

The North Sea Regional Advisory Council



NSRAC

**NSRAC INITIAL OPINION ON THE COMMUNICATION FROM
THE COMMISSION TO THE COUNCIL AND THE EUROPEAN
PARLIAMENT**

**THE REVIEW OF THE FUNCTIONING OF THE REGIONAL
ADVISORY COUNCILS COM(2008) 364.**

April 2009

INTRODUCTION

The Commission has presented a Communication on the review of the functioning of the RACs in document COM(2008) 364.

The scope of the Communication is an evaluation of the first years of functioning of the RACs, together with recommendations for improvement.

The NSRAC has decided to put forward a comment, choosing the same format as the NWWRAC has done in its opinion of March 2009. For reasons of efficiency we do not repeat comments made in this document that we can agree to. In these cases we simply refer to the NWWRAC document that is added to this paper.

SPECIFIC ISSUES OF INTEREST

1. Introduction:

The NSRAC regards as very positive the adoption of the Commission Decision 2007/409/EC in which the Commission declared the RACs as bodies pursuing an aim of European interest. This new categorisation gave the RACs a greater degree of financial stability through permanent funding for the development of their activities and fulfilment of their actions and objectives.

2. Evaluation of the main elements of the General Framework established by the Council Decision 2004/585/EC as amended by Council Decision 2007/409/EC

2.2 Structure, membership and operational procedures

2.2.2 Membership

Fisheries Sector and Other Interest Group

Legal basis - Article 1.2

“ ‘Fisheries sector’ shall mean the catching sub-sector, including ship-owners, small-scale fishermen, employed fishermen, producer organisations as well as, amongst others, processors, traders and other market organisations and women's networks;”

Commission proposal:

The Commission suggests reconsidering the relevance of having “women’s networks” in the fisheries sector group as their interests could go beyond fisheries to embrace the socio-economic dimension of coastal regions as a whole.

NSRAC Recommendation

The NSRAC supports the Commission proposal of having the “Women’s Network” in the others, as within the NSRAC they are the voice of the Communities. However we do believe that it is important to maintain the two third/one third ratio to ensure that RACs continue to remain representative of all interest groups.

Although there is only one vacant seat in the 1/3 of the NSRAC Executive Committee, membership of the 'other interest groups' is less than what is hoped for and as a result a number of seats remain vacant on the executive committees of many RACs. RACs in general are actively encouraging more 'other interest groups' to participate.

However it is felt that seats in the other interest group should not be filled with members of organisations which are currently deemed to be 'fisheries interest', unless there is clear agreement from the current 'other interest group' members in that RAC, and it is agreed by consensus by the Executive Committee.

The NSRAC does signal the need to have more defined criteria to be able to evaluate applications for membership of organisations, most notably in the “other interest” group. When are organisations relevant stakeholders? For example this issue can occur if certain interests are already represented in the RAC, or if the statutes of the applicant are very general.

2.2.3 Composition of statutory bodies

Admission of new members

Legal basis - Article 5.2.

“European and national organisations representing the fisheries sector and other interest groups may propose members to the Member States concerned. These Member States shall agree on the members of the General Assembly.”

Commission proposal:

The Commission notes that the system where members of the General Assembly are approved by Member States was implemented at the initial stages of setting up the RACs but finds however the situation less clear once a RAC is established.

NSRAC recommendation

Any new member wishing to become a member of the NSRAC GA, has to write a letter to the NSRAC secretariat, explaining their remit, memberships and geographical coverage. The Secretariat then forwards the applicant’s details to the Member States. If no concern has been raised by any MS within one month, the Secretariat then passes the applicants details to the GA for approval at their next meeting.

2.3 participation of non-members

Legal basis - Article 5.3

“In the general assembly and executive committee, two thirds of the seats shall be allocated to representatives of the fisheries sector and one third to representatives of the other interest groups affected by the Common Fisheries Policy.”

Commission proposal:

The Commission acknowledges that once a RAC is established, it is difficult to maintain this ratio in the General Assembly and proposes to adapt the current composition rule for the General Assembly.

NSRAC Recommendation

The NSRAC agrees with this proposal and would welcome more flexibility in the current rules on the ratio 2:1 for the General Assembly to reflect the current operational circumstances of each RAC, while ensuring that all views and interests are duly considered and taken into account

The NSRAC agrees with this proposal and would welcome more flexibility in the current rules on the ratio 2:1 for the General Assembly by introducing "weighted votes". This to preserve the 2:1 ratio balance of voting powers no matter how many GA members are signed up to one or other group. If one of the two groups are "overrepresented" then the individual member of this group shall have a vote with weight 1 minus something, while a member of the other "underrepresented" group shall have a vote with weight 1 plus something to reflect the current operational circumstances of each RAC, while ensuring that all views and interests are duly considered and taken into account

EXECUTIVE COMMITTEE

Legal basis - Article 4.3

The general assembly shall appoint an executive committee of up to 24 members. The executive committee shall manage the work of the Regional Advisory Council and adopt its recommendations."

