

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
(COM(2025)0173 – C10-0074/2025 – 2025/0090(COD))

(Ordinary legislative procedure: first reading)

COMPROMISE 1 - *Replaces Amendments 3-5, 54-70, 73-74*

Article 1

Subject matter

Text proposed by the Commission

Amendment

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.

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1a (new) This Directive sets out rules applicable to marine genetic resources and digital sequence information, environmental assessments of planned activities under the jurisdiction or control of Member States as well as the establishment and implementation of area-based management tools and emergency measures, in areas beyond national jurisdiction.

Article 2

Definitions

Text proposed by the Commission

Amendment

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

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- (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

- (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;

(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

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;

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

(j) ‘activities under jurisdiction or control’ means activities carried out by legal persons, both **public and private and by natural persons**, 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

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;

(The capitalisation of Indigenous Peoples applies throughout the text.)

(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

Text proposed by the Commission

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

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 **cause substantial pollution of or make significant and harmful changes to** the marine environment.

Amendment

Deleted

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.

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property, and the safeguarding of the public interest.

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COMPROMISE 2 - Replacing AMs 79-82, 84-87, 90-91

Article 4

General provisions

Text proposed by the Commission

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

Text proposed by the Commission

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

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Amendment

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2. This Chapter does not apply to:

(a) fishing regulated under applicable international **and Union law, such as the Common Fisheries Policy** 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.

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PE775.452v01-00

EN

Notification on activities with respect to marine genetic resources and digital sequence
Text proposed by the Commission

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

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(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).

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(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;

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. ***Where relevant, they shall use existing Union data collection and reporting systems for BBNJ notifications and deposits.***

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

Text proposed by the Commission

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

(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.

Amendment

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.

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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.

COMPROMISE 3 - Replaces AMs 6-11, 92-123

CHAPTER 3 Environmental Assessments
Article 8

Commented [MK1]:
AM 124 should be covered under CA 4

General provisions

Text proposed by the Commission

Amendment

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.

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. ***At the request of a Member State, the Commission shall provide technical assistance in this regard.***
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

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 *these* activities for which an environmental impact assessment has been carried out in accordance with the requirements of other *international* legal instruments or frameworks, *Union law* or by relevant global, regional, subregional or sectoral bodies, Member States *concerned* shall ensure:

(a) that the conditions under Article 29(4) of the BBNJ Agreement are met.

(b) that the environmental impact assessment report is published through the BBNJ Clearing-House Mechanism, and

(c) that the activity *for which this environmental impact assessment has been carried out*, is monitored.

7. For planned activities under Member States' jurisdiction or control that take place in areas within national jurisdiction and are likely to *cause substantial pollution of or significant and harmful changes to* 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, **including any relevant monitoring reports**, 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

manner consistent with the requirements of that Directive and national legislation.

Article 9

Screening

Text proposed by the Commission

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

assessments for planned activities and ensure that the activity is monitored in a manner consistent with the requirements of that Directive and national legislation.

Amendment

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, ***taking into account the precautionary principle, where there is scientific uncertainty*** and therefore shall be made subject to an assessment, ***unless the conditions laid down in Article 8 (6) are met.***

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

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

Text proposed by the Commission

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

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.

Amendment

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

Text proposed by the Commission

1. Member States shall ensure that, within reasonable time-frames, the following information is made available to the public,

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).

(k) (new) where relevant, a description of any associated impacts of the planned activity, such as economic social, cultural and human health impacts, including effects on food security, employment, and regional economies in line with Article 31 and 35 of the BBNJ Agreement.

5. In order to ensure *the* completeness and quality of the environmental impact assessment reports, Member States shall ensure that the reports are prepared by competent *and independent* experts *and shall require from these experts to disclose any conflict of interest in relation to their role and responsibilities. Member States shall ensure* that the competent authorities have *sufficient expertise*, or have access as necessary to *it*, to examine these reports.

Amendment

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

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

Text proposed by the Commission

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

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.

Amendment

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.

conducted in a manner consistent with the prevention of **substantial pollution of or significant and harmful changes to** 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 **substantial pollution of or significant and harmful changes to** the marine environment **by the planned activity** 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 **to the public any conditions set out in the authorisation of the planned activity, including conditions related to mitigating and compensatory measures and follow-up requirements, and** 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

Article 13 Monitoring

Text proposed by the Commission

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).

addressed.

Amendment

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 **substantial pollution of or** 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

Text proposed by the Commission

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.

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).

Amendment

1. In line with the objective of contributing to the implementation of the Aarhus Convention, 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, 16-19, where at least one of the following conditions is met:

- (a) they have a sufficient interest;***
- (b) they maintain the impairment of a***

right, where administrative procedural law of a Member State requires this as a precondition.

