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on combating illegal fishing at the global level - the role of the EU
(2010/2210(INI))

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on combating illegal fishing at the global level - the role of the EU (2010/2210(INI))

The European Parliament,

- having regard to the United Nations Convention on the Law of the Sea of 10 December 1982,
- having regard to the Convention on Biological Diversity (CBD) and to the Rio Declaration on Environment and Development adopted at the United Nations Conference on Environment and Development in June 1992,
- having regard to the Food and Agriculture Organisation (FAO) Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, approved at the 27th session of the FAO Conference in November 1993 ('Compliance Agreement'),
- having regard to the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks ('UN Fish Stock Agreement' - UNFSA of August 1995),
- having regard to the FAO Code of Conduct for Responsible Fisheries, adopted in October 1995 by the FAO Conference,
- having regard to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice In Environmental Matters, adopted in June 1998 ('Aarhus Convention'),
- having regard to the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), endorsed by the FAO Council in June 2011,
- having regard to the Communication from the Commission on a Community action plan for the eradication of illegal, unreported and unregulated fishing, of May 2002 (COM(2002)0180),
- having regard to the Declaration made at the World Summit on Sustainable Development held from 26 August to 4 September 2002 in Johannesburg,
- having regard to its resolution of 15 February 2007 on the implementation of the EU action plan against illegal, unreported and unregulated fishing¹,
- having regard to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and

¹ OJ C 287E, 29.11.2007, p.502.

unregulated fishing, (the ‘IUU Regulation’)¹, the Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters (the ‘Fishing Authorisations Regulation’)² and Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (the ‘Control Regulation’)³,

- having regard to the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA), approved at the 36th session of the FAO Conference, held in Rome in November 2009,
 - having regard to the UN Office on Drugs and Crime (UNODC) 2011 report on Transnational Organised Crime in the Fishing Industry,
 - having regard to the upcoming United Nations Conference on Sustainable Development (UNCSD), which will take place in Brazil in June 2012,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries and the opinions of the Committee on Development and the Committee on the Environment, Public Health and Food Safety (A7-0000/2011),
- A. whereas 71% of planet Earth is covered by oceans, which store 16 times as much carbon dioxide as the terrestrial world and play a fundamental role in the climate and life support systems of the entire planet, as well as providing a substantial portion of the global population with food, livelihoods, energy and transport routes,
- B. whereas Illegal, Unreported and Unregulated (IUU) fishing has been reported to account for between 11 and 26 million tonnes a year, equivalent to at least 15% of world catches, making sustainable management of the exploitation of the world’s marine resources impossible,
- C. whereas the agreement approved at the 10th Conference of the Parties to the Convention on Biological Diversity held in October 2010 in Nagoya established the international obligation to at least halve the loss of biodiversity by 2020,
- D. whereas the world’s oceans constitute 90% of the habitat for life on earth,
- E. whereas two thirds of the world’s oceans are beyond national jurisdiction, lacking comprehensive policies to govern international waters (high seas), with current patchy laws mainly based on 17th century principles of freedom of the seas, ignoring many of the environmental principles that have long been applied for land and atmosphere,
1. Believes that IUU fishing is one of the most serious threats facing the biodiversity of the world's oceans;

¹ OJ L 286 of 29.10.2008, p. 1.

² OJ L286 of 29.10.2008, p. 33.

³ OJ L 343 of 22.12.2009, p. 1.

2. Considers that the new EU control package, consisting of the IUU Regulation, the Control Regulation and the Fishing Authorisations Regulation¹, constitutes a comprehensive set of instruments to combat this scourge of the oceans, since it specifies the flag, coastal, port and market State responsibilities of both the EU Member States and third countries;
3. Insists that the Commission and the control authorities in the Member States be provided with sufficient resources (human, financial, technological) to fully implement these regulations and that they should not shy away from identifying and sanctioning EU interests when appropriate, since the credibility of the EU is at stake;
4. Calls on the Commission to publish annual assessments of the performance of Member States in implementing the rules of the Common Fisheries Policy (CFP);
5. Considers that, given the high mobility of fish stocks, fishing fleets and the capital underlying the fleets, as well as the global nature of markets for fish, IUU fishing can only be effectively fought by international cooperation;
6. Emphasises that past limitations in monitoring and enforcement of oceans have been largely overcome by technological advances, and that the key to combating IUU fishing today lies primarily with governments finding the political will to act;
7. Considers that improving transparency in all aspects of the fishing industry and their activities, including agreeing on international criteria to establish real, beneficial ownership of vessels, is crucial;
8. Encourages the Commission and the Member States to expand their programmes of financial and technical support for surveillance programmes in the waters of developing countries, giving priority to regional programmes rather than bilateral ones;
9. Asks the Commission to add the FAO Port State Measures Agreement, the UN Fish Stock Agreement and the FAO Compliance Agreement to the list of instruments to be implemented for countries to be eligible for the Generalised System of Preferences plus, which is currently being revised;
10. Considers that the EU should pursue the following objectives in Regional Fisheries Management Organisations (RFMOs) to which it belongs:
 - establishment, for all fisheries under the remit of the RFMOs, of registers of fishing vessels, including support vessels, that are authorised to fish, as well as lists of vessels that are identified as IUU (black lists), to be updated frequently, published widely and coordinated among RFMOs;
 - strengthening of RFMOs' Compliance Committees to examine the performance of Contracting Parties and, where necessary, impose effective sanctions;
 - extension of the list of specified measures to be taken by Contracting Parties (CPCs) as flag, coastal, port and market States within individual RFMOs;

