EXPLANATORY MEMORANDUM TO

THE BIODIVERSITY BEYOND NATIONAL JURISDICTION ACT 2026 (MEANING OF "DIGITAL SEQUENCE INFORMATION") REGULATIONS 2026

2026 No. 521

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Foreign, Commonwealth and Development Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Seema Malhotra MP, Parliamentary Under-Secretary of State (Indo-Pacific) at the Foreign, Commonwealth and Development Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Paul McKell, Director, Ocean Policy and Legal Director at the Foreign, Commonwealth and Development Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Eleanor Petch at the Foreign, Commonwealth and Development Office by email at the following address with any queries regarding the instrument: DLLegalAdvisersOceanPolicyUnitSensitive@fcdo.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations establish the meaning of "digital sequence information" ("DSI") for the purposes of the Biodiversity Beyond National Jurisdiction Act 2026 ("the BBNJ Act").

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 *The Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction* ("the BBNJ Agreement") was adopted by consensus at the United Nations on 19 June 2023. The BBNJ Agreement is an important step toward coordinated global action to tackle the climate and nature crisis. The Agreement demonstrates the ongoing role of multilateral institutions in facing global challenges and cements *the UN Convention on the Law of the Sea* (UNCLOS) as the cornerstone

of ocean governance. The United Kingdom signed the BBNJ Agreement when it opened for signature on 20 September 2023.

5.2 This instrument forms part of the domestic legislative framework required to enable the United Kingdom to ratify the BBNJ Agreement. In particular, it relates to the United Kingdom's implementation of Part II of the BBNJ Agreement, which, among other objectives, seeks to ensure the benefits of activities with regards to marine genetic resources of areas beyond national jurisdiction, and of DSI generated on such resources, are shared fairly and equitably.

5.3 The BBNJ Act creates obligations in respect of the utilisation and storage of DSI on marine genetic resources of areas beyond national jurisdiction. However, DSI is not defined in the BBNJ Agreement. At the time of the adoption of the BBNJ Agreement, the definition of DSI was still under discussion in the context of negotiations under the Convention on Biological Diversity (CBD) on the sharing of benefits from the use of DSI on genetic resources from within national jurisdictions – both terrestrial and marine. At the 16th Conference of the Parties to the CBD, in Cali, Colombia, on 1 November 2024, the Conference adopted a Decision operationalising a multilateral mechanism for the fair and equitable sharing of benefits from the use of DSI, including the establishment of a global fund known as the Cali Fund. That decision did not define DSI, and discussions to define DSI are ongoing at the CBD.

5.4 As there is no internationally agreed definition of DSI and the BBNJ Agreement does not define DSI, it was necessary for UK legislation to provide a clear definition so that users of DSI on marine genetic resources of areas beyond national jurisdiction have clarity on whether and when the relevant obligations in the BBNJ Act apply to them for compliance and enforcement purposes.

5.5 Section 27(1) of the BBNJ Act therefore provides a mechanism for the Secretary of State to define DSI, in relation to marine genetic resources, in regulations.

5.6 This instrument is therefore prepared pursuant to the power in section 27(1) to provide a clear, domestic definition of DSI for the purpose of the BBNJ Act.

5.7 The definition of DSI is narrow – limited to DNA and RNA sequences in digital form. This approach reduces administrative burden (as fewer notifications will be required when a smaller set of data is covered by the obligations in the Act) and reflects industry and cross-Whitehall feedback received during stakeholder engagement sessions held in December 2025.

5.8 This definition applies solely to obligations arising under the BBNJ Act and has no binding legal effect on how the UK approaches DSI in other international fora. Before any future decision on DSI definitions in those fora, relevant Government departments will undertake further engagement with the life sciences sector and conduct assessments of competitiveness, growth, and wider policy impacts. The power in section 27(1) of the BBNJ Act could also be used in the future, if necessary, to amend the definition – for example, to align with any internationally agreed definition.

