEU will be respected. Finally, activities in areas beyond national jurisdiction could have cross-border effects in EU waters (for example due to pollution or maritime traffic disruption).

Since the objectives of the proposal, namely to provide common provisions concerning marine genetic resources of areas beyond national jurisdiction, conducting environmental impact assessments for activities in the areas beyond national jurisdictions and certain measures concerning area-based management tools, including marine protected areas, cannot be sufficiently achieved by the Member States but due to the cross-border nature of the activities and benefits rising from common EU rules are better achieved at EU level, the EU may adopt measures, in accordance with the principle of subsidiarity in Article 5 TEU. Following the principle of proportionality as set out in that provision, this Directive does not go beyond what is necessary to achieve those objectives.

- **Proportionality**

The proposal transposes the EU's obligations under the BBNJ Agreement into EU legislation. Most of the obligations are straightforward and do not require the legislator to make any policy choice on how to implement the obligations. This means the measures are proportional.

- **Choice of the instrument**

A directive will aim to set out framework for a uniform implementation of the BBNJ Agreement in the EU and therefore to avoid forum shopping in the EU. This will lead to faster permitting and administrative simplification while ensuring a level playing field.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

The Commission worked closely with Member States during the negotiations on the BBNJ Agreement. Regular consultations on the BBNJ negotiations also took place with stakeholders, in particular civil society organisations and other organisations represented in the UN.

⁹ [Directive - 2011/92 - EN - EIA - EUR-Lex](#)

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

The proposed legislation will be limited to the strict transposition of the EU's international obligations under the BBNJ Agreement concerning environmental impact assessments, marine genetic resources and certain aspects of the marine protected areas obligations. There is no choice to be made between alternative policy options ('room for manoeuvre'), which Tool 7 of the Better Regulation toolbox indicates as the rationale for an impact assessment. The impacts themselves are not considered to be significant, as they will largely relate to greater consistency of application. For this reason, the Commission does not propose to conduct an impact assessment nor to carry out an online public consultation.

Similarly, the Commission will not publish a call for evidence as there is no intention to deviate from the BBNJ Agreement and so there is no added benefit to consulting stakeholders and soliciting their views. Stakeholders were involved earlier in the process, since the Preparatory Committee began its work in 2016.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

This Directive is in line with Article 47 of the Charter of Fundamental Rights and implements the Aarhus Convention with regard to access to justice. It should be possible for members of the public concerned, including non-governmental organisations promoting environmental protection and meeting any requirements under national law, to have access to review of decisions taken by the Member States under this Directive.

4. BUDGETARY IMPLICATIONS

This proposal is limited to the strict transposition of obligations under the BBNJ Agreement concerning environmental impact assessments, marine genetic resources and certain elements of the area-based management tools and marine protected areas obligations that mirror existing obligations for the Member States under either EU or other international legislation. In particular, Member States already have an established framework governing environmental impact assessments deriving from their obligations under the EIA Directive, the Espoo Convention and the Aarhus Convention.

Therefore, the administrative impact and costs are estimated to be negligible to moderate, as most of the necessary structures and rules are in place. Member States will face costs limited to the cost of adopting legal, policy or administrative measures to ensure compliance with the obligations to notify information on marine genetic resources to the BBNJ Clearing-House Mechanism and to request users to deposit samples and digital sequence information in publicly available databases and repositories. Member States may face other administrative costs if they choose to set up IT tools specifically designed to transfer information to the Clearing-House Mechanism. Alternatively, it may be possible for all stakeholders to use the central UN clearing house system directly, or, if needed, re-use an existing IT platform in the EU could be further explored for this scope. If this would be possible, costs could potentially be minimized. Finally, in terms of human resources, Member States have established national competent authorities for ABS that may also cover the tasks needed to enforce the measures

related to marine genetic resources. These costs are not expected to be additional to the costs already stemming from being a party to the BBNJ Agreement.

The transposition of the Directive and its implementation by Member States will be monitored by two Commission departments – DG Environment and DG for Maritime Affairs and Fisheries.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

After the co-legislators adopt this Directive, the Commission will make the following arrangements during the transposition period to facilitate the transposition process:

it will organise meetings with Member State experts in charge of transposing the different chapters of the Directive to discuss how to transpose them and to resolve any doubts, either in the context of Commission national expert groups or in another suitable and focused format;

it will be available for bilateral meetings and calls with Member States to discuss any specific questions on transposing the Directive.

After the transposition deadline, the Commission will carry out a comprehensive assessment of whether Member States have completely and correctly transposed the Directive.

• Explanatory documents (for directives)

Following the ruling of the Court of Justice of the European Union in *Commission vs Belgium* (case C-543/17), Member States must submit notifications of national transposition measures together with sufficiently clear and precise information indicating which provisions of national law transpose which provisions of a directive. This information must be provided for each obligation, not only for each article.

Provided that the Member States comply with this obligation, in principle they would not need to send any further explanatory documents on transposition to the Commission.

• Detailed explanation of the specific provisions of the proposal

The proposal contains common rules for Member States on implementing Part II of the BBNJ Agreement on marine genetic resources (MGRs), Part III on area-based management tools, including marine protected areas (MPAs) and Part IV on environmental impact assessments (EIAs).

Under the MGRs chapter, the obligations for the EU Member States relate to the notifications to be made to the Clearing-House Mechanism, the obligation to deposit samples and data in publicly available repositories and databases and to share monetary and non-monetary benefits. The Directive requires Member States to designate a national competent authority to overview compliance with the notification and the deposit obligations. The Directive also clarifies the scope of application for the EU and its Member States, which excludes retractive application to MGRs and digital sequence information collected and/or generated before the entry into force of the Agreement.

Under the area-based management tools chapter, the obligations for the Member States relate to sharing information and cooperating with the Commission and other Member States on proposals for area-based management tools. The obligations are detailed in the Code of

Conduct of 14 March 2024 laying down arrangements regarding the exercise of rights and obligations of the European Union and Member States under the BBNJ Agreement.

Under the EIA chapter, the obligations for the Member States relate to planned activities under their jurisdiction or control that take place in areas beyond national jurisdiction. For planned activities under Member States' jurisdiction or control that takes place in areas within national jurisdiction and that are likely to have significant effects on the marine environment in areas beyond national jurisdiction, the only obligation is to make relevant information available through the BBNJ Clearing-House Mechanism during the process carried out under the EIA Directive and other relevant EU law that contains provisions related to environment assessments for planned activities.

Detailed explanation of the specific provisions of the proposal

Chapter 1 General provisions

Article 1: Subject matter

This provision sets out the purpose of the Directive, which is to implement the obligations under the BBNJ Agreement, in particular its general objective to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term.

Article 2: Definitions

This provision contains definitions of the terms used in the Directive.

Article 3: Scope

This provision outlines the cases to which this Directive applies and which activities are excluded.

Chapter 2: Marine genetic resources and digital sequence information of areas beyond national jurisdiction

Article 4: General provisions

This article outlines the activities to which the provisions of Chapter 2 apply, and which activities are excluded.

Article 5: Activities with respect to marine genetic resources of areas beyond national jurisdiction

This provision sets out the approach for the collection *in situ* of marine genetic resources of areas beyond national jurisdiction, safeguarding the rights and interests of other States and ensuring cooperation and coordination.

Article 6: Notification on activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction

This provision refers to the need to systematically notify to the BBNJ Clearing-House Mechanism information on the collection *in situ* of marine genetic resources of areas beyond national jurisdiction, and information on where to find the results of the utilisation. It requires

Member States to take the legislative, administrative or policy measures needed to ensure this information is notified to the BBNJ Clearing-House Mechanism.

Article 7 Deposition of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction

This provision aims to meet the need for Member States to make explicit the request to natural or legal persons under their jurisdiction utilising marine genetic resources to deposit samples and digital sequence information on marine genetic resources of areas beyond national jurisdiction, together with their BBNJ standardised batch identifiers, in publicly accessible repositories and databases, maintained either nationally or internationally. They must deposit these samples and information no later than three years from the start of such utilisation or as soon as they are available, taking into account current international practice.

It states that Member States must confirm to the competent authority that these deposits have been made. Sharing information in this way is indispensable to provide a level playing field for compliance checks and to ensure compliance with the EU's international obligations under the BBNJ Agreement. This Article also considers that currently, marine research in areas beyond national jurisdiction is carried out by international research consortia. In these cases, if the person identified for sharing this information is based in a state located outside the EU, the consortia must identify a person in the research project established in or resident of a Member State to provide the confirmations of deposits to the competent authority.

Chapter 3: Environmental assessments

Article 8: General provisions

This provision requires Member States to ensure that the potential impacts on the marine environment of planned activities under their jurisdiction or control taking place in areas beyond national jurisdiction are made subject to an assessment before they are authorised. This provision also aims to specify what Member States must cover in these assessments and how to coordinate assessments. This provision specifies the obligations for activities that take place in areas within national jurisdiction and that are likely to have significant effects on the marine environment in areas beyond national jurisdiction.

Article 9: Screening

This Article outlines the provisions regarding the screening procedure, specifically when a Member State must conduct a screening for a planned activity. It sets out the level of detail required, the factors to be considered in the final decision, and what must be made available to the public and to the Clearing-House Mechanism established under the BBNJ Agreement.

Article 10: Scoping and report

This provision details how the environmental impact assessment report must be prepared and what information to include. It requires Member States to ensure that environmental impact assessment reports are of a sufficient quality to meet the requirements of this Directive.

Article 11: Consultations

This provision ensures that Member States give the opportunity to the public and any other parties to the BBNJ Agreement to participate in the authorisation procedures for planned

activities. It requires Member States to make specific information available to the public through the BBNJ Clearing-House Mechanism and the BBNJ Secretariat and to make detailed arrangements for informing and consulting stakeholders, ensuring that their input is duly considered and addressed in the decision-making process.