¹ Council Regulations Nos 1005/2008, 1006/2008 and 1224/2009.

- establishment of appropriate at-sea inspections and observer programmes;
 - bans on transshipments at sea;
 - development of catch documentation schemes, beginning with the major species in each RFMO;
 - compulsory and regular evaluations of the performance of individual RFMOs with a requirement that the recommendations be acted upon;
11. Calls for an urgent expansion of the network of RFMOs to cover all high seas fisheries and areas, either by establishing new RFMOs or by expanding the mandate of existing ones; believes that vastly enhanced cooperation among RFMOs, in terms of information exchange, sanctions against vessels and CPCs and other matters, is necessary given the global nature of IUU fishing;
 12. Fully supports the current FAO initiative to develop a Global Record of Fishing Vessels, which should be compulsory and include vessels above 10 GT as soon as possible;
 13. Encourages the rapid development of a system for the evaluation of flag State performance currently underway at the FAO as a means of putting pressure on States that do not meet their international legal obligations; urges that some effective mechanism be found for sanctioning States that do not ensure that vessels flying their flag abide by all relevant legislation;
 14. Believes that a new body should be set up, under the auspices of the UN, to perform independent evaluations of both flag States and RFMO performance;
 15. Emphasises that the concept of market State responsibility must be more fully developed as a means of closing down the markets for the products of IUU fish; believes that the EU must urgently discuss with other major market States, including but not limited to the US, Japan and China, how to develop international legal instruments that could halt trade in IUU fish, possibly under the World Trade Organisation (WTO);
 16. Encourages the Commission to pursue the development of a global catch certification scheme;
 17. Welcomes the recent report on the role of transnational organised crime in the fishing industry, from the UN Office on Drugs and Crime (UNODC) and its explanation of how organised criminal groups are extending their influence in the fishing industry, including in both upstream (vessel and crew supply, refuelling, etc.) and downstream (marketing, shipping) activities;
 18. Is alarmed at the use of such criminal activities as human trafficking, money laundering, corruption, handling of stolen goods, tax evasion and customs fraud by those engaged in IUU fishing;
 19. Fully endorses the recommendations of the UNODC report, including expanding international cooperation in investigating criminal activities at sea, improving

transparency of fishing vessel ownership and activities and discouraging the sale of fishing vessels to companies with untraceable beneficial owners;

20. Notes that the UN Convention on Transnational Organised Crime is one of the most widely ratified treaties, which obliges its Contracting Parties to cooperate with each other, in terms of investigations, prosecutions and judicial proceedings, in transnational organised crime cases, thus creating important synergies in combating IUU fishing;
21. Believes that IUU fishing should be made one of the prioritised areas for Interpol, giving resources and investigative powers to the organisation to monitor and combat transnational criminal aspects of IUU fishing;
22. Insists that the EU propose that the issue of international oceans governance be made a priority in the next World Summit on Sustainable Development in Brazil 2012, on the 30th anniversary of the UN Law of the Seas;
23. Instructs its President to forward this resolution to the Council, the Commission and the national parliaments of Member States.

EXPLANATORY STATEMENT

The FAO adopted a Plan of Action to combat Illegal, Unreported and Unregulated (IUU) fishing in 2001, which has since been a declared priority of the international community.

IUU fishing undermines efforts to conserve and manage fish stocks in all capture fisheries. When confronted with IUU fishing, national and regional fisheries management organizations can fail to achieve management goals. This situation leads to the loss of both short and long-term social and economic opportunities and to negative effects on food security and environmental protection. IUU fishing can lead to the collapse of a fishery or seriously impair efforts to rebuild stocks that have already been depleted. Existing international instruments addressing IUU fishing have not been effective due to a lack of political will, priority, capacity and resources to ratify or accede to and implement them. (FAO 2001 Plan of Action, first paragraph)

Some progress has been made in specific fisheries or by some countries. Nonetheless, in many places the statement is as true now as it was when it was written, suggesting that much remains to be done.

