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RECOMMENDATION

on the draft Council Decision on the conclusion, on behalf of the European Union, of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean
(08135/2011 – C7-0098/2011 – 2011/0047 (NLE))

Committee on Fisheries

Rapporteur: Carmen Fraga Estévez

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the draft Council Decision on the conclusion, on behalf of the European Union, of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean
(08135/2011 – C7-0098/2011 – 2011/0047(NLE))**

(Consent)

The European Parliament,

- having regard to the draft Council decision (08135/2011),
 - having regard to the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (08135/2011),
 - having regard to the request for consent submitted by the Council in accordance with Article 43(2) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0098/2011),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Fisheries (A7-0274/2011),
1. Consents to conclusion of the Convention;
 2. Calls on the Commission to work actively in all fora, both international and bilateral, that may be attended by countries with fishing fleets in the region covered by the Convention to promote the signing, ratification and implementation of the Convention in order to speed up its entry into force;
 3. Instructs its President to forward its position to the Council, the Commission, the governments and parliaments of the Member States and the government of New Zealand, as the depository of the Convention.

EXPLANATORY MEMORANDUM

Fishing activity in the South Pacific has until now been managed by the two Regional Fisheries Management Organisations (RFMOs): the Inter American Tropical Tuna Convention (IATTC) and the Western and Central Pacific Fisheries Commission (WCPFC).

Since the objective of both, however, is to manage highly migratory species, the fishing of other types of resources in this vast area was unregulated, other than in the EEZ of coastal States that applied their own rules.

To fill this gap, and given that there is fishing activity both in the EEZ and in the high seas, in 2006 the governments of Australia, Chile and New Zealand decided to launch a process of international consultations on the establishment of the South Pacific Regional Fisheries Management Organisation (SPRFMO), with the aim of cooperating in addressing the gap in the management and conservation of non-highly migratory species and the protection of biodiversity in the high seas areas of the South Pacific, in a manner consistent with international law.

There are not many Community vessels fishing in the region (mainly for horse mackerel and on an almost token basis for some deep-sea species such orange roughy and alfonsino), but their presence does oblige the European Union, under the United Nations Convention on the Law of the Sea, to cooperate with other interested parties in the management and conservation of the area's resources, and the EU has taken part in this process from the outset. It has played a very active role, thanks to which some obligations have been included in the text of the Convention which, though modest, are still an improvement on other RFMOs, and more specifically the WCPFC.

The text of the Convention was finally agreed in November 2009 and opened for signature on 1 February 2010. The EU signed on 26 July 2010 in accordance with the Council Decision thereon of 24 July 2010.

The Convention is now in the process of ratification by the parties and the purpose of this legislative act is to allow ratification by the EU through a draft Council Decision.

8 ratifications by interested parties, including 3 from coastal States and 3 from non-coastal States, are required for the Convention to enter fully into force. At the time of writing this draft recommendation, it had already been ratified by three non-coastal States: Belize, Cuba and Denmark (on behalf of the Faroe Islands), and by one coastal State, the Cook Islands.

Rapporteur's comments

The process of shaping the SPRFMO is summarised in the Council proposal, and the rapporteur will spend no more time on it, although reading the process gives no idea of the four years of struggles that the EU negotiators went through to go a little bit further than the strict terms of the 1982 UN Convention on Straddling and Highly Migratory Fish Stocks. With respect to the application of rules inside and outside the EEZ, the latter only contains the

bare minimum and has already been superseded by more advanced concepts that are vigorously defended by the EU and tend towards making the protection of biodiversity, *inter alia* through the management of good fishing practice, a global objective that applies to all the world's seas and makes no distinction between the high seas and EEZ.

The first thought that comes to the rapporteur is to highlight to what extent the majority of States are still unwilling to accept management measures in line with international law in their waters. And it is totally demoralising to find this resistance exemplified in RFMOs headed by countries that are supposedly – or so they would have you believe – champions of good fishing practice, such as Australia, New Zealand or Chile, the driving forces behind this new RFMO.