Article 12: Decision-making

This provision ensures that Member States only authorise activities that can be conducted in a manner consistent with the need to prevent significant adverse impacts on the marine environment, based on the results of consultations referred to in Article 10. It ensures that the decision is made available to the public and through the BBNJ Clearing-House Mechanism and the BBNJ Secretariat.

Article 13: Monitoring

This article outlines the provisions governing the regular monitoring of the impacts of authorised activities in areas beyond national jurisdiction in order to determine whether these activities are likely to cause substantial pollution or have significant and harmful changes to the marine environment. It specifies the need for publication, also through the BBNJ Clearing-House Mechanism. It requires Member States to review their decisions in the event of significant harmful impacts or in response to concerns or recommendations from a party to the BBNJ Agreement or the BBNJ Scientific and Technical Body.

Article 14: Access to justice

This provision ensures that stakeholders have the right to access a review procedure to challenge the substantive or procedural legality of decisions, acts or omissions under Chapter 3, in accordance with the Aarhus Convention.

Article 15: Strategic environmental assessment of plans and programmes

This provision encourages Member States to conduct strategic environmental assessments for plans and programmes relating to planned activities under their jurisdiction or control to be conducted in areas beyond national jurisdiction in order to assess the potential effects of such plans or programmes on the marine environment.

Chapter 4: Measures such as area-based management tools, including marine protected areas

Article 16: Proposal for the establishment of area-based management tools

This article outlines the requirements for Member States when making proposals to establish area-based management tools.

Article 17: Content of proposals

This article outlines the content of Member State proposals for establishing area-based management tools, including marine protected areas. It specifies which stakeholders must be consulted and what key elements the proposals must include.

Article 18: Implementation

This provision requires Member States to ensure that activities under their jurisdiction or control taking place in areas beyond national jurisdiction are conducted in line with the decisions adopted under Part III of the BBNJ Agreement. It also requires Member States to support the implementation of the decisions and recommendations made by the Conference of the Parties under Part III of the BBNJ Agreement.

Article 19: Public participation

This provision states that Member States must give the public the opportunity to participate in the preparation of proposals to establish area-based management tools, including marine protected areas.

Chapter 5: Final provisions

Article 20: Competent authorities

This provision requires Member States to identify the competent authorities for carrying out duties under this Directive.

Articles 21 to 24

These articles contain further provisions on transposition by the Member States, on reporting by the Member States, on evaluation and reporting by the Commission and on entry into force of the Directive.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹⁰,

Having regard to the opinion of the Committee of the Regions¹¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) It is necessary to tackle biological diversity loss and the degradation of ocean ecosystems, due in particular to climate change impacts on marine ecosystems, such as warming and ocean deoxygenation, ocean acidification, pollution (including plastic pollution) and unsustainable use of the ocean. For this purpose, it is necessary to lay down rules at EU level in order to implement the international commitments of the Union and its Member States.
- (2) 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 jurisdiction¹² ('the BBNJ Agreement' or 'the Agreement') aims to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the United Nations Convention on the Law of the Sea, to which the Union and its Member States are parties, and further international cooperation and coordination.
- (3) This Directive should implement into EU law the obligations arising from the BBNJ Agreement in the area of the protection of the environment, acknowledging that its further implementation would also depend on international cooperation and coordination, in particular as provided under that Agreement.

¹⁰ OJ C , , p. .

¹¹ OJ C , , p. .

¹² 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, adopted on 19 June 2023: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-10&chapter=21&clang=en

- (4) The EU signed the BBNJ Agreement on 20 September 2023. On 17 June 2024, the Council adopted Council Decision (EU) 2024/1830¹³ on the conclusion of the BBNJ Agreement on behalf of the Union. The Union has not yet deposited its instrument of approval of the BBNJ Agreement. Pursuant to Article 68(1) of the BBNJ Agreement, it will enter into force 120 days after the date on which the sixtieth instrument of ratification, approval, acceptance or accession is deposited.
- (5) The Union is committed to stepping up efforts to tackle climate change and to delivering on the implementation of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change ('the Paris Agreement'), guided by its principles and on the basis of the best available scientific knowledge, in the context of the long-term temperature goal of the Paris Agreement.
- (6) The Convention on Biological Diversity was approved on behalf of the Union in accordance with Council Decision 93/626/EEC¹⁴. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity was approved on behalf of the EU in accordance with Council Decision 2014/283/EU¹⁵ and Regulation (EU) No 511/2014 of the European Parliament and of the Council. The Convention sets out the framework for measures to comply with the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union.
- (7) As parties to the Convention on Biological Diversity, the Union and its Member States are committed to achieving the goals and targets of the Kunming-Montreal Global Biodiversity Framework, adopted at the fifteenth meeting of the Conference of the Parties to the Convention on Biological Diversity on 7-19 December 2022, and the long-time strategic vision that, by 2050, biodiversity is to be valued, conserved, restored and wisely used, maintaining ecosystem services, sustaining a healthy planet and delivering benefits essential for all people. The EU biodiversity strategy for 2030, in the communication of the Commission of 20 May 2020 entitled 'EU Biodiversity Strategy for 2030 Bringing nature back into our lives', sets out multiple objectives, including the aim to restore the good environmental status of marine ecosystems.
- (8) Directive (EU) 2019/1024¹⁶ of the European Parliament and of the Council encourages public sector bodies and public undertakings to produce and make available research data in accordance with the principle of "open by design and by default" and the FAIR principles. This Directive is also imposing the sharing of certain research data for its re-usability.
- (9) Pursuant to the BBNJ Agreement, activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national

¹³ 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

¹⁴ Council Decision 93/626/EEC of 25 October 1993 concerning the conclusion of the Convention on Biological Diversity, [OJ L 309, 13.12.1993, p. 1](#)

¹⁵ Council Decision 2014/283/EU of 14 April 2014 on the conclusion, on behalf of the Union, of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity

¹⁶ Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (recast), OJ L 172, 26.6.2019, p. 56–83

jurisdiction are in the interests of all States and for the benefit of all humanity, particularly for the benefit of advancing the scientific knowledge of humanity and promoting the conservation and sustainable use of marine biological diversity, taking into consideration the interests and needs of developing States.

- (10) It is necessary, in line with Article 9 of the BBNJ Agreement, to foster fair and equitable sharing of benefits arising from activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.
- (11) The EU deposited Exception 2024/1833 under Article 70 in conjunction with Article 10(1) of the BBNJ Agreement regarding the retroactive effects set out in the second sentence of that Article. This means the provisions of the Agreement will apply for the Union only to activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction collected and generated after the BBNJ Agreement enters into force for the Union.
- (12) When accessing traditional knowledge associated with marine genetic resources collected in areas beyond national jurisdiction that is held by indigenous peoples and local communities, such access should be done with free, prior and informed consent or approval and involvement of these indigenous peoples and local communities as set out in Article 13 of the BBNJ Agreement. In such cases, any applicable national legislation enabling the indigenous peoples and local communities that hold the traditional knowledge to issue free, prior and informed consent should apply.
- (13) To reduce the administrative burden and costs of implementation, Member States may, where available, use a digital platform provided by the Commission to meet the purpose of this Directive.
- (14) The BBNJ Agreement allows the establishment of area-based management tools, including marine protected, areas in areas beyond national jurisdiction. Measures adopted by the Conference of the Parties under the BBNJ Agreement should be implemented and, if necessary, transposed into EU legislation. Pending transposition, Member States should not undermine the effectiveness of the measures adopted. It is necessary to lay down the procedures needed to ensure coordination among the Member States and the Commission prior to the submission of any proposal to establish area-based management tools or a proposal for an emergency measure to the BBNJ Secretariat.
- (15) Under this Directive, for any proposal to establish area-based management tools or any proposal for an emergency measure under Articles 19 and 24(3) of the BBNJ Agreement, the Commission should carry out a preliminary legal assessment. This assessment should include an assessment of the need for the Union to make such a proposal to the BBNJ Secretariat.
- (16) The BBNJ Agreement lays down provisions concerning environmental impact assessment in areas beyond national jurisdiction to reflect developments at international level. It is necessary to provide for minimum provisions on how these obligations are implemented in the Union, in the light of the obligations arising from the BBNJ Agreement, thus ensuring a level-playing field between the Member States and avoiding conflicting requirements. The effects of planned activities taking place in areas beyond national jurisdiction on the marine environment should be assessed in order to take account of concerns to protect human health, to enhance the quality of

life by creating a better environment, to maintain the diversity of species and to maintain the reproductive capacity of the ecosystem as a basic resource for life.

- (17) The Union is party to the United Nations Economic Commission for Europe Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed in Aarhus on 25 June 1998 and ratified on 17 February 2005. The Union is party to the United Nations Economic Commission for Europe Convention on environmental impact assessment in a transboundary context, signed in Espoo on 25 February 1991 and ratified on 24 June 1997. The obligations under these Conventions should remain applicable in the areas falling within the scope of this Directive. The Espoo Convention aims to enhance international co-operation in assessing environmental impact in particular in a transboundary context. The objectives of the Aarhus Convention include guaranteeing the rights of public participation in decision-making in environmental matters in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being. Within the scope of this Directive, the rights of public participation in decision-making in environmental matters should be exercised following the same principles as those established under the Aarhus Convention.
- (18) While the purpose of this Directive is to provide for a legal framework governing activities taking place in areas beyond national jurisdiction, any activities to be conducted in areas within national jurisdiction that are likely to have significant effects on the marine environment in areas beyond national jurisdiction should be subject to an assessment in accordance with Directive 2011/92/EU of the European Parliament and of the Council¹⁷, other relevant EU law that contains provisions related to environment assessments for planned activities¹⁸ and national laws transposing EU legislation. In accordance with Article 28(2) of the BBNJ Agreement, in the EU such activities conducted in areas within national jurisdiction should be assessed under established EU rules. In those cases, Member States should ensure that they meet the obligations under the BBNJ Agreement.
- (19) Since other applicable legal instruments or frameworks or global, regional, subregional or sectoral bodies provide a framework for assessing the impacts of planned activities under national jurisdiction or control that take place in areas beyond national jurisdiction, Member States should not be required to conduct a screening or an environmental impact assessment in accordance with this Directive under the conditions set out in Article 29(4) of the BBNJ Agreement. In such cases, the Member State concerned should ensure that the environmental impact assessment report is published through the BBNJ Clearing-House Mechanism.
- (20) Any plans or programmes prepared or adopted by national, regional or local authorities of Member States which are likely to have significant effects on the marine

¹⁷ OJ L 26, 28.1.2012, p. 1–21

¹⁸ Such as Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652, Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020, Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe’s net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724

environment in areas beyond national jurisdiction should be subject to an assessment in accordance with Directive 2001/42/EC of the European Parliament and of the Council¹⁹ and national laws transposing that Directive.

