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Towards a new ocean governance

Reply to Recommendation¹: Recommendation 1888 (2009)
Committee of Ministers

1. The Committee of Ministers has taken note of Parliamentary Assembly [Recommendation 1888 \(2009\)](#) on "Towards a new ocean governance". It has brought it to the governments' attention and transmitted it to the competent committees for their observations or comments.
2. The Committee of Ministers deems it important that states pursue a common maritime policy aimed at guaranteeing the protection of resources and the oceans' role and security with regard to the new threats referred to in the recommendation and set out in Parliamentary Assembly [Resolution 1694 \(2009\)](#) . It shares the Assembly's interest in the EurOcean project aimed at co-ordinating maritime scientific and technological information by establishing an intergovernmental information network for a better approach to marine areas and their potential.
3. With regard to the proposals contained in the recommendation concerning a new legal and institutional framework to establish a new form of ocean governance, the Committee of Ministers considers that the Council of Europe is not the most appropriate organisation to address these issues. Given, in particular, the global reach of the law of the sea, it deems that the United Nations remains the institution best suited to debate regulation of the use of the seas and the oceans.
4. The Committee of Ministers stresses the relevance of the comment by the Committee of Legal Advisers on Public International Law (CAHDI) (cf. Appendix to the reply) underlining the importance of the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS), which continues to constitute the key legal reference in the field of security and conservation of marine resources. The Committee of Ministers considers that it provides a full and adequate legal framework in all the regions concerned and urges those Council of Europe member states that have not yet done so to ratify it at their earliest convenience.
5. In this connection, it is appropriate also to recall – as does the CAHDI in its comments – the importance of the peaceful settlement of disputes in the field of the law of the sea, including as provided for in UNCLOS. In this respect states may use the opportunity provided under UNCLOS to nominate suitably qualified people to lists of arbitrators and to update such lists on a regular basis. On this subject, the Committee of Ministers refers to its Recommendation CM/Rec(2008)9 to member states on the nomination of international arbitrators and conciliators.
6. The Committee of Ministers transmitted the recommendation to the Committee of Senior Officials of the Council of Europe Conference of Ministers responsible for Spatial/Regional Planning (CEMAT), particularly with a view to the CEMAT's 15th session (Moscow, Russian Federation, 8-9 July 2010). The Committee underlines that its Recommendation Rec(2002)1 to member states on the CEMAT Guiding principles for sustainable spatial development of the European Continent states that "the oceans are considered as an important resource for the future" (paragraph 13).

1. adopted at the 1090th meeting of the Ministers' Deputies (7 July 2010)



Appendix to the reply

Comments of the Committee of Legal Advisers on Public International Law (CAHDI)

1. On 21 October 2009, the Ministers' Deputies communicated Parliamentary Assembly [Recommendation 1888 \(2009\)](#) to the Committee of Legal Advisers on Public International Law (CAHDI) for information and possible comments by 31 March 2010.

2. In its recommendation, the Parliamentary Assembly called on the Committee of Ministers to:
- instruct a committee of experts to define a legal and institutional framework for new ocean governance;
 - invite the Parliamentary Assembly to take part in the work of the committee of experts.

The Assembly also recommended that the Committee of Ministers call on governments of member states to:

- take part in the EurOcean intergovernmental project;
- promote the establishment and proper management of marine protected areas.

3. The CAHDI examined the above-mentioned recommendation at its 39th meeting (Strasbourg, 18-19 March 2010) and adopted the following comments concerning aspects of the recommendation which are of particular relevance to the mandate of the CAHDI (public international law).

4. From the outset, the CAHDI would like to underline the importance of the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS), which provides the regulatory framework for use of the world's seas and oceans and is the key legal reference in this field. 160 states or entities are parties to UNCLOS², of which 42 are Council of Europe member states. Also large parts of UNCLOS reflect customary law. The CAHDI considers that UNCLOS is the comprehensive legal and institutional framework for oceans governance and does not see the need to establish a new framework. The CAHDI recommends to the Ministers' Deputies to call on Council of Europe member states which have not yet done so to ratify or to accede to this instrument at their earliest convenience.

5. The CAHDI considers that, as before, the United Nations remains the most appropriate institution for discussing oceans governance, given the global reach of the law of the sea.

6. In this respect, the CAHDI also recalls the importance of the peaceful settlement of disputes in the field of the law of the sea, including as provided for in UNCLOS. In this respect states may use the opportunity provided under UNCLOS to nominate suitably qualified people to lists of arbitrators and to update such lists on a regular basis. In this regard, the CAHDI would like to recall its contribution to the Committee of Ministers' adoption of Recommendation CM/Rec(2008)9 to member states on the nomination of international arbitrators and conciliators.

7. The CAHDI considers that the Arctic is not a new region, nor is it currently intensively exploited. Also in this region UNCLOS constitutes the existing legal framework for oceans governance.

8. Finally, in the course of its work, the CAHDI has also taken note of relevant recent cases brought before international courts, including the European Court of Human Rights, concerning directly or indirectly the law of the sea. The CAHDI follows on a regular basis the development of case law in this field.

9. The CAHDI advises the Committee of Ministers that there is no need to establish a committee of experts to attempt to define a legal and institutional framework for oceans governance as requested as it considers the current legal framework to be sufficient.

2. Status as at 4th February 2010. See link below for full details: http://treaties.un.org/Pages/ViewDetailsIII.aspx?&src=IND&mtdsg_no=XXI~6&chapter=21&Temp=mtdsg3&lang=en