By its very nature, the extent of IUU fishing is impossible to estimate with any precision, but it is known to be very large. One recent study¹ suggested it accounted for between 11 and 26 million tonnes per year. Even the low end of that range is equivalent to 15% of marine catches.

The European Union (EU) has a special responsibility when it comes to combating IUU fishing, since it constitutes the world's largest market for fish and is one of the major fishing powers.

The recent IUU and Control Regulations (Council Regulations 1005/2008 and 1224/2009 respectively) provide the EU with powerful and ground-breaking tools to combat IUU fishing, by defining obligations and opportunities of both Member States and third countries as flag, coastal, port and market States. Clearly, though, they cannot eliminate IUU fishing in isolation. Since by far the majority of the world's oceans are beyond areas of national jurisdiction - approximately two-thirds - it is clear that national efforts and regional cooperation are not enough. This battle can only be won by the global community acting cooperatively.

The two working documents have provided background information on certain initiatives that have been taken by the international community in the United Nations (UN) and Regional Fisheries Management Organizations (RFMOs). The report makes specific proposals on what the EU should promote and propose in the appropriate fora.

¹ Agnew DJ, Pearce J, Pramod G, Peatman T, Watson R, et al. (2009) Estimating the Worldwide Extent of Illegal Fishing. PLoS ONE 4(2): e4570. doi:10.1371/journal.pone.0004570.

Over-Arching Theme of Transparency

IUU fishing is facilitated by a lack of access to information, hiding behind screens of “confidentiality” and “privacy”. A recurring theme in many analyses of IUU fishing is a lack of transparency regarding the names of vessels and the identities of their beneficial owners. This clearly serves the interests of unscrupulous operators in their attempts to evade detection. This obscurity is manifest in many ways, large and small, from crew-members hiding the name of a vessel to avoid identification at sea, to the web of shell companies in certain countries that hide the name of the vessel’s owner, to non-compliant flag States that refuse to fulfil their obligations. A wide range of measures is needed to improve transparency.

The EU as a Leader by Example

With its new legislation, the EU has, on paper, armed itself with powerful tools to combat IUU fishing. If the EU is to persuade other States to act as well, then the EU must itself be above reproach. It must not only list non-EU vessels on the IUU list or third countries as non-cooperating States. It must not hesitate to list EU vessels or impose sanctions on Member States that do not enforce the rules of the Common Fisheries Policy (CFP), even if it is politically difficult to name and shame a Member State as failing in its responsibilities. The Commission and Member States must also be given sufficient resources to fully implement these regulations.

From 2003 to 2006 the Commission published scorecards on the performance of Member States in applying the rules of the CFP. The initiative should be resumed, in the interests of transparency and a “level playing field”.

The EU funds, through various budget lines, a number of surveillance programmes in developing countries. This should be expanded and coordinated with similar projects by the Member States. Most international instruments, such as the Port State Measures Agreement, the UN Fish Stocks Agreement and the FAO Compliance Agreement, have provisions for funding developing countries and the EU could work through these.

A simple but important step that the EU could take unilaterally to improve transparency is to put the names of the owners of EU fishing vessels, and the authorisations they have, in the public domain.

Initiatives in International Organisations

The existing RFMOs vary widely in their approach to IUU fishing and the legal measures, including sanctions that they employ to combat it. There are many things the EU can promote that would reduce IUU fishing both directly and indirectly:

- additional RFMOs, or extensions in the mandates of existing ones, to cover areas and species not currently regulated;
- registers of fishing vessels, including support vessels, that are authorised to fish and lists of vessels that are identified as IUU (black lists) for all fisheries under the RFMO remit, to be updated frequently, published widely and coordinated among RFMOs;
- strengthened Compliance Committees to examine the performance of Contracting Parties and, where necessary, impose effective sanctions;

- extended flag, coastal, port and market State measures within individual RFMOs;
- at-sea inspections and observer programmes;
- bans on transshipments at sea;
- catch documentation schemes, beginning with the major species in each RFMO;
- compulsory and regular evaluations of the performance of individual RFMOs conducted by an independent body such as the UN, with a requirement that the recommendations be acted upon.