- (21) When determining the likelihood of significant effects of planned activities, Member States should take into account how notable or important effects can be. They should also take account of criteria set out in Directive 2011/92/EU in making this determination.
- (22) In order to determine whether a planned activity may cause substantial pollution of or significant and harmful changes to the marine environment, the screening or the environmental impact assessment of such an activity should, in principle, be carried out at the earliest possible stage in the decision-making process with a view to identifying and assessing all the likely effects which the planned activity may have on the marine environment. This is particularly important to identify and assess unknown or poorly understood effects of the planned activities.
- (23) Decisions authorising planned activities that take place in areas beyond national jurisdiction granted by the competent authority or authorities may take the form of a wide range of legal acts (such as development consents, decisions, permits and other forms of authorisation), depending on the national procedures applicable in the Member States. Irrespective of the form, title or the procedure for adopting such decisions under national law, Member States should ensure that planned activities taking place in areas beyond national jurisdiction that may cause substantial pollution of or significant and harmful changes to the marine environment are made subject to an assessment before being authorised.
- (24) This Directive is in line with Article 47 of the Charter of Fundamental Rights and implements the obligation under the Aarhus Convention to guarantee access to justice in environmental matters. It should be possible for the public concerned including non-governmental organisations promoting environmental protection and meeting any requirements under national law to have access to review of decisions taken by Member States under this Directive.
- (25) The effectiveness of this Directive requires that natural or legal persons, or their duly constituted organisations, should be able to cite it in legal proceedings and the national courts should be able to take this Directive into consideration as an element of EU law, for example when reviewing decisions of a national authority. In addition, according to settled case law of the Court of Justice, under the principle of sincere cooperation laid down in Article 4(3) of the Treaty on European Union (TEU), it is for the courts of the Member States to ensure judicial protection of a person's rights under EU law. Article 19(1) TEU requires Member States to provide remedies sufficient to ensure effective judicial protection in the fields covered by EU law. In addition, under the Aarhus Convention, members of the public should have access to justice to protect their right to live in an environment adequate to their personal health and well-being.
- (26) This Directive respects the fundamental rights and observes the principles as recognised in particular by the Charter, including the freedom of expression and information, the freedom to conduct a business, the right to an effective remedy and to a fair trial, the principles of legality and proportionality. This Directive seeks to ensure full respect for those rights and principles and should be implemented accordingly.

¹⁹ OJ L 197, 21.7.2001, p. 30–37

- (27) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents²⁰, Member States have undertaken to provide, in justified cases, notification of their transposition measures together with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislators consider the transmission of such documents to be justified, in particular following the judgment of the European Court of Justice in Case Commission vs Belgium²¹ (case C-543/17),

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER 1

General provisions

Article 1

Subject matter

This Directive establishes minimum rules regarding implementation within the European Union of the Agreement ('the BBNJ Agreement' or '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.

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

- (a) 'areas beyond national jurisdiction' means the high seas and the Area as defined in Article 1(1) of the United Nations Convention on the Law of the Sea;
- (b) 'collection in situ', in relation to marine genetic resources, means the collection or sampling of marine genetic resources in areas beyond national jurisdiction;
- (c) 'Conference of the Parties' means the Conference of the Parties established under Article 47 of the BBNJ Agreement;
- (d) 'marine genetic resources' means any material of marine plant, animal, microbial or other origin containing functional units of heredity of actual or potential value;
- (e) 'utilisation of marine genetic resources' means conducting research and development on the genetic and/or biochemical composition of marine genetic resources, including through the application of biotechnology;
- (f) 'BBNJ Clearing-House Mechanism' means the platform established under Article 51 of the BBNJ Agreement;
- (g) 'BBNJ Scientific and Technical Body' means the body established under Article 49 of the BBNJ Agreement;
- (h) 'BBNJ Secretariat' means the secretariat established under Article 50 of the BBNJ Agreement;

²⁰ OJ L 369, 17.12.2011, p. 14

²¹ Judgment of the Court of Justice of 8 July 2019, Commission v Belgium, C-543/17, ECLI:EU:C:2019:573

(i) ‘planned activity’ means an activity involving the execution of construction works, installations, schemes or other interventions in the marine environment, including regular activities aimed at utilising natural resources;

(j) ‘activities under jurisdiction or control’ means activities carried out by both public and private entities, on which the Member State can, in accordance with international law, exercise its competence or authority;

(k) ‘plans and programmes’ means the plans and programmes defined in Article 2(a) of Directive 2001/42/EC and any modifications to them which are subject to preparation and/or adoption by an authority at global, national, regional, subregional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and which are required by legislative, regulatory or administrative provisions;

(l) ‘decision to authorise’ means a decision taken by the competent authority or authorities allowing the execution of a planned activity;

(m) ‘public concerned’ means natural and legal persons affected or likely to be affected by, or having an interest in, the environmental decision-making procedures referred to in Chapter 3 of this Directive, including non-governmental organisations promoting environmental protection and meeting any requirements under national law;

(n) ‘public’ means the public concerned as well as indigenous peoples and local communities with relevant traditional knowledge and relevant global, regional, subregional and sectoral bodies and the scientific community;

(o) ‘competent authority or authorities’ mean the authority or authorities that the Member States designate as responsible for performing the duties arising from this Directive;

(p) ‘environmental impact assessment’ means a process to prepare an environmental impact assessment report, carry out consultations, take into account of the environmental impact assessment report and the results of the consultations in decision-making and provide information on the decision in accordance with Chapter 3 of this Directive;

(q) ‘environmental impact assessment report’ means documentation containing the information required in Article 10(4) of this Directive;

(r) ‘cumulative impacts’ means the combined and incremental impacts resulting from different activities, including known past and present and reasonably foreseeable activities, or from the repetition of similar activities over time, and the consequences of climate change, ocean acidification and related impacts;

(s) ‘minor or transitory effects’ mean effects that do not have significant harmful impact on the marine environment.

Article 3

Scope

1. This Directive applies to planned activities under Member States’ jurisdiction or control that take place in areas beyond national jurisdiction.

2. This Directive shall not apply to any warship, military aircraft or naval auxiliary. Except for Chapter 2, this Directive does not apply to any other vessels or aircraft owned or operated by a Member State and used, for the time being, only on government non-commercial service.

3. This Directive shall not apply to planned activities under Member States’ jurisdiction or control that take place in areas within national jurisdiction except for the provisions under Article 8(6) of this Directive.

4. This Directive does not affect the obligation on the competent authorities to respect the limitations set under national laws, regulations and administrative provisions and accepted legal practices with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest.

CHAPTER 2

Marine genetic resources and digital sequence information of areas beyond national jurisdiction

Article 4

General provisions

1. This Chapter applies only to activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction collected and generated as from XX [after the entry into force of the BBNJ Agreement for the EU and its Member States – OJ to insert the date].

2. This Chapter does not apply to:

- (a) fishing regulated under applicable international law and fishing-related activities; and
- (b) fish or other living marine resources known to have been taken in fishing and fishing-related activities from areas beyond national jurisdiction, unless such fish or other living marine resources are regulated as utilisation under Part II of the BBNJ Agreement.

Article 5

Activities with respect to marine genetic resources of areas beyond national jurisdiction

Member States shall ensure that collection in situ of marine genetic resources of areas beyond national jurisdiction is carried out with due regard for the rights and legitimate interests of coastal states in areas within their national jurisdiction and with due regard for the interests of other states in areas beyond national jurisdiction, in accordance with the United Nations Convention on the Law of the Sea. For this purpose, Member States shall cooperate, as appropriate, including using the BBNJ Clearing-House Mechanism, in order to implement the provisions of this Chapter.

Article 6

Notification on activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction

1. Member States shall ensure that the information listed in paragraph 2, and any update of paragraph 3, is notified to the BBNJ Clearing-House Mechanism. Member States shall ensure coordination between the system used for notification of paragraph 2 and other notification systems provided under other Union legislation.

2. The following information shall be notified to the BBNJ Clearing-House Mechanism six months prior to the collection in situ of marine genetic resources of areas beyond national jurisdiction:

- (a) the nature of the collection and the objectives under which it is carried out, including, as appropriate, any programme of which it forms part;
- (b) the subject matter of the research or, if known, the marine genetic resources to be targeted or collected, and the purposes for which such resources will be collected;
- (c) the geographical areas in which the collection is to be carried out;

- (d) a summary of the method and means to be used for collection, including the name, tonnage, type and class of vessels, scientific equipment and/or study methods employed;
- (e) information concerning any other contributions to proposed major programmes;
- (f) the expected date of the first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as appropriate;
- (g) the name(s) of the sponsoring institution(s) and the person in charge of the research project;
- (h) opportunities for scientists from all states, in particular scientists from developing states, to be involved in or associated with the research project;
- (i) the extent to which it is considered that states parties to the BBNJ Agreement that may need and request technical assistance, in particular developing states, should be able to participate or to be represented in the research project;
- (j) a data management plan prepared according to open and responsible data governance, taking into account current international practice.

