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DRAFT REPORT

on Fisheries aspects within the international agreement on marine biodiversity
in areas beyond national jurisdiction, United Nations Convention on the Law of
the Sea
(2015/2109(INI))

Committee on Fisheries

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on Fisheries aspects within the international agreement on marine biodiversity in areas beyond national jurisdiction, United Nations Convention on the Law of the Sea (2015/2109(INI))

The European Parliament,

- having regard to the United Nations Convention on the Law of the Sea (UNCLOS) and its two implementing agreements: the Part XI Implementation Agreement and the United Nations Fish Stocks Agreement (UNFSA),
 - having regard to the UN General Assembly resolution on the development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (ABNJ),
 - having regard to the outcome document of the UN Conference on Sustainable Development, held in Rio de Janeiro in 2012, entitled ‘The Future We Want’,
 - having regard to the UN Ad Hoc Open-ended Informal Working Group reports,
 - having regard to the Convention on Biological Diversity (CBD),
 - having regard to the 2009 Azores Scientific Criteria and Guidance for identifying ecologically or biologically significant marine areas (EBSA) and designing representative networks of marine protected areas in open ocean waters and deep sea habitats of the CBD,
 - having regard to the Rio Declaration on Environment and Development, Agenda 21, the Programme for the Further Implementation of Agenda 21, the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Declaration on Sustainable Development and the Plan of Implementation),
 - having regard to the Food and Agriculture Organization (FAO) Code of Conduct for Responsible Fisheries, adopted in October 1995 by the FAO Conference,
 - having regard to the UN Millennium Development Goals Report 2015,
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A8-0000/2015),
- A. whereas the sea covers 71 % of the Earth’s surface and contains 97 % of the planet’s water; whereas the sea is home to a significant part of the world’s biodiversity which still remains unexplored;
- B. whereas an estimated 64 % of the sea, notably the high seas and the deep seabed, are areas beyond the national jurisdiction of states and are governed by international law;

- C. whereas marine biological diversity should be considered as being part of the common natural heritage of mankind, and its preservation and conservation a common concern of all humankind and should be treated as such;
- D. whereas the outcome document of the UN Conference on Sustainable Development (Rio de Janeiro, 2012) entitled ‘The Future We Want’ underlined that protecting and managing the natural resource base of economic and social development are the overarching objectives of and essential requirements for sustainable development;
- E. whereas the existing legal framework, developed more than 30 years ago, based on the doctrine of the freedom of the high seas, is no longer up to date as far as the conservation and sustainable use of marine biodiversity in areas beyond jurisdiction is concerned;
- F. whereas, in 2004, the UN General Assembly established the Ad Hoc Open-ended Informal Working Group with the purpose of studying and analysing the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction;
- G. whereas, in 2011, the Working Group submitted a recommendation package to the UNGA regarding marine genetic resources in areas beyond national jurisdiction, marine protected areas, environmental impact assessment processes, capacity-building and transfer of marine technology;
- H. whereas the Working Group’s recommendation package acknowledged the gap between the scientific process for describing ecologically and biologically significant areas and the actual identification/designation of such areas;
- I. whereas in the 2011 recommendation package there was a general recognition of the limitations and shortcomings of the *status quo*;
- J. whereas heads of state and government committed to address, on an urgent basis, building on the work of the Working Group, the issue of the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction;
- K. whereas fishing, alone and in conjunction with other marine activities, has a great impact on marine biological diversity, and thus should be covered by all conservation and management measures;
- L. whereas without coordination between all actors concerned in maritime activity, conservation of marine biological diversity and sustainable use of resources cannot be achieved;
- M. whereas the UNFSA is a comprehensive and forward-thinking document that should not be changed;
- N. whereas every country has the right to benefit from the conservation and sustainable use of their resources, as provided for by the UNCLOS;
- O. whereas we recognise the obligation of the states to protect and preserve the marine environment, including the protection of rare and fragile ecosystems and the habitat of

depleted, threatened and endangered species and other forms of marine life;

- P. whereas the UNFSA provides a framework for the application of the precautionary approach, conservation and management measures, cooperation for conservation and management, and the sub-regional and regional fisheries management organisations (RFMOs) and arrangements;
 - Q. whereas we recognise and support the rights and special requirements of developing states in the context of capacity-building in order for them to be able to benefit from the conservation and sustainable use of their resources and of straddling fish stocks and highly migratory fish stocks;
 - R. whereas the course of actions of the so-called 'Kobe Process' recognises the efforts already made by those RFMOs that have undertaken independent performance reviews and calls on all RFMOs to regularly undertake such reviews and make the results publicly available;
 - S. whereas the CBD has prompted a series of workshops to identify EBSA in the ABNJ and the results of these workshops are now widely available for management consultation purposes on a CBD website;
 - T. whereas the Working Group, in its document of 23 January 2015, stressed the need for a comprehensive global regime that would address the conservation and management of marine biological diversity in areas beyond national jurisdiction;
 - U. whereas, on 23 January 2015, the Working Group expressed support for a recommendation to develop an international legally binding instrument under the Convention;
 - V. whereas, on 19 June 2015, the UNGA adopted a resolution on the development of an international legally binding instrument under the UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;
1. Welcomes the decision taken by the UNGA to start working towards a new international instrument under the UNCLOS framework regarding marine biological diversity in ABNJ in order to address the current shortcomings;
 2. Stresses the importance of the conservation and sustainable use of the oceans and seas and of their resources; calls on the EU and the international community to promote conservation and sustainable use of marine resources by implementing, among other measures, modern concepts of fisheries management, including science-based marine governance, maintaining stocks to levels capable of producing maximum sustainable yield, ecosystem-based management and conservation of marine biodiversity and the precautionary approach;
 3. Recognises the positive and leading role played by the EU and the Commission, taking into consideration the major actor position of the EU fishing industry and market;
 4. Recognises the important role that the EU has been playing in the proper exploitation of marine living resources, particularly in the fight against illegal, unreported and

unregulated fishing;