The fact that none of these three countries have yet ratified the Convention (despite having taken the initiative) and that ratification in general is taking longest in the countries with coasts in the area covered by the Convention gives further cause for concern.

This also shows to what extent, despite our repeated self-criticism, the EU has already taken on board the idea of responsible global management, a viewpoint where it seems that Europe is starting to move further apart from countries like Australia and New Zealand. The rapporteur considers this a point that needs to be made.

Fishing fleets from nine countries (Belize, Chile, China, Cook Islands, Faroe Islands, Korea, Peru, Vanuatu and the Russian Federation), in addition to the EU, are currently present in the area.

Up until the full entry into force of the Convention, the Contracting Parties have adopted an interim agreement on measures for fishing pelagic species which sets the total allowable catch (TAC) for each party and freezes fishing effort within specified limits. According to scientific reports, the horse mackerel population has fallen alarmingly in recent years, and this has determined the level of fishing opportunities allocated. In accordance with the scientific report for 2011, the EU has a TAC of 40 000 tonnes and a maximum fishing effort of 78 600 GT. The biomass data will be reviewed again in October, but it is forecast that fishing opportunities will, at best, remain unchanged.

Whilst the EU's fishing opportunities would allow fishing by about 10 vessels, on top of the 2-4 Community vessels that usually fish in the region, it is in any case considered that, even if fishing applications were received up to this maximum limit of 10 vessels, it would be difficult to maintain a simultaneous presence in view of the distance from their ports of origin.

Given that the Convention covers the fishing of straddling stocks in the area, such as horse mackerel, the rapporteur is concerned about Article 20(4)(a), and in particular indent (iii). In principle, the Convention stipulates that its Commission will establish TACs or total allowable fishing effort for a given resource throughout the range of the fishery resource.

However, under indent (iii) if a coastal State Contracting Party does not agree with this TAC, it is free to establish another TAC in its waters. In the case of straddling stocks, this ability to escape from the obligation could immediately defeat the point of the management measure in question.

There was, however, some success in the inclusion in Article 20 of paragraph 5 which allows the Convention to apply emergency measures if the Convention considers that fishing activity may present a serious threat to the resource.

It remains to be seen what the outcome of this solution may be since the emergency measures can only be of a temporary nature, but it is undoubtedly a step in the right direction which is very welcome.

When negotiating the text, the EU also managed to obtain additional guarantees regarding the objection procedure. Unlike in other RFMOs, it is not enough for a Party simply to object to a measure in order to circumvent its application, and the objection procedure in this case is much more stringent, limiting the reasons that may give rise to an objection and, more importantly, obliging the State presenting an objection to adopt alternative measures that are equivalent in effect to the decision to which it has objected.

The text also seems to guarantee access for the vessels of one Contracting Party to the ports of other States that are party to the Convention, which would at least open up access to Chile's ports for the Community pelagic fleet.

Finally, given the huge resistance by coastal States in this part of the world to applying international management measures inside their EEZ, the rapporteur considers that the points in favour of the Convention outweigh those against. In any case, she stands by her position that the EU should have a presence within all RFMOs, both to defend its priorities concerning its views on what sustainable fisheries management should entail, and to defend the interests of its fishing fleet, acting, if necessary, as a counterweight to ensure that there are no possible attempts to circumvent efforts to combat IUU fishing.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	12.7.2011
Result of final vote	+: 21 -: 0 0: 0
Members present for the final vote	Josefa Andrés Barea, Antonello Antinoro, Kriton Arsenis, Alain Cadec, Carmen Fraga Estévez, Marek Józef Gróbarczyk, Carl Haglund, Iliana Malinova Iotova, Werner Kuhn, Isabella Lövin, Gabriel Mato Adrover, Guido Milana, Maria do Céu Patrão Neves, Crescenzo Rivellini, Ulrike Rodust, Struan Stevenson, Jarosław Leszek Wałęsa
Substitute(s) present for the final vote	Chris Davies, Estelle Grelier, Raúl Romeva i Rueda, Nikolaos Salavrakos