3. Where there is a material change to the information provided to the BBNJ Clearing-House Mechanism prior to the planned collection, updated information shall be notified to the BBNJ Clearing-House Mechanism within a reasonable period of time and no later than the start of collection in situ, when practicable.

4. Member States shall ensure that the following information, along with the 'BBNJ' standardised batch identifier, is notified to the BBNJ Clearing-House Mechanism as soon as it is available, but no later than one year from the collection in situ of marine genetic resources of areas beyond national jurisdiction:

- (a) the repository or database where digital sequence information on marine genetic resources is or will be deposited;
- (b) the location where all marine genetic resources collected in situ are or will be deposited or held;
- (c) a report detailing the geographical area from which marine genetic resources were collected, including information on the latitude, longitude and depth of collection, and, to the extent available, the findings from the activity;
- (d) any necessary updates to the data management plan provided under paragraph 2, point (j).

5. Member States shall ensure that samples of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction that are in repositories or databases under their jurisdiction can be identified as originating from areas beyond national jurisdiction, in accordance with current scientific international practice and to the extent practicable.

6. Member States shall ensure that repositories, to the extent practicable, and databases under their jurisdiction prepare, on a biennial basis, an aggregate report on access to marine genetic resources and digital sequence information linked to their BBNJ standardised batch identifier, and make the report available to the access and benefit-sharing committee set up under Article 15 of the BBNJ Agreement.

7. Where marine genetic resources of areas beyond national jurisdiction, and where practicable, the digital sequence information on such resources are subject to utilisation, including commercialisation, by natural or legal persons under their jurisdiction, Member States shall ensure that the following information, including the BBNJ standardised batch

identifier, if available, is notified to the BBNJ Clearing House Mechanism as soon as it is available:

- (a) the location of the results of this utilisation, such as publications, patents granted, if available and to the extent possible, and products developed;
- (b) where available, details of the post-collection notification to the BBNJ Clearing House Mechanism related to the marine genetic resources that were the subject of utilisation;
- (c) the location where the original sample that is the subject of utilisation is held;
- (d) the arrangements envisaged for access to marine genetic resources and digital sequence information on marine genetic resources that are being utilised, and a data management plan for the same;
- (e) once marketed, information, if available, on sales of relevant products and any further development.

8. Where available and appropriate, Member States may use a digital platform provided by the Commission to prepare and submit the information specified in paragraph 2 and 4.

Article 7

Deposition of marine genetic resources and digital sequence information on marine genetic resources

1. Member States shall ensure that natural or legal persons under their jurisdiction utilising marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction deposit these marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, together with their BBNJ standardised batch identifiers, in publicly accessible repositories and databases, maintained either nationally or internationally, no later than three years from the start of such utilisation, or as soon as they are available.

2. Member States shall also ensure that the natural or legal persons referred to in paragraph 1 provide the confirmations of deposits to the competent authority.

If multiple natural or legal person are involved in the utilisation, the person responsible for overseeing the research project shall provide the confirmations of deposits to the competent authority in the Member State in which the person responsible for overseeing the research project is established or resident.

If the person responsible for overseeing the research project is not established or resident in the Union, Member States shall ensure that the natural or legal persons under their jurisdiction and involved in the research project identify a person in the research project who is established in or resident of a Member State to provide the confirmations of deposits to the competent authority.

3. Member States shall ensure, including through coordination, cooperation and exchange of relevant information, that the information in paragraph 1 and 2 is shared in a simplified manner, without unduly increasing the administrative burden on the competent authority or authorities or on natural or legal persons who provide the confirmations of deposits.

CHAPTER 3

Environmental assessments

Article 8

General provisions

1. Member States shall ensure that the potential impacts on the marine environment of planned activities under their jurisdiction or control that take place in areas beyond national jurisdiction are made subject to an assessment before a decision authorising them (a development consent) is provided by the competent authority or authorities in accordance with this Directive.
2. The assessment referred in paragraph 1 may be integrated into Member States' existing procedures for the authorisation of planned activities.
3. In order to coordinate and facilitate the assessment procedures for planned activities under Member States' jurisdiction or control that take place in areas beyond national jurisdiction, and, in particular, to conduct consultations in accordance with Article 11, the Member States concerned may set up, on the basis of equal representation, a joint body.
4. Where an environmental impact assessment for a planned activity shall be carried out, Member States shall take into account, where available, the results of relevant strategic environmental assessments, in particular those carried out under Article 15.
5. This Chapter does not apply to planned activities under Member States' jurisdiction or control that take place in areas beyond national jurisdiction and have a minor or transitory effect on the marine environment.
6. This Chapter does not apply to planned activities under Member States' jurisdiction or control that take place in areas beyond national jurisdiction for which a screening or an environmental impact assessment have been carried out in accordance with the requirements of other relevant international legal instruments or frameworks or by relevant global, regional, subregional or sectoral bodies. For activities for which an environmental impact assessment has been carried out in accordance with the requirements of other relevant legal instruments or frameworks or by relevant global, regional, subregional or sectoral bodies, Member States shall ensure that the conditions under Article 29(4) of the BBNJ Agreement are met. In such cases, the Member State concerned shall ensure that the environmental impact assessment report is published through the BBNJ Clearing-House Mechanism and that the activity is monitored.
7. For planned activities under Member States' jurisdiction or control that take place in areas within national jurisdiction and are likely to have significant effects on the marine environment in areas beyond national jurisdiction, Member States shall apply Directive 2011/92/EU and other relevant EU law that contains provisions related to environment assessments for planned activities. For these activities, Member States shall make relevant information available through the BBNJ Clearing-House Mechanism in a timely manner, during the process under Directive 2011/92/EU and other relevant EU law that contains provisions related to environment assessments for planned activities and ensure that the activity is monitored in a manner consistent with the requirements of that Directive and national legislation.

Article 9

Screening

1. If a planned activity may have more than a minor or transitory effect on the marine environment in areas beyond national jurisdiction, or the effects of the activity are unknown or poorly understood, the Member State with jurisdiction or control of the activity shall conduct a screening in order to determine whether the activity may cause substantial pollution of or significant and harmful changes to the marine environment and therefore shall be made subject to an assessment.

2. The screening shall be conducted within a reasonable timeframe and shall be sufficiently detailed for the Member State to assess whether it has reasonable grounds for determining that the planned activity may cause substantial pollution of or significant and harmful changes to the marine environment.

3. When conducting the screening, Member States shall consider at least the description of the planned activity, including its purpose, location, duration and intensity, the initial analysis of the potential impacts, including consideration of cumulative impacts and, as appropriate, alternatives to the planned activity.

4. For the purposes of the screening, Member States shall take into account at least the following factors:

(a) the type of planned activity, the technology used for the activity and the manner in which the activity is to be executed;

(b) the duration of the planned activity;

(c) the location of the planned activity;

(d) the characteristics and ecosystem of the location (including areas of particular ecological or biological significance or vulnerability) of the planned activity;

(e) the potential impacts of the planned activity, including the potential cumulative impacts and the potential impacts in areas within national jurisdiction;

(f) the extent to which the effects of the planned activity are unknown or poorly understood;

(g) other relevant ecological or biological factors.

5. Where, as a result of the screening, it is determined that the planned activity may cause substantial pollution of or significant and harmful changes to the marine environment, an environmental impact assessment shall be carried out in accordance with this Chapter.

6. The competent authority shall take a screening decision on the basis of the factors referred to in paragraph 4. The screening decision, including the main reasons for requiring or not requiring an assessment with reference to the relevant factors listed in paragraph 4, shall be made available to the public, including through the BBNJ Clearing-House Mechanism.

7. If, following the publication of the screening decision referred to in paragraph 6, a Party to the BBNJ Agreement or the BBNJ Scientific and Technical Body raise any concerns or recommendations within a period of 40 days after publication of the screening decision with regard to a determination that a planned activity may not cause substantial pollution of or significant and harmful changes to the marine environment, the Member State that made this determination shall take these concerns into consideration. As a result, the Member State may review its determination.

Article 10

Scoping and report

1. Where an environmental impact assessment for a planned activity is to be carried out, Member States shall ensure that an environmental impact assessment report is prepared.

2. The environmental impact assessment report shall be based on an opinion on its scope issued by a competent authority.

3. The competent authority shall issue the opinion referred to in paragraph 2 taking into account the best available science and scientific information and, where available, relevant traditional knowledge of indigenous peoples and local communities, as well as information on

the key environmental and any associated impacts of the planned activity, such as economic, social, cultural and human health impacts, including potential cumulative impacts and impacts in areas within national jurisdiction, as well as reasonable alternatives to the planned activity.

4. The environmental impact assessment report referred to in paragraph 1 shall include at least the following information:

- (a) a description of the planned activity, including its location;
- (b) the opinion issued under paragraph 3;
- (c) a baseline assessment of the marine environment likely to be affected by the planned activity;
- (d) a description of potential impacts of the planned activity, including potential cumulative impacts and any impacts of the activity in areas within national jurisdiction;
- (e) a description of prevention, mitigation and management measures;
- (f) a description of uncertainties and gaps in knowledge;
- (g) information on the public consultation process;
- (h) a description of the consideration of reasonable alternatives to the planned activity;
- (i) a description of follow-up actions, including an environmental management plan to be implemented during the execution and operation of the activity;
- (j) a non-technical summary of the information referred to in points (a) to (i).

5. In order to ensure that completeness and quality of the environmental impact assessment reports, Member States shall ensure that the reports are prepared by competent experts and that the competent authorities have, or have access as necessary to, sufficient expertise to examine these reports.