Ultimately, most of these ideas need to be implemented (or at least coordinated) among RFMOs, given the global nature of fisheries. While working within RFMOs, the EU could simultaneously support current global initiatives (by the FAO for instance) as well as proposing new ones:

- promote, both financially and politically, the Global Record of Fishing Vessels, which should become compulsory and include all vessels (including support vessels) above 10 GT or 12 metres as soon as possible;
- encourage the rapid development of a system of flag State performance evaluation;
- encourage the ratification or accession of States to international fisheries legal instruments (Compliance Agreement, Port State Measures Agreement, UN Fish Stocks Agreement) such as by adding them to the list of instruments to be implemented for countries to be eligible for the Generalized System of Preferences plus¹ (currently being revised);
- a global database of genetic material from fish stocks to allow the identification of the species and stock from which fish products are derived;

Cooperation among Market States

The EU's IUU regulation is an extremely good initiative, but if it is to be as effective as possible, it must be supported by other major fish markets and, ultimately, by the international community as a whole. If it is only the EU that refuses IUU fish, then inevitably, other markets will be found. It is of paramount importance that the US, Japan and China, among others, also act to eliminate imports of IUU fish. The Commission should undertake a strong diplomatic initiative with the major market States to discuss measures that they can take for their own markets as well as what possible actions can be taken at a multilateral and global level.

Another related possibility to improve traceability would be to expand considerably the use of catch certificates for fish that enters international trade. Two RFMOs have already adopted such schemes and the EU should promote certificates as a general tool to combat trade in IUU fish. The ultimate objective should be to develop a global catch certification scheme, while avoiding creating a non-tariff barrier to trade. It is difficult to see how countries could argue in favour of trade in IUU fish, but there were loud voices in the EU against the IUU regulation when it was first proposed.

Organised Criminal Aspects of IUU Fishing

¹ http://trade.ec.europa.eu/doclib/docs/2008/july/tradoc_139963.pdf

Most of the above proposals are standard aspects of good fisheries management that have been discussed for many years and, in at least some places, already implemented in some form or another. A relatively new element is the realisation of the involvement of criminal groups in IUU fishing. Such involvement could include the participation of classical criminal gangs in the fishing operations, but more often is the adoption of some of their techniques in support of fishing, such as human trafficking, slave labour, tax evasion, money laundering, customs fraud, corruption, handling of stolen goods, etc.

A new report by the UN Office on Drugs and Crime¹ examines the extent to which the global fishing industry is vulnerable to such activities and paints a very sombre image of the expansion of organised criminal elements into fishing operations, in the EU and around the world.

These criminal elements can be highly organised, using sophisticated techniques such as finance and tax havens to hide the identity of beneficial owners as well as the use of flag registers that are unable or unwilling to exercise their law enforcement responsibilities. They can be large and complex in some situations, using fleets of fishing vessels that share the same supply networks and distribution and marketing paths, often laundering the illegal catch with legally caught fish. Fishing vessels are also used at times for smuggling of drugs, weapons and even terrorists. The links between fishing and criminal groups are expanding and deepening.

The report makes a number of recommendations that deserve support by the EU, some of which overlap with previous ideas:

- improve the investigative capacity into organised criminal activities at sea, including by expanding coordination among the many different law enforcement agencies involved (customs, financial crime, drug trafficking, etc.);
- improve transparency and traceability of fish to expose criminal activities and reduce their profits;
- monitor or, preferably prohibit, the sale of used fishing vessels to companies with untraceable beneficial owners, registered under flags of non-compliance;
- improve monitoring of fishing vessel activities and their interactions with merchant vessels;

In short, treating IUU fishing as isolated cases of the failure of fisheries enforcement is too simplistic a view these days. Countries must adapt their legal and management resources to this new reality and take full advantage of the tools already available in other types of criminal activities to combat IUU fishing when criminal groups are involved, including in upstream and downstream activities linked to fishing.

The UN Convention on Transnational Organised Crime has 159 Contracting Parties, which means they have an obligation to act and to cooperate to fight IUU fishing when organized criminal elements are involved.

¹ UNDOC. 2011. Transnational Organized Crime in the Fishing Industry. Available at [http://www.unodc.org/documents/human-trafficking/Issue Paper - TOC in the Fishing Industry.pdf](http://www.unodc.org/documents/human-trafficking/Issue_Paper_-_TOC_in_the_Fishing_Industry.pdf)

Conclusions

Fishing is a global industry, as is, inevitably, the IUU component. As is clear from the above, global cooperation is needed to combat IUU fishing.

The oceans of the world are the common heritage of humanity, and their conservation is the common responsibility of humanity.

The logical consequence is that a system of global ocean governance is essential for managing fisheries, especially on the high seas. The current approach is a clear failure.

International agreements must be negotiated to ensure that the right to fish is conditional to minimum criteria relating to transparency of ownership, operations and catches, traceability of the product, etc. and that States not fulfilling their responsibilities lose their fishing rights.

As a final note, many of the above recommendations would require significant resources to implement. Many developing countries would have difficulty finding such resources so means must be found for providing assistance. This is a common situation these days. However, such assistance should not be unconditional - failure on the part of countries receiving assistance should provoke the same consequences as for other countries, such as prohibition on exports.