



Brussels, 5.1.2021
COM(2021) 1 final

ANNEXES 1 to 2

ANNEXES

to the

Proposal for a COUNCIL DECISION

**on the position to be taken on behalf of the European Union at the meetings of the
International Seabed Authority Council and Assembly**

ANNEX I

The position to be taken on the Union's behalf at meetings of the International Seabed Authority Council and Assembly

1. PRINCIPLES

In the framework of the meetings of the International Seabed Authority Council and Assembly, the Union shall:

- (a) Act in accordance with art 192 and article 145 of the United Nations Convention on the Law of the Sea (UNCLOS) of 10 December 1982 and the obligation to protect and preserve the marine environment. This overarching obligation encompasses responsibilities to prevent, reduce and control pollution of the marine environment from any source, to monitor the risks or effects of pollution and to assess the potential effects of activities under States parties' jurisdiction and control that may cause substantial pollution of or significant and harmful changes to the marine environment (articles 194, 204 and 206). In particular, States parties must take measures to protect and preserve rare or fragile ecosystems. In line with Article 196.1 and 209, they must also prevent, reduce and control pollution resulting from the use of technologies under their jurisdiction or control, including with regard to activities in the Area undertaken by vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority. In accordance with article 145 States, through the International Seabed Authority, shall adopt appropriate rules, regulations and procedures for the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment.
- (b) Act in accordance with Article 191 of the Treaty on the functioning of the European Union (TFEU), which states that the Union's policy shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should, as a priority, be rectified at the source and that the polluter should pay. In that context, the EU should advocate that marine minerals in the international seabed area cannot be exploited before the effects of deep-sea mining on the marine environment, biodiversity and human activities have been sufficiently researched, the risks are understood and the technologies and operational practices are able to demonstrate no serious harm to the environment, in line with the precautionary principle.
- (c) Seek consistency and synergy with the ecosystem based approach as stated in Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, article 2(3); Directive 2008/56/EC of the European Parliament and the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) article 3.4 and 3.5, article 10 and Annexes I and VI; Directive 2014/89/EU of the European Parliament and the Council of 23 July 2014 establishing a framework for maritime spatial planning, Article 5.
- (d) Actively contribute to the discussions to ensure that the International Seabed Authority mining code is robust, in line with international principles and commitments, and contains strong and enforceable environmental standards, which are regularly updated taking account of the latest available science and technologies,

including the need to respect the precautionary approach and to undertake prior environmental impact assessments that are compliant with the United Nations Environmental Programme (UNEP) procedures and guidelines¹.

- (e) Ensure that the regulations on exploitation of mineral resources in the area are consistent with international law, and in particular with the provisions of the UNCLOS and international customary law.
- (f) Uphold the Union's position supports the objectives of the European Green Deal and the green oath 'to do no harm' and the European Union's ambition to lead globally on the conservation and protection of our environment, including seas and oceans.
- (g) Promote the advancement of the scientific knowledge on environmental impacts and its consideration on the International Seabed Authority mining code.
- (h) Seek that the prior environmental risk assessment adheres to the highest standards and undergo a robust evaluation.

2. ORIENTATIONS

Given the limited scientific knowledge and the concerns about the inevitable, and likely irreversible, impacts on biodiversity and climate, it is crucial to ensure that the Union's position on deep seabed mining is fully in line with the European Union's commitment to sustainability and based on the best available science, the application of the precautionary principle and the ecosystem-based approach.

¹ https://elaw.org/system/files/unep.EIA_.guidelines.and_.principles.pdf

ANNEX II

Year to year specification of the Union's position to be taken in meetings of the International Seabed Authority Council and Assembly

Before each meeting of the International Seabed Authority Council or Assembly, the necessary steps shall be taken so that the position to be expressed on the Union's behalf takes account of the latest scientific and other relevant available information, in accordance with the principles and orientations set out in Annex I.

To this effect, and based on that information, the Commission shall transmit to the Council, or to its preparatory bodies, in sufficient time before each meeting of the International Seabed Authority Council or Assembly, a written document setting out the particulars of the proposed specification of the Union's position for discussion and endorsement of the details of the position to be expressed on the Union's behalf.

If in the course of a meeting of the International Seabed Authority Council or Assembly it is impossible to reach an agreement, including on the spot, the matter shall be referred to the Council or its preparatory bodies, in order for the Union's position to take account of new elements.