Article 11

Consultations

1. Member States shall ensure that, within reasonable time-frames, the following information is made available to the public, including through the BBNJ Clearing-House Mechanism and the BBNJ secretariat:

- (a) the environmental impact assessment report referred to in Article 10(1);
- (b) the request for authorisation of the planned activity;
- (c) the fact that the planned activity is subject to an environmental impact assessment;
- (d) details of the competent authorities responsible for taking the decision to authorise the activity, those from which relevant information can be obtained, and those to which comments or questions can be submitted, as well as details of the time frame for submitting comments or questions;
- (e) an indication of the times and places at which, and the means by which, the relevant information will be made available;
- (f) details of the arrangements for public participation made under paragraph 4.

2. Parties to the BBNJ Agreement, in particular coastal parties adjacent to the planned activity and any other parties adjacent to the planned activity, and the public concerned shall be given early and effective opportunities to participate in procedures for authorising the planned activities referred to in Article 12(2) and shall, for that purpose, be entitled to express

comments and opinions before a decision to authorise a planned activity is taken when all options are open to the competent authority or authorities.

3. For the purposes of paragraph 2, Member States shall determine potentially most affected parties by taking into account the nature and potential effects on the marine environment of the planned activity. Such parties shall include:

(a) coastal parties whose exercise of sovereign rights for the purpose of exploring, exploiting, conserving or managing natural resources may reasonably be believed to be affected by the planned activity;

(b) parties that carry out, in the area of the planned activity, human activities, including economic activities, that may reasonably be believed to be affected by the planned activity.

4. Member States shall set up the detailed arrangements for informing the stakeholders referred to in paragraph 2 and reasonable time-frames for consulting the stakeholders referred to in paragraph 2, that shall not be shorter than 30 days but shall not be longer than 85 days. To that extent, Member States may use existing arrangements resulting from Directive 2011/92/EU and other relevant EU law that contains provisions related to environment assessments for planned activities.

5. Member States shall ensure that the results of the consultation, including relevant comments and opinions expressed by parties and the public concerned as well as those made by the BBNJ Scientific and Technical Body, are duly taken into account and addressed in the decision-making process.

Article 12

Decision-making

1. Member States shall ensure that the competent authority or authorities make a decision to authorise a planned activity when, taking into account mitigation or management measures, have determined that all reasonable efforts have been made to ensure that the planned activity can be conducted in a manner consistent with the prevention of significant adverse impacts on the marine environment.

2. The decision to authorise a planned activity shall be based on the results of the consultations referred to in Article 11 and shall incorporate at least the following:

(a) a conclusion of the competent authority on the likely significant impacts of the planned activity on the marine environment and the main reasons for the authorisation;

(b) any conditions attached to the decision, a description of any features of the planned activity and/or measures envisaged to avoid, prevent or reduce any substantial pollution of or significant and harmful changes to the marine environment as well as monitoring measures. Where appropriate, these measures may be incorporated into an environmental management plan.

3. A decision not to authorise a planned activity shall state the main reasons for the non-authorisation.

4. When a decision to authorise or not to authorise a planned activity has been taken, Member States shall promptly ensure that the decision is made available to the public, including through the BBNJ Clearing-House Mechanism and the BBNJ secretariat. To that point, Member States shall make available the comments and opinions received during the consultations referred to in Article 11 and a description of the manner in which these comments and opinions have been taken into account or otherwise addressed.

Article 13

Monitoring

1. Member States shall, by using the best available science and scientific information and, where available, the relevant traditional knowledge of indigenous peoples and local communities, monitor the impacts of authorised activities in areas beyond national jurisdiction in order to determine whether these activities are likely to pollute or have significant and harmful changes to the marine environment. In particular, each Member State shall monitor the environmental and any associated impacts, such as economic, social, cultural and human health impacts, of an authorised activity under their jurisdiction or control in accordance with the conditions attached to the decision to authorise the planned activity.

2. Where a Member State with jurisdiction or control over an authorised activity identifies significant and harmful changes to the marine environment that either were not foreseen in the environmental impact assessment, in nature or severity, or that arise from a breach of any of the conditions referred to in Article 12(2)(b) or where a party to the BBNJ Agreement or the BBNJ Scientific and Technical Body raise any concerns or recommendations, the Member State concerned shall review its decision. To that point, it shall:

(a) require that measures be proposed and implemented to prevent, mitigate and/or manage those impacts or take any other necessary action and/or halt the activity as appropriate; and

(b) evaluate, in a timely manner, any measures implemented or actions taken under point (a).

In that event, Member States shall promptly notify the BBNJ Conference of the parties, other Parties to the BBNJ Agreement and the public concerned, including through the BBNJ Clearing-House Mechanism.

3. Member States shall periodically but not less frequently than every three years publish a report on the impacts of the authorised activities and the results of the monitoring required under paragraph 1.

4. Member States shall ensure that the following is made available to the public, including through the BBNJ Clearing-House Mechanism:

(a) monitoring reports;

(b) reports on the review of the impacts of the authorized activity;

(c) where a decision authorising the activity has been changed, newly taken decisions, including information referred to in Article 12(2).

Article 14

Access to justice

Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned have access to a review procedure before a court of law or another independent and impartial body set up by law to challenge the substantive or procedural legality of decisions, acts or omissions under Articles 8 to 13.

Article 15

Strategic environmental assessment of plans and programmes

Member States may, individually or in cooperation with other Member States or with other Parties to the BBNJ Agreement, carry out strategic environmental assessments for plans and programmes relating to planned activities under their jurisdiction or control to be conducted in areas beyond national jurisdiction, in order to assess the potential effects of such plans or

programmes on the marine environment. Where Directive 2001/42/EC provides for an obligation to carry out a strategic environmental assessment, Member States shall comply with the provisions of that Directive when carrying out such assessments.

CHAPTER 4

Measures such as area-based management tools, including marine protected areas

Article 16

Proposal for the establishment of area-based management tools

1. Member States shall, irrespective of whether they act individually or collectively, send the draft of a proposal under Article 19 of the BBNJ Agreement or of an emergency measure under Article 24(3) of that Agreement to the Commission before any submission to the BBNJ Secretariat. Upon receipt, the Commission shall inform all Member States and share the draft proposal. If other Member States have comments, they shall submit these comments to the Commission within 30 days from receipt of the draft proposal or earlier if warranted by the emergency measure. The Commission shall send the comments received on to the other Member States.
2. The Commission shall present a preliminary assessment of the draft proposal or draft emergency measures received under paragraph 1 before Member States submit any proposal or draft to the BBNJ Secretariat. The aim of the preliminary assessment is to help determining whether the proposal or the emergency measure should be submitted or not on behalf of the Union, or the Union and its Member States.
3. The Commission shall present a preliminary assessment of whether the draft proposal or draft emergency measure received under paragraph 1 should be submitted to the BBNJ Secretariat by the Commission on behalf of the Union. Pending such preliminary assessment, and if the preliminary assessment concludes that the submission should be made on behalf of the Union, Member States shall refrain from submitting the proposal or emergency measure referred to in paragraph 1 to the BBNJ Secretariat.

Article 17

Content of proposals

1. Proposals under Article 19 of the BBNJ Agreement regarding the establishment of area-based management tools, including marine protected areas, or the emergency measure under Article 24(3) of that Agreement shall be formulated on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of indigenous peoples and local communities, following the precautionary approach and an ecosystem approach.
2. Stakeholders, including states and global, regional, subregional and sectoral bodies, as well as civil society, the scientific community, the private sector, indigenous peoples and local communities, shall be consulted, as appropriate, on the development of proposals referred to in this Chapter.
3. Proposals shall include the following key elements in relation to the identified area that is the subject of the proposal:
 - (a) a geographic or spatial description of the identified area by reference to the indicative criteria specified in Annex I to the BBNJ Agreement;

- (b) information on any of the criteria specified in Annex I to the BBNJ Agreement;
 - (c) human activities taking place in the identified area, including uses by indigenous peoples and local communities, and their possible impact, if any;
 - (d) a description of the state of the marine environment and biological diversity;
 - (e) a description of the conservation and, where appropriate, sustainable use objectives that are to be applied to the area;
 - (f) a draft management plan encompassing the proposed measures and outlining proposed monitoring, research and review activities to achieve the specified objectives;
 - (g) the duration of the proposed area and measures, if any;
 - (h) information on any consultations undertaken with states, including adjacent coastal states and/or relevant global, regional, subregional and sectoral bodies, if any;
 - (i) information on area-based management tools, including marine protected areas, implemented under relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;
 - (j) relevant scientific input and, where available, traditional knowledge of indigenous peoples and local communities.
4. Member States shall strive to collaborate and share information about proposals, including elements listed in paragraph 3.

Article 18

Implementation

1. Member States shall ensure that activities under their jurisdiction or control that take place in areas beyond national jurisdiction are conducted in line with the decisions of the Conference of the Parties adopted under Part III of the BBNJ Agreement.
2. Member States shall promote, as appropriate, the adoption of measures under relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies of which they are members, to support the implementation of the decisions and recommendations made by the Conference of the Parties under Part III of the BBNJ Agreement.

Article 19

Public participation

Member States shall ensure that the public is given the opportunity to participate in the preparation of proposals to establish area-based management tools, including marine protected areas, under Article 15 in accordance with the requirements of Articles 6 and 7 of Directive 2001/42/EC.

Chapter 5

Final provisions

Article 20

Competent authorities

1. By xx [the transposition deadline minus four months – OP to insert the date] Member States shall identify the competent authorities that will perform the duties under Chapters 2 to 5 of this Directive and notify these to the Commission.

2. Member States shall ensure that competent authorities performing duties under this Directive have a sufficient number of qualified staff and sufficient financial, technical and technological resources to perform their tasks effectively.

Article 21

Evaluation, reporting and review

1. By [5 years from the date of entry into force – OP to insert the date], the Commission shall submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report.