2. Member States shall determine what constitutes a sufficient interest and impairment of a right, consistently with the objective of giving the public concerned wide access to justice. To this end, the interest of any non-governmental organisation promoting environmental protection and meeting any requirements under national law shall be deemed sufficient for the purpose of paragraph 1(a). Such organisations shall also be deemed to have rights capable of being impaired for the purpose of paragraph 1(b).

3. Standing in the review procedure shall not be conditional on the role that the member of the public concerned played during a participatory phase of the decision-making procedures under this Directive.

4. Member States shall determine at what stage the decisions, acts or omissions, referred to in paragraph 1, may be challenged.

5. The review procedure shall be fair, equitable, timely and not prohibitively expensive, and shall provide for adequate and effective redress mechanisms, including injunctive relief, where appropriate.

6. Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures referred to in this Article.

Article 15

Strategic environmental assessment of plans and programmes

Text proposed by the Commission

Amendment

Member States may, individually or in cooperation with other Member States or with other Parties to the BBNJ Agreement,

Where Directive 2001/42/EC provides for an obligation to carry out a strategic environmental assessment, Member States

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.

shall comply with the provisions of that Directive when carrying out such assessments.

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.

COMPROMISE 4 - Chapter 4 Measures such as area-based management tools, including marine protected areas - Replaces AMs 12-15, 124-154, 156

Article 16

Proposal for the establishment of area-based management tools

Text proposed by the Commission

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

Amendment

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 ***without delay***. Member States ***may submit*** comments ***on the draft proposal or emergency measures*** 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.

Deleted

3. The Commission shall ***examine the***

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.

draft proposal or draft emergency measure and comments received and, within 30 days following the deadline for Member States to comment shall present a legal assessment of whether or not 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. The legal assessment shall be made available to all the Member States.

3a (new) Where the Commission concludes in its legal assessment that the draft proposal or draft emergency measure should be submitted on behalf of the Union or the Union and its Member States, the Commission shall proceed with the submission to the BBNJ Secretariat, where relevant, together with the Member States.

3b (new) Where the Commission concludes in its legal assessment that the draft proposal or draft emergency measure should not be submitted on behalf of the Union, the Member State or group of Member States who sent the draft may proceed with the submission to the BBNJ Secretariat on their own behalf.

3c (new) Without prejudice to the preceding paragraphs, a Member State or a group of Member States may submit a proposal for an emergency measure under Article 24(3) of the BBNJ Agreement directly to the BBNJ Secretariat. In parallel to submitting the proposal, the Member State or group of Member States in question shall inform the Commission and the other Member States and make available the submitted proposal without delay.

3d (new) Member States and the Commission shall endeavour to cooperate closely and consult each other regularly, in good faith, in the establishment, assessment and prior to the submission to the BBNJ Secretariat of any proposal for area-based management tools and emergency measures.

Article 17
Content of proposals

Text proposed by the Commission

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

Amendment

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. ***Member States shall consult, as appropriate, with relevant*** 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, ***for*** 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

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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.

4a (new) Member States shall make information relating to the establishment of area-based management tools, including marine protected areas, available through the BBNJ Clearing-House Mechanism.

28/49

PE775.452v01-00

EN

Text proposed by the Commission

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

Text proposed by the Commission

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

Amendment

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.

1 a. Member States may adopt more stringent measures with respect to their nationals and vessels or with regard to activities under their jurisdiction or control in addition to those adopted under this Part III of the BBNJ Agreement, in accordance with international law and in support of the objectives of the Agreement.

2. Member States *and the Commission* shall promote, as appropriate the adoption of measures, *and collaborate with consideration for competences*, under relevant legal instruments, frameworks and relevant global, regional, subregional and sectoral bodies to support *and facilitate* the implementation of the decisions and recommendations *adopted* by the Conference of the Parties under Part III of the BBNJ Agreement.

2a (new). Member States shall make information relating to the implementation of area-based management tools, including marine protected areas, available through the BBNJ Clearing-House Mechanism.

Amendment

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.

accordance with the requirements of Articles 6 and 7 of Directive 2001/42/EC.

Compromise Amendment 5 - remaining articles

Replaces AMs 1, 2, 16-53, 71-72, 75-78, 83, 155 and 157

CHAPTER 5 Final Provisions

Article 20 Competent authorities

Text proposed by the Commission

Amendment

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.

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.

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

Text proposed by the Commission

Amendment

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.

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

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, taking into account any developments under the BBNJ Agreement

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

Text proposed by the Commission

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

Text proposed by the Commission

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

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.

Amendment

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.

Amendment

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

European Union.

European Union.