5. Encourages the Commission to further promote fisheries aspects in this new international agreement;
6. Urges the Commission to continue supporting and promoting a holistic and comprehensive approach with regard to marine protected areas (MPAs) because no genuine coordination and cooperation of conservation efforts is possible without the participation of the widest possible circle of stakeholders involved in a comprehensive variety of marine activities;
7. Urges the Commission to support and promote the establishment of connected, coherent and representative networks of MPAs as networks are essential for ensuring ecological and biological connectivity;
8. Stresses that this new international agreement should secure a level playing field among all stakeholders;
9. Urges the Commission to promote enhanced cooperation, coordination, transparency and accountability between all sectors, including between the new instruments negotiated, the existing UNFSA instruments, and the RFMOs;
10. Calls on the UN to create additional rules that could indirectly help protect biodiversity on the high seas, such as the establishment of global management tools, i.e. a centralised instrument for vessel registration;
11. Stresses the importance that new activities for the exploitation of marine resources be anticipated in the required environmental impact assessment with a solid scientific basis and that these activities are accompanied by detailed environmental monitoring.

EXPLANATORY STATEMENT

Background

The UN addressed the importance of protecting the waters of the world in the paper that was published as a result of the Rio de Janeiro, Brazil, UN Conference on Environment & Development that took place on 3 to 14 of June 1992, called Agenda 21. This showed that the international community was acknowledging the necessity of an international approach in order to manage the pollution and increasing dangers to marine biodiversity. This was followed by the Johannesburg Declaration on Sustainable Development and the Plan of Implementation which were agreed upon during the UN World Summit in South Africa, from 2 to 4 of September 2002. In 2012, in the document published as a result of the latest UN Conference on Sustainable Development held in Rio de Janeiro, called Rio+20 as a link to the first Rio Agenda, the international community restated its determination in tackling the environmental problems and the need for sustainable development. This shows that although the UN and all those who are part of these declarations and agreements commit themselves to these objectives, they need to adapt their plans and priorities to a fast developing world, with activities being diversified and multiplied every single year.

In this context, in 1995 the UN adopted the fish stocks Agreement (UNFSA), as an implementation agreement for the UNCLOS from 1982. The UNFSA is regarded in the fisheries community as a good agreement, which establishes a good legal framework by giving the necessary tools to keep up with the developments while following and updating the core objectives.

As a result of the international community concerns and debates regarding the efficiency of the current framework in addressing the conservation and sustainable use of marine resources beyond areas of national jurisdiction, in the 2004 resolution 59/24, paragraph 73, of the UN General Assembly the Ad Hoc Open-ended Informal Working Group was established. One of the objectives of this Working Group was to analyse and present the possibility to promote international cooperation and coordination for the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. Based on the reports of the Working Group, the UNGA was going to take a decision on the development of areas beyond jurisdiction before the end of the sixty-ninth session of the Assembly. As a result of its meeting, the Working Group presented to the UNGA, in 2011, a recommendation pack covering *marine genetic resources, marine protected areas, environmental impact assessment process and capacity building*.

In January 2015, the Working Group presented its last report stressing the need for a comprehensive global regime to better address this issue and recommended the development of an international legally-binding instrument under the UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. Based on this recommendation, in July 2015, the UNGA decided to establish a preparatory committee with the purpose of drafting a text of an internationally legally binding instrument by the end of 2017, before holding an intergovernmental conference.

Position of the rapporteur

The marine activities are developing and multiplying at a fast rate, and thus the pressure on the sustainability and conservation of the marine biodiversity is constantly increasing. In this

perspective, the rapporteur welcomes the ongoing work of the UNGA and of the Ad Hoc Open-ended Informal Working Group, which managed, against much opposition, to move the issue of marine biological diversity beyond areas of national jurisdiction to a point where an internationally legally binding instrument can be foreseen.

At the same time, the rapporteur would like to point out that it is highly important that fishing activities be included in this new instrument. It is hard to imagine any efficient and well-coordinated marine biology related instrument that doesn't include one of the most important activities taking place in the waters - fishing. Also, this should not involve the change or the recall of the UNFSA, which offers, as it is in the case of the EU, a framework that can bring improvement and results if properly implemented. Instead, the rapporteur supports the inclusion of the UNFSA in the new agreement, making the 1995 agreement the backbone of this new international legally binding instrument and most importantly coordinating the RFMOs, and the MPAs to all other marine activities beyond areas of national jurisdiction.

Moreover, the new agreement should include instruments for accountability for all actors involved, because without such tools, real efficiency and progress is hard to be foreseen. Also, taking into consideration the needs of the developing countries, capacity building and sharing of information should be a priority. In this perspective and from the good practices sharing point of view, the EU should continue to play a leading role in the development of this new instrument and in the implementation process.