2. By [3 years after the deadline under para 1 – OP to insert the date], the Commission shall carry out an evaluation of the impact of this Directive [also taking into account any developments under the BBNJ Agreement] and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with the information needed to prepare that report, including a summary of implementation of this Directive and actions taken, and statistical data, with particular attention to environmental impact assessments carried out under Chapter 3. Where necessary, that report shall be accompanied by a legislative proposal.

Article 22

Transposition

1. Member States shall adopt and publish, by [6 months after entry into force – OP to insert the date] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from [...].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by this reference on the date of their official publication. Member States shall decide how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law that they adopt in the field covered by this Directive.

Article 23

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 24

Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Brussels

*For the European Parliament
The President*

*For the Council
The President*

LEGISLATIVE FINANCIAL AND DIGITAL STATEMENT

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1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a directive that implements the obligations under the BBNJ Agreement to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

1.2. Policy area(s) concerned

Environmental protection

1.3. Objective(s)

1.3.1. General objective(s)

The objective of the initiative is to ensure the implementation of the BBNJ Agreement in the EU in a uniform manner transposing into the EU legal order the obligations arising from the agreement in the areas related to environmental protection and marine genetic resources (MGRs) and therefore to avoid forum shopping in the EU, leading to faster permitting and administrative simplification.

1.3.2. Specific objective(s)

Ensure that EU researchers, notably those working in teams across the EU on MGRs of areas beyond national jurisdiction, are not faced with unnecessary legal burden potentially arising from an uneven implementation of international obligations under the BBNJ Agreement in the EU.

Ensure that the potential impacts on the marine environment of planned activities under the jurisdiction or control of Member States that take place in areas beyond national jurisdiction are assessed before the activities are authorised by the competent authority.

Ensure that proposals regarding the establishment of area-based management tools, including marine protected areas, are formulated on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of indigenous peoples and local communities, taking into account the precautionary approach and an ecosystem approach and only after consulting stakeholders.

1.3.3. Expected result(s) and impact

This proposal implementing the BBNJ Agreement in the EU in a uniform manner aims to ensure the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction ('BBNJ'). This is a key priority for the EU and in line with the objectives under the European Green Deal and the Joint Communication on the EU's international ocean governance agenda.

Implementing the obligations under the BBNJ Agreement will also help reach the goals and targets set under the Kunming-Montreal Global Biodiversity Framework (adopted under the Convention on Biological Diversity), in particular the target to ensure effective conservation and management of at least 30% of the world's lands, inland waters, coastal areas and oceans by 2030. It will also help achieve the objectives of the EU biodiversity strategy for 2030, which aims to restore the good environmental status of marine ecosystems, among other things.

By implementing the BBNJ Agreement, this proposal will create a level playing field in the EU for operators performing activities in areas beyond national jurisdiction for which an environmental impact assessment needs to be carried out, and for researchers and legal entities working with MGRs and digital sequence information of MGRs of areas beyond national jurisdiction.

1.3.4. *Indicators of performance*

Specify the indicators for monitoring progress and achievements.

Transposition into national legislation by the EU Member States of the obligations included in this proposal.

This proposal identifies the obligations of the BBNJ Agreement that could have an impact on the EU single market – more specifically on operators performing activities in areas beyond national jurisdiction for which an environmental impact assessment needs to be carried out, and on scientists working with MGRs and digital sequence information – to ensure a level playing field. Therefore, the first way to assess performance is to monitor if EU Member States implement the directive within the time frame indicated in the directive (six months from its entry into force).

1.4. **The proposal/initiative relates to:**

- a new action
- a new action following a pilot project / preparatory action²²
- the extension of an existing action
- a merger or redirection of one or more actions towards another/a new action

1.5. **Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative*

There are three types of requirements, which correspond to short-, medium- and long-term objectives.

Short-term requirements:

At the latest four months before the transposition deadline, Member States must identify competent authorities performing duties under Chapters 2 to 5 of the directive and notify these to the Commission. Member States must ensure that competent authorities performing duties under the directive have a sufficient number of qualified staff and sufficient financial, technical and technological resources to perform their tasks effectively.

Member States must adopt and publish, at the latest six months after the entry into force of the directive, the laws, regulations and administrative provisions necessary to comply with the directive. They must forthwith communicate to the Commission the text of those provisions. Member States must communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by the directive.

Medium-term requirements:

²² As referred to in Article 58(2), point (a) or (b) of the Financial Regulation.

Member States must provide the Commission with the necessary information for the preparation of a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with the directive.

Member States must provide the Commission with the necessary information for the preparation of a report to the European Parliament and to the Council evaluating the impact of the directive, including a summary of the implementation of the directive and actions taken, and statistical data, with particular attention given to environmental impact assessments carried out under Chapter 3.

Long-term requirements:

At the latest five years after the entry into force of the directive, the Commission must submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with the directive.

At the latest eight years after the entry into force of the directive, the Commission must carry out an evaluation of the impact of the directive [also taking into account any developments under the BBNJ Agreement] and submit a report to the European Parliament and to the Council. Where necessary, that report must be accompanied by a legislative proposal.

- 1.5.2. *Added value of EU involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this section 'added value of EU involvement' is the value resulting from EU action, that is additional to the value that would have been otherwise created by Member States alone.*

Reasons for action at EU level (ex-ante)

The BBNJ Agreement provides for an obligation to screen and assess impacts of planned activities in the areas beyond national jurisdiction. In addition, it provides for a framework to govern activities related to MGRs and arrangements for information sharing and benefit sharing of MGR utilisation. A harmonised EU approach is central to creating a level playing field between stakeholders operating from the EU. The aim of the directive is to set out a framework for uniform implementation of the BBNJ Agreement in the EU and to avoid forum shopping in the EU, leading to faster permitting and administrative simplification.

Expected EU added value created (ex post):

ensuring that EU researchers, notably those working in teams across the EU on MGRs of areas beyond national jurisdiction, are not faced with unnecessary legal burden potentially arising from an uneven implementation of international obligations under the BBNJ Agreement;

ensuring consistency between the implementation of the Nagoya Protocol to the Convention on Biological Diversity and the provisions of the BBNJ Agreement related to MGRs;

ensuring coherence between obligations governing environmental impact assessments for activities carried out in EU waters, under the EIA Directive and other relevant EU law and under the BBNJ Agreement; and

ensuring coherence of the BBNJ implementing agreement with EU environmental law

1.5.3. *Lessons learned from similar experiences in the past*

Not applicable

1.5.4. *Compatibility with the multiannual financial framework and possible synergies with other appropriate instruments*

The proposed directive on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction is consistent with the European Green Deal Communication, which, under the goal ‘Preserving and restoring ecosystems and biodiversity’, clearly states: ‘A sustainable “blue economy” will have to play a central role in alleviating the multiple demands on the EU’s land resources and tackling climate change.’ It is also consistent with the biodiversity strategy for 2030, which aims to restore the good environmental status of marine ecosystems, among other things.

Moreover, under the Political Guidelines for the next European Commission (2024-2029), ocean sustainability is a cornerstone of the priority ‘Sustaining our quality of life: food security, water and nature’. This proposed directive will also be part of the European Ocean Pact, which will focus on ensuring the good governance and sustainability of the ocean, among other things.

The objectives of this proposal are supported by the multiannual financial framework, which places significant emphasis on funding activities to protect the environment.

1.5.5. *Assessment of the different available financing options, including scope for redeployment*

This proposal is limited to the strict transposition of obligations under the BBNJ Agreement concerning environmental impact assessment, MGRs and certain elements of the marine protected areas obligations that mirror existing obligations for the Member States under either EU or other international legislation.

In particular, Member States already have an established framework governing environmental impact assessments deriving from their obligations under the EIA Directive, the Espoo Convention and the Aarhus Convention. Therefore, the administrative impact and costs are estimated to be negligible to moderate, as most of the necessary structures and rules are in place.

Member States will face costs limited to the cost of adopting legal, policy or administrative measures implementing the new obligations on MGRs to ensure compliance with the obligations to notify information on MGRs to the BBNJ Clearing House and to request users to deposit samples and digital sequence information in publicly available databases and repositories. This cost will largely depend on what type of measures Member States will take, and it is difficult to put a figure on this at this stage. In terms of human resources, Member States have established national competent authorities for access and benefit sharing (ABS) who may also cover the tasks necessary to enforce the measures related to MGRs. If the final draft of the directive envisages additional monitoring tasks, additional resources may be needed in Member States (e.g. to train the staff of competent authorities, or to hire more staff). On the digital dimension, Member States may face other administrative costs if they choose to set up IT tools specifically designed to transfer

information to the Clearing House. Alternatively, the possibility to use an existing EU IT platform could be explored.

The costs for the Commission to implement the MGR obligations under this proposal are described below.

If the directive does not set up any technical groups or committees, meetings with Member State competent authorities and experts, information collection and all other work necessary to monitor progress in implementing the directive could take place as part of the work done for the EU ABS expert group set up under the EU ABS Regulation. In terms of human resources, monitoring could be carried out by current staff already working on either ABS or BBNJ.

On the digital dimension: If the BBNJ clearing house does not support the full exchange of data between stakeholders as put forward in national laws, Member States may need a local system or the EC may need to develop or extend an existing IT platform or reporting tool: some costs may be faced by the Commission to implement the necessary adjustments for such a platform (or tool) to fit for the purpose of this directive. At this stage, costs cannot be assessed. Further assessment with the IT experts will be carried out when more details about the BBNJ Clearing House and reporting obligations will be provided and if Member States will express interest for a common platform or tool.

The implementation of the proposal will be followed up by two Commission departments: the Directorate-General for Environment and the Directorate-General for Maritime Affairs and Fisheries.

1.6. Duration of the proposal/initiative and of its financial impact

limited duration

- in effect from [DD/MM]YYYY to [DD/MM]YYYY
- financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

unlimited duration

- Implementation with a start-up period from 2025
- followed by full-scale operation.