Article 24

Addressees

Text proposed by the Commission

Amendment

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

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

References & Recitals

Draft legislative resolution

- having regard to the Commission proposal to Parliament and the Council (COM(2025)0173),
- having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C10-0074/2025),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of [...]¹;
- having regard to the opinion of the Committee of the Regions of [...]³,
- having regard to Rule 60 of its Rules of Procedure,
- having regard to the opinion of the Committee on Fisheries,

Amendment

- having regard to the Commission proposal to Parliament and the Council (COM(2025)0173),
- having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C10-0074/2025),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of [...]²;
- having regard to the opinion of the Committee of the Regions of [...]⁴,
- having regard to Rule 60 of its Rules of Procedure,
- having regard to the opinion of the Committee on Fisheries,

¹ [OJ C 0, 00.00.0000, p. 0./ Not yet published in the Official Journal.]

² [OJ C 0, 00.00.0000, p. 0./ Not yet published in the Official Journal.]

³ [OJ C 0, 00.00.0000, p. 0./ Not yet published in the Official Journal.]

⁴ [OJ C 0, 00.00.0000, p. 0./ Not yet published in the Official Journal.]

- having regard to the report of the Committee on the Environment, Climate and Food Safety (A10-0000/2025),

- having regard to the report of the Committee on the Environment, Climate and Food Safety (A10-0000/2025),

Recital 1

Text proposed by the Commission

(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.

Recital 2

Text proposed by the Commission

(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

Amendment

(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.

Amendment

(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.

parties, and further international cooperation and coordination.

Recital 3

Text proposed by the Commission

Amendment

(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.

(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.

Recital 3a (new)

Text proposed by the Commission

Amendment

3a (new) In implementing this Directive, Member States should take due account of principles and approaches of Article 7 of the BBNJ Agreement.

Recital 4

Text proposed by the Commission

Amendment

(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.

(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.

Recital 5

Text proposed by the Commission

(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.

Recital 6

Text proposed by the Commission

(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.

Recital 7

Text proposed by the Commission

(7) *As parties to the Convention on Biological Diversity, the Union and its*

Amendment

(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.

Amendment

(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.

Amendment

(7) The EU biodiversity strategy for 2030, contained in the communication of

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 2023 Bringing nature back into our lives’, sets out multiple objectives, including the aim to restore the good environmental status of marine ecosystems.

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 of restoring the good environmental status of marine ecosystems ***and of facilitating the conclusion of an ambitious legally binding agreement on marine biological diversity of areas beyond national jurisdiction (BBNJ).***

Recital -7 a (new)

Text proposed by the Commission

Amendment

(-7 a) 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 (CBD) on 7-19 December 2022, including the goal that, by 2030, at least 30% of the world's oceans will be governed by systems of protected areas and other effective area-based conservation measures, together with 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.

Recital 7 a (new)

Text proposed by the Commission

Amendment

7a (new) Parties to the CBD, in accordance with the 2030 mission towards achieving the 2050 strategic vision, are to take urgent action to halt and reverse biodiversity loss.

Recital 7 b (new)

Text proposed by the Commission

Amendment

7b (new) This Directive should be implemented in a manner that does not undermine relevant legal instruments and frameworks and competent global, regional, subregional and sectoral bodies, and promotes coherence and coordination with those instruments, frameworks and bodies.

Recital 7 c (new)

Text proposed by the Commission

Amendment

7c (new) The Union and its Member States should thus develop a common coordinated approach and mechanisms for ensuring coherence with the work undertaken within those instruments, framework and bodies, such as in Regional Fisheries Management Organisations (RFMOs) as the competent international bodies for the conservation and management of fisheries resources in areas beyond national jurisdiction or Regional Seas Conventions, including regarding the promotion of measures to support the implementation of the decisions and recommendations made by the Conference of the Parties under Part III of the BBNJ Agreement.

Recital 8

Text proposed by the Commission

(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.

Recital 9

Text proposed by the Commission

(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 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.

Recital 10

Text proposed by the Commission

(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.

Amendment

(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.

Amendment

(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 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.

Amendment

(10) It is necessary ***for Union and Member States***, in line with Article 9 ***and the objectives*** 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, ***including through financial***

contributions, transfer of marine technology, or capacity-building for developing states.

Recital 11

Text proposed by the Commission

(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.

Amendment

(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.

Recital 12

Text proposed by the Commission

(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.

Amendment

(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.

Recital 13

Text proposed by the Commission

(13) To reduce the administrative burden and costs of implementation, Member

Amendment

(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.

States may, where available, use a digital platform provided by the Commission to meet the purpose of this Directive.

Recital 14

Text proposed by the Commission

(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.

Amendment

(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, **where relevant**, (transposed into Union legislation. Pending transposition, the effectiveness of the **adopted** measures **should not be undermined**. **In order to ensure coordination at Union level, procedures should be put in place for cooperation between** the Member States and the Commission prior to the submission of any proposal to the BBNJ Secretariat **for the establishment** of area-based management tools **or a proposal for an emergency measure**.

Recital 15

Text proposed by the Commission

(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.