What was the previous policy, how is this different?

5.9 This is a new policy. This instrument defines DSI for the purposes of the BBNJ Act.

5.10 Prior to this instrument, there was no domestic definition of DSI. This reflected the position that there is not yet an internationally agreed definition of DSI, and that discussions on the scope and treatment of DSI are ongoing in international fora. The introduction of obligations relating to DSI under the BBNJ Act, however, means that a clear domestic definition is now required.

5.11 Moreover, without government action, the UK would not be able to comply with its obligations under the BBNJ Agreement and consequently would not be able to ratify it.

6. Legislative and Legal Context

How has the law changed?

6.1 The BBNJ Act does not itself contain a definition of DSI, but section 27(1) confers a power on the Secretary of State to provide for the meaning of that term by way of regulations. By providing the meaning of DSI, this instrument enables the BBNJ Act's provisions which refer to that term to operate by reference to a clear definition.

Why was this approach taken to change the law?

6.2 Creating a definition in a Statutory Instrument is the most suitable option given no other definition exists in domestic or international law. The BBNJ Act establishes a domestic framework for implementing the BBNJ Agreement, including provisions which refer to DSI. By providing a definition for the purposes of the Act, this instrument enables those provisions to operate with legal clarity, while the regulation-making power in section 27(1) of the Act retains flexibility to amend the definition in future should international consensus on the scope or treatment of DSI develop. Establishing a clear statutory definition is therefore necessary to ensure that the domestic framework created by the Act can be operated as intended, with legal certainty for end-users including around compliance and enforcement, and supports the United Kingdom's domestic legislative readiness ahead of ratifying the BBNJ Agreement.

7. Consultation

Summary of consultation outcome and methodology

7.1 FCDO held engagement sessions in December 2025 with stakeholders across industry and the scientific community, as well as within the UK Government. This engagement highlighted differing perspectives on the definition of DSI. Some industry representatives favoured a narrow definition limited to DNA and RNA sequences, citing clarity and reduced administrative burden. Some other stakeholders advocated for a broader approach that encompasses all molecular data, including proteins and metabolites, to ensure future-proofing and comprehensive benefit-sharing. A broader approach was not taken in this instrument given the additional administrative burden on stakeholders and the current lack of an internationally agreed definition of DSI. FCDO has continued to engage with relevant other government departments which have an interest in policies relating to DSI throughout the development of this instrument.

8. Applicable Guidance

8.1 There is no specific guidance relating to this SI, as it is intended to provide clarity on the definition of DSI for the purposes of the BBNJ Act. The guidance envisaged for section 13 of the BBNJ Act will include elements designed to assist those working with DSI on marine genetic resources collected in areas beyond national jurisdiction.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full impact assessment has not been produced for this instrument, as no, or no significant, impact on the private, public or voluntary sectors is foreseen. The impact assessment prepared for the BBNJ Bill, however, is relevant: https://publications.parliament.uk/pa/bills/cbill/59-01/0302/MGRmeasuresimpactassessment.pdf.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument only applies to a very small number of businesses with an interest in DSI on marine genetic resources in areas beyond national jurisdiction.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the instrument only applies to a small number of businesses with an interest in DSI on marine genetic resources in areas beyond national jurisdiction.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the Foreign, Commonwealth & Development Office (FCDO) will carry out a Post-Implementation Review (PIR) of the BBNJ Act every five years and will review the associated secondary legislation as part of that PIR.

10.2 Should international consensus be reached elsewhere on a definition of DSI, FCDO may take this into account and amend the definition for the purposes of the BBNJ Act.

10.3 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Seema Malhotra MP, Parliamentary Under-Secretary of State (Indo-Pacific) has made the following statement regarding Human Rights:
"In my view the provisions of the Biodiversity Beyond National Jurisdiction Act 2026 (Meaning of "Digital Sequence Information") Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").