1.7. Method(s) of budget implementation planned²³

Direct management by the Commission

- by its departments, including by its staff in the Union delegations;
- by the executive agencies

Shared management with the Member States

Indirect management by entrusting budget implementation tasks to:

- third countries or the bodies they have designated
- international organisations and their agencies (to be specified)
- the European Investment Bank and the European Investment Fund
- bodies referred to in Articles 70 and 71 of the Financial Regulation
- public law bodies
- bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees
- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees
- bodies or persons entrusted with the implementation of specific actions in the common foreign and security policy pursuant to Title V of the Treaty on European Union, and identified in the relevant basic act
- bodies established in a Member State, governed by the private law of a Member State or Union law and eligible to be entrusted, in accordance with sector-specific rules, with the implementation of Union funds or budgetary guarantees, to the extent that such bodies are controlled by public law bodies or by bodies governed by private law with a public service mission, and are provided with adequate financial guarantees in the form of joint and several liability by the controlling bodies or equivalent financial guarantees and which may be, for each action, limited to the maximum amount of the Union support.

²³ Details of budget implementation methods and references to the Financial Regulation may be found on the BUDGpedia site: <https://myintracom.ec.europa.eu/corp/budget/financial-rules/budget-implementation/Pages/implementation-methods.aspx>.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

At the latest five years after the entry into force of the directive, the Commission must submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with the directive.

At the latest eight years after the entry into force of the directive, the Commission must carry out an evaluation of the impact of the directive [also taking into account any developments under the BBNJ Agreement] and submit a report to the European Parliament and to the Council. Where necessary, that report must be accompanied by a legislative proposal.

2.2. Management and control system(s)

2.2.1. Justification of the budget implementation method(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

Not applicable

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

No specific risks have been identified at this stage.

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio between the control costs and the value of the related funds managed), and assessment of the expected levels of risk of error (at payment & at closure)

Not applicable

2.3. Measures to prevent fraud and irregularities

Not applicable

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. ²⁴	from EFTA countries ²⁵	from candidate countries and potential candidates ²⁶	From other third countries	other assigned revenue
		Diff	NO	NO	NO	NO
7	European Public Administration	Diff	NO	NO	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.	from EFTA countries	from candidate countries and potential candidates	from other third countries	other assigned revenue

²⁴ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

²⁵ EFTA: European Free Trade Association.

²⁶ Candidate countries and, where applicable, potential candidates from the Western Balkans.

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

- ✓ The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below

3.2.1.1. Appropriations from voted budget

EUR million (to three decimal places)

Heading of multiannual financial framework	Number
--	--------

DG: <.....>			Year	Year	Year	Year	TOTAL MFF 2021-2027
			2024	2025	2026	2027	
Operational appropriations							
Budget line	Commitments	(1a)					0.000
	Payments	(2a)					0.000
Budget line	Commitments	(1b)					0.000
	Payments	(2b)					0.000
Appropriations of an administrative nature financed from the envelope of specific programmes ²⁷							
Budget line		(3)					0.000
TOTAL appropriations for DG <.....>	Commitments	=1a+1b+3	0.000	0.000	0.000	0.000	0.000
	Payments	=2a+2b+3	0.000	0.000	0.000	0.000	0.000

Mandatory table

	Year	Year	Year	Year	TOTAL MFF 2021-2027
	2024	2025	2026	2027	

²⁷ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

TOTAL operational appropriations	Commitments	(4)	0.000	0.000	0.000	0.000	0.000
	Payments	(5)	0.000	0.000	0.000	0.000	0.000
TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	0.000	0.000	0.000	0.000	0.000
TOTAL appropriations under HEADING <...> of the multiannual financial framework	Commitments	=4+6	0.000	0.000	0.000	0.000	0.000
	Payments	=5+6	0.000	0.000	0.000	0.000	0.000

			Year 2024	Year 2025	Year 2026	Year 2027	TOTAL MFF 2021-2027
• TOTAL operational appropriations (all operational headings)	Commitments	(4)	0.000	0.000	0.000	0.000	0.000
	Payments	(5)	0.000	0.000	0.000	0.000	0.000
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes (all operational headings)		(6)	0.000	0.000	0.000	0.000	0.000
TOTAL appropriations Under Heading 1 to 6 of the multiannual financial framework (Reference amount)	Commitments	=4+6	0.000	0.000	0.000	0.000	0.000
	Payments	=5+6	0.000	0.000	0.000	0.000	0.000

Heading of multiannual financial framework	7	'Administrative expenditure' ²⁸
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²⁸

The necessary appropriations should be determined using the annual average cost figures available on the appropriate BUDGpedia webpage.

DG: MARE		Year 2024	Year 2025	Year 2026	Year 2027	TOTAL MFF 2021- 2027
• Human resources		0.000	0.188	0.188	0.188	0.564
• Other administrative expenditure		0.000	0.000	0.000	0.000	0.000
TOTAL DG MARE	Appropriations	0.000	0.188	0.188	0.188	0.564

DG: ENV		Year 2024	Year 2025	Year 2026	Year 2027	TOTAL MFF 2021- 2027
• Human resources		0.000	0.188	0.188	0.188	0.564
• Other administrative expenditure		0.000	0.000	0.000	0.000	0.000
TOTAL DG ENV	Appropriations	0.000	0.188	0.188	0.188	0.564

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	0.000	0.376	0.376	0.376	1.128
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EUR million (to three decimal places)

		Year 2024	Year 2025	Year 2026	Year 2027	TOTAL MFF 2021-2027
TOTAL appropriations under HEADINGS 1 to 7	Commitments	0.000	0.376	0.376	0.376	1.128
of the multiannual financial framework	Payments	0.000	0.376	0.376	0.376	1.128

3.2.2. *Estimated output funded from operational appropriations (not to be completed for decentralised agencies)*

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ↓			Year 2024		Year 2025		Year 2026		Year 2027		Enter as many years as necessary to show the duration of the impact (see Section 1.6)						TOTAL			
	OUTPUTS																			
	Type ²⁹	Average cost	N ^o	Cost	N ^o	Cost	N ^o	Cost	N ^o	Cost	N ^o	Cost	N ^o	Cost	N ^o	Cost	N ^o	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ³⁰ ...																				
- Output																				
- Output																				
- Output																				
Subtotal for specific objective No 1																				
SPECIFIC OBJECTIVE No 2 ...																				
- Output																				
Subtotal for specific objective No 2																				
TOTALS																				

²⁹ Outputs are products and services to be supplied (e.g. number of student exchanges financed, number of km of roads built, etc.).

³⁰ As described in Section 1.3.2. 'Specific objective(s)'

3.2.3. Summary of estimated impact on administrative appropriations

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below

3.2.3.1. Appropriations from voted budget

VOTED APPROPRIATIONS	Year	Year	Year	Year	TOTAL 2021 - 2027
	2024	2025	2026	2027	
HEADING 7					
Human resources	0.000	0.376	0.376	0.376	1.128
Other administrative expenditure	0.000				
Subtotal HEADING 7	0.000	0.376	0.376	0.376	1.128
Outside HEADING 7					
Human resources	0.000	0.000	0.000	0.000	0.000
Other expenditure of an administrative nature	0.000	0.000	0.000	0.000	0.000
Subtotal outside HEADING 7	0.000	0.000	0.000	0.000	0.000
TOTAL	0.000	0.376	0.376	0.376	1.128

3.2.4. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources
- The proposal/initiative requires the use of human resources, as explained below

3.2.4.1. Financed from voted budget

Estimate to be expressed in full-time equivalent units (FTEs)³¹

VOTED APPROPRIATIONS		Year	Year	Year	Year
		2024	2025	2026	2027
• Establishment plan posts (officials and temporary staff)					
20 01 02 01 (Headquarters and Commission's Representation Offices)		0	2	2	2
20 01 02 03 (EU Delegations)		0	0	0	0
01 01 01 01 (Indirect research)		0	0	0	0
01 01 01 11 (Direct research)		0	0	0	0
Other budget lines (specify)		0	0	0	0
• External staff (inFTEs)					
20 02 01 (AC, END from the 'global envelope')		0	0	0	0
20 02 03 (AC, AL, END and JPD in the EU Delegations)		0	0	0	0
Admin. Support line [XX.01.YY.YY]	- at Headquarters	0	0	0	0
	- in EU Delegations	0	0	0	0

³¹ Please specify below the table how many FTEs within the number indicated are already assigned to the management of the action and/or can be redeployed within your DG and what are your net needs.

01 01 01 02 (AC, END - Indirect research)	0	0	0	0
01 01 01 12 (AC, END - Direct research)	0	0	0	0
Other budget lines (specify) - Heading 7	0	0	0	0
Other budget lines (specify) - Outside Heading 7	0	0	0	0
TOTAL	0	2	2	2

Considering the overall strained situation in Heading 7, in terms of both staffing and the level of appropriations, the human resources required will be met by staff from the DG who are already assigned to the management of the action and/or have been redeployed within the DG or other Commission services.

The staff required to implement the proposal (in FTEs):

	To be covered by current staff available in the Commission services	Exceptional additional staff		
		To be financed under Heading 7 or Research	To be financed from BA line	To be financed from fees
Establishment plan posts	2		N/A	
External staff (CA, SNEs, INT)				

Description of tasks to be carried out by:

Officials and temporary staff	The officials and temporary staff will follow the implementation of the Directive so they will coordinate with the EU MS competent authority.
External staff	

3.2.5. Overview of estimated impact on digital technology-related investments

Compulsory: the best estimate of the digital technology-related investments entailed by the proposal/initiative should be included in the table below.

Exceptionally, when required for the implementation of the proposal/initiative, the appropriations under Heading 7 should be presented in the designated line.