Amendment

(15) **As part of the established procedures, the Commission should carry out a legal assessment, which should include an assessment of the need for the** proposal to establish area-based management tools or **the** proposal for an emergency measure under Articles 19 and 24(3) of the BBNJ Agreement, **to be submitted** to the BBNJ Secretariat **on behalf of the Union, on behalf of the Union and its Member States or whether the Member State or a group of Member**

States who made a draft proposal may submit the proposal to the Secretariat in their own capacities.

Recital -15 a (new)

Text proposed by the Commission

Amendment

(-15 a) In order to act without unnecessary delay and for the reason that it is possible to adopt intersessionally an emergency measure, as it requires rapid response to prevent or mitigate serious or irreversible harm to marine biological diversity areas beyond national jurisdiction, Member States should be able to submit proposals for an emergency measure directly to the Secretariat.

Recital 15 a (new)

Text proposed by the Commission

Amendment

15a (new) The high seas are of significant economic and social importance for the Union and its marine economy as a whole, particularly for European fisheries, food security, energy production, science and international trade. Provisions under this Directive, including on the establishment of area-based management tools, should ensure a consistent implementation of the Union law and a level playing field throughout the Union, while minimising the administrative burden on Member States.

Recital 16

Text proposed by the Commission

Amendment

(16) The BBNJ Agreement lays down provisions concerning environmental

(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.

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.

Recital 17

Text proposed by the Commission

(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

Amendment

(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.

include ***guaranteeing the right of access to information***, the rights of public participation in decision-making, ***and access to justice*** 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 ***access to information***, public participation in decision-making, ***and access to justice*** in environmental matters should be exercised following the same principles as those established under the Aarhus Convention.

Recital 18

Text proposed by the Commission

(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 Council⁸, other relevant EU law that contains provisions related to environment assessments for planned activities⁹ 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.

Amendment

(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 ***cause substantial pollution of or significant and harmful changes to*** the marine environment in areas beyond national jurisdiction should be subject to an assessment in accordance with ***existing Union law, such as*** Directive 2011/92/EU of the European Parliament and of the Council⁸, other relevant ***Union*** law that contains provisions related to environment assessments for planned activities⁹ and national laws transposing ***Union*** legislation. In accordance with Article 28(2) of the BBNJ Agreement, in the ***Union*** such activities conducted in areas within national jurisdiction should be assessed under established ***Union*** rules. In those cases, Member States should ensure that they meet the obligations under the BBNJ Agreement.

⁸ OJ L 26, 28.1.2012, p. 1–21

⁹ 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

⁸ OJ L 26, 28.1.2012, p. 1–21

⁹ 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

Recital 19

Text proposed by the Commission

(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

Amendment

(19) *Where* 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, *provided that the Member States with jurisdiction or control over the planned activity determine that* the conditions set out in Article 29(4) of the BBNJ Agreement *are met*. In such cases, the Member State concerned should ensure

Mechanism.

that the environmental impact assessment report is published through the BBNJ Clearing-House Mechanism.

Recital 19a

19a) This Directive does not apply to any warship, military aircraft or naval auxiliary. However, Member States should ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Directive.

Recital 20

Text proposed by the Commission

(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 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 Council¹⁰ and national laws transposing that Directive.

¹⁰ OJ L 197, 21.7.2001, p. 30–37

Amendment

(20) Any plans or programmes prepared or adopted by national, regional or local authorities of Member States which are likely to **cause substantial pollution of or significant and harmful changes to** the marine 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 Council¹⁰ and national laws transposing that Directive.

¹⁰ OJ L 197, 21.7.2001, p. 30–37

Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) Directive 2001/42/EC lays down environmental assessment standards and procedural guarantees that are consistent with, and do not undermine, the obligations of the BBNJ Agreement. The

application of Directive 2001/42/EC within areas under Member State jurisdiction or control contributes directly to fulfilling the strategic environmental assessment requirements set out in Article 39 of the BBNJ Agreement.

^{1a} Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment

Recital 21

Text proposed by the Commission

(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.

Recital 22

Text proposed by the Commission

(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.

Recital 23

Amendment

(21) When determining the likelihood of ***causing substantial pollution of or significant and harmful changes to the marine environment by*** planned activities, Member States should take into account how notable or important ***these*** effects can be. They should also take account of criteria set out in Directive 2011/92/EU in making this determination.

Amendment

(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.

Text proposed by the Commission

(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.

Recital 24

Text proposed by the Commission

(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.

Recital 25

Text proposed by the Commission

(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

Amendment

(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.

Amendment

(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.

Amendment

(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.

Recital 26

Text proposed by the Commission

(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.

Recital 27

Text proposed by the Commission

(27) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents, Member States have undertaken to provide, in justified cases, notification of their transposition measures together with one or more documents explaining the relationship

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.

Amendment

(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.

Amendment

(27) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents, 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),

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