The appropriations under Headings 1-6 should be reflected as “Policy IT expenditure on operational programmes”. This expenditure refers to the operational budget to be used to re-use/ buy/ develop IT platforms/ tools directly linked to the implementation of the initiative and their associated investments (e.g. licences, studies, data storage etc). The information provided in this table should be consistent with details presented under Section 4 “Digital dimensions”.

TOTAL Digital and IT appropriations	Year	Year	Year	Year	TOTAL MFF 2021 - 2027
	2024	2025	2026	2027	
HEADING 7					
IT expenditure (corporate)	0.000	0.000	0.000	0.000	0.000
Subtotal HEADING 7	0.000	0.000	0.000	0.000	0.000
Outside HEADING 7					
Policy IT expenditure on operational programmes	0.000	0.000	0.000	0.000	0.000
Subtotal outside HEADING 7	0.000	0.000	0.000	0.000	0.000
TOTAL					
	0.000	0.000	0.000	0.000	0.000

3.2.6. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

- can be fully financed through redeployment within the relevant heading of the multiannual financial framework (MFF)
- requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation
- requires a revision of the MFF

3.2.7. *Third-party contributions*

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year 2024	Year 2025	Year 2026	Year 2027	Total
Specify the co-financing body					
TOTAL appropriations co-financed					

3.3. *Estimated impact on revenue*

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
 - on own resources
 - on other revenue
 - please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ³²			
		Year 2024	Year 2025	Year 2026	Year 2027
Article					

4. DIGITAL DIMENSIONS

4.1. Requirements of digital relevance

Reference to the requirement	Requirement description	Actor affected or concerned by the requirement	High-level Processes	Category
Article 5	Member States shall ensure that collection in situ of marine genetic resources is carried out with due regard for the rights and legitimate interests of coastal states in areas within their national jurisdiction and with due regard for the interests of other states in areas beyond national jurisdiction, in accordance with the United Nations Convention on the Law of the Sea. For this purpose, Member States shall cooperate, as appropriate, including using the BBNJ Clearing-House Mechanism, in order to implement the provisions of this Chapter. Member States shall cooperate, as appropriate, including using the BBNJ Clearing-House Mechanism, in order to implement the provisions of this Chapter.	Member states	Data collection	Data; Digital solution

³² As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20% for collection costs.

Article 6	The obligation to notify to the BBNJ Clearing House Mechanism certain information/data. EU Member States will have to identify who has to do this notification: most likely the chief scientists responsible for the research project.	Competent authorities of Member States BBNJ Clear-house mechanism Member states	Notification	Data; Digital Solutions; Digital Public Service
Article 7	Obligation for legal and natural persons utilising MGR of ABNJ to communicate to the competent authority the confirmations of deposits of samples and data.	Legal and natural persons Competent authorities of Member States Member States	Notification	Data; Digital solutions
In scope of the BBNJ Clearing-House Mechanism				
Article 8	For activities for which an environmental impact assessment has been carried out in accordance with the requirements of other relevant legal instruments or frameworks or by relevant global, regional, subregional or sectoral bodies, obligation for Member States to publish an environmental impact assessment report through the BBNJ Clear-House Mechanism and make relevant information available	General public Member States	Publication, data management	Data; Digital solution; Digital Public Service
Article 9	Obligation to publish the screening decision	Competent authority General public	Publication	Data; Digital solution; Digital Public Service
Article 10	Environmental impact	Competent	Data	Data

	assessment: scoping and report	authority Member States	collection	
Article 11	Obligation to inform and consult general public on planned activities and environment impact assessment	Member States General public	Publication	Data
Article 12	Obligation to inform the general public on decisions to authorise or not planned activities	Member States General public	Publication	Data
Article 13	Obligation to inform about significant and harmful changes to the marine environment triggered by the authorised activities and that were not foreseen during the environmental impact assessment	Member states General public	Publication	Data

4.2. Data

Type of data	Reference to the requirement(s)	Standard and/or specification (if applicable)
Information on research projects	Article 6.1; Article 6.2, Article 6.3, Article 6.4	
marine genetic resource and digital sequence information	Article 6.6, Article 6.5	
Information on the utilisation of marine genetic resources	Article 6.7	
Confirmation that samples and data have been deposited	Article 7	
Environmental impact assessment report, planned activities and decisions	Article 8, Article 9, Article 10, Article 11	
Result of consultations	Article 12	
Environmental damage caused by authorised activities	Article 13	

Alignment with the European Data Strategy

Explain how the requirement(s) are aligned with the European Data Strategy

The proposal sets the obligation to publish relevant information as open data under the frame of Directive (EU) 2019/1024 of the European Parliament and of the Council that promotes the use of open data from public sector bodies and public undertakings. Confidential information is collected under clauses of confidentiality including intellectual property rights.

Alignment with the once-only principle

Explain how the once-only principle has been considered how the possibility to reuse existing data explored

Article 6 (1) requires that information collected under this article is coordinated with other notification systems provided under other Union legislation

Explain how newly created data is findable, accessible, interoperable and reusable, and meets high-quality standards

As the proposal relies on the BBJN Mechanism, we assume that this will be secured by the said mechanism.

Data flows

Type of data	Reference(s) to the requirement(s)	Actor who provides the data	Actor who receives the data	Trigger for the data exchange	Frequency (if applicable)
Information on research projects including : <ul style="list-style-type: none">• BBNJ standardised batch identifier ,• Marine genetic resource and digital sequence information• and information on their further utilisation	Article 6	Member States	BBJN Clearing House mechanism	six months or as early as possible prior to the collection in situ of marine genetic resources of areas beyond national jurisdiction:	
Deposit of BBNJ standardised batch identifier , Marine genetic resource	Article 7 (1)	natural or legal persons	General public	no later than three years from the start of such	

and digital sequence information				utilisation, or as soon as they become available.	
Confirmation that samples and data have been deposited	Article 7 (2)	natural or legal persons	competent authority	no later than three years from the start of such utilisation, or as soon as they become available	
Sharing of information of the deposited BBNJ standardised batch identifier, and confirmation of the deposited resource Marine genetic resource	Article 7(3)	Member States	Member States		
Environmental impact assessment report including : <ul style="list-style-type: none"> • Screening decision when relevant • Environmental impact assessment 	Article 8, Article 9, Article 10, Article 11,	Member States	General public	Not specified	
Consultations Results	Article 11	Member States	Affected parties	Consultations shall not be shorter than 30 days but shall not be longer than 85 days.	
Decisions	Article 12	Member States	General public	Not specified	

Environmental damage caused by authorised activities	Article 13	Member States	General public		not less frequent than every three years
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4.3. Digital solutions

For each digital solution, please provide the reference to the requirement(s) of digital relevance concerning it, a description of the digital solution's mandated functionality, the body that will be responsible for it, and other relevant aspects such as reusability and accessibility. Finally, explain whether the digital solution intends to make use of AI technologies.

Digital solution	Reference(s) to the requirement(s)	Main mandated functionalities	Responsible body	How is accessibility catered for?	How is reusability considered?	Use of AI technologies (if applicable)
BBNJ Clearing house	Article 6, Article 7	Prepare and submit information. Control submissions. List submissions.	UN	N/A	N/A	N/A
Digital platform if EU/national additional data elements are needed	Article 6, Article 7	Prepare and submit information	MS and/or Commission	Existing infrastructure	to be further explored and assessed	

For each digital solution, explain how the digital solution complies with the requirements and obligations of the EU cybersecurity framework, and other applicable digital policies and legislative enactments (such as eIDAS, Single Digital Gateway, etc.).

Digital solution #2

Digital and/or sectorial policy (when these are applicable)	Explanation on how it aligns
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<i>AI Act</i>	Not relevant
<i>EU Cybersecurity framework</i>	Reuses existing infrastructures
<i>eIDAS</i>	Reuses existing infrastructures
<i>Single Digital Gateway and IMI</i>	Not relevant
<i>Others</i>	

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4.4. Interoperability assessment

Describe the digital public service(s) affected by the requirements

Digital public service or category of digital public services	Description	Reference(s) to the requirement (s)	Interoperable Europe Solution(s) (NOT APPLICABLE)	Other interoperability solution(s)
Monitoring of research projects in the domain of marine biology and planned activity and dissemination of related information	Provide relevant authorisations in respect with the principle of non environmental harm	all	//	To be further explored

Assess the impact of the requirement(s) on cross-border interoperability

Monitoring of research projects in the domain of marine biology and dissemination of related information

Assessment	Measures	Potential remaining barriers
Assess the alignment with existing digital and sectorial policies Please list the applicable digital and sectorial policies identified	- The proposal is aligned with Directive (EU) 2019/1024 of the European Parliament and of the Council that promotes the use of open data from public	

	sector bodies and public undertaking	
<p>Assess the organisational measures for a smooth cross-border digital public services delivery</p> <p>Please list the governance measures foreseen</p>	<ul style="list-style-type: none"> - Article 6 sets measures around data governance - Article 19 requires Member states to ensure that the environmental impact assessment reports are of sufficient quality 	<ul style="list-style-type: none"> - Criteria to ensure that these reports are of sufficient quality should be harmonised and agreed among Member States, if the BBNJ clearing house doesn't provide suitable templates.
<p>Assess the measures taken to ensure a shared understanding of the data</p> <p>Please list such measures</p>		Implementation measures will have to consider harmonisation of data managed by the national authorities and the bodies set in accordance with the interinstitutional arrangements, on top of the existing international agreement guidelines.
<p>Assess the use of commonly agreed open technical specifications and standards</p> <p>Please list such measures</p>		Implementation measures will have to consider technical interoperability of systems managed by the national authorities and the bodies set in accordance with the interinstitutional arrangements.

4.5. Measures to support digital implementation

As the digital aspects of the proposed directive build on an existing IT platform or an IT platform that is being designed, no measures are envisaged, apart from raising awareness of the possibility to use these IT platforms.