Commission proposal:

The Commission proposes to amend this article and points out that two options could be considered. The Commission has shown its preference for the second option:

1) To increase the maximum seats in the Executive Committee until 30 by a consensus decision of the General Assembly, while maintaining the 2:1 ratio.

2) To keep the maximum number of seats at 24 but to allow RACs to introduce in their internal rules of procedure a system of rotation between organisations from the same group of interests, so that a greater number of organisations could occupy a seat on the Executive Committee over the course of time.

NSRAC Recommendation

The NSRAC is happy with the current structure in place and the number of Executive Committee members.

2.3. Participation by non-members

PARTICIPATION OF SCIENTISTS

Legal basis - Article 6.1

"Scientists from institutes of the Member States concerned or international bodies shall be invited to participate as experts in the work of the Regional Advisory Councils. Any other qualified scientist may also be invited".

Commission proposal

The Commission believes that the new Memorandum of Understanding between the Commission and ICES has led to improved participation of scientists at meetings with stakeholders and vice versa. Furthermore, the Commission suggests that the definition of scientists in the Decision might be broadened to include other experts such as economists.

NSRAC Recommendations

The NSRAC supports the NWWRAC when it agrees that the MoU has helped to improve the presence and participation of scientists at RAC meetings and the feeling that more flexibility is needed in relation to the timing of requests for scientific participation; the possibility of a

“fast track” procedure to invite scientists to deal with specific topics at shorter notice may help to overcome this problem.

The NSRAC also supports the NWWRAC in its support of the Commission’s view that the definition of “scientists” should be broadened to include all relevant experts (economists, sociologists...) which can provide useful input and background in order to provide a more reliable and sound advice.

INVOLVEMENT OF MEMBER STATES

Legal basis - Article 7.5

“The Member States concerned shall provide the appropriate support, including logistical help, to facilitate the functioning of a Regional Advisory Council.”

Commission view

The Commission states that the degree of commitment and involvement from Member States varies in terms of participation at meetings and provision of support via financial and/or in-kind means. However, the Commission does not clarify what it means by “appropriate support”, and how this should be proven.

NSRAC Recommendations

The NSRAC also believes that this article needs further clarification. It suggests that the Member States should provide support, but in practice it is unclear what is meant or if they have any formal obligation (payment of fees, provision of meeting rooms and technical equipment...)

The NSRAC proposes to set up a meeting between RACs and Member States to discuss and define what support may be provided by Member States.

2.4 ACFA Observers

The NSRAC supports the concept of maximum information exchange between the RACs and ACFA to enable sufficient exchange of information and to avoid overlap. Furthermore, as the RAC has to face an increase of topics to deal with, it would be necessary to clearly define the role of ACFA and RAC in relation to resources provided.

2.5 Grassroots Participation

The Commission points out that the active participation of those working in the field (grassroots) is limited.

The NSRAC has taken a strategic approach in this matter by planning its meetings in the different Member States. This has strengthened the ties between the members. Nevertheless, grassroots participation remains an element to take care of. One of the reasons of the limited grassroots participation could be the fact that RACs are asked to look at long term issues. In many cases this does not connect to the short term problems operators see in the field. As a consequence this could generate adverse reactions. Cost of travel, travel time (due to the difficulties of organising meetings on the coast) and lack and cost of translations in native language also can prohibit participation.

2.6 Commission Participation

All participants are confronted with limited resources in terms of availability of people to €.

As the RACs have been devised to be an important source of input to the Commission, the NSRAC believes adequate resources should be made available to guarantee Commission staff participation in the RACs.

2.7 COMMISSION FINANCIAL SUPPORT (I)

Legal basis - Annex II First Paragraph

“Each year, the Commission shall conclude with each RAC an “operating grant agreement”

Commission role

The Commission assists the Secretariats in the management of Community co-financing by advising on the implementation of grant agreements and the Financial Regulation.

The NSRAC fully supports the NWWRAC and INTER-RAC Recommendations below.

NWWRAC Recommendations

All RACs are established as independent companies under national law and are in this respect entitled to correct overspend or under-spend. On the other hand all RACs mainly depend on EC co-financing, receiving a yearly operational grant, covering 70-90 % of eligible expenditure. However, the type of grant assigned to the RACs (an operating grant) has implications to the period of eligibility of the costs to be taken into consideration for EU co-financing. For instance eligible expenditure must not have been incurred prior to the start of the financial year, which limits flexibility between budget years and in particular prevents corrections of over or under-spend, between years that would otherwise be dealt with under normal accountancy and company laws.

The NWWRAC convenes that more flexibility must be sought to allow the RACs to adapt their budget between years in order to rectify overspend and or under-spend. In particular, the NWWRAC asks the Commission to seek in consultation with the RACs, alternatives to the current system of operating grants based on the principles of N+ allowance such as in FIG and EFF.

COMMISSION FINANCIAL SUPPORT (II)

Legal basis - Annex II Second Paragraph

The eligible costs shall consist of the costs necessary to ensure the normal operation of the Regional Advisory Councils and enable them to pursue their aims. Only the actual expenses will be subject to the Community contribution, which will be granted on condition that the other sources of financing have been allocated.” 6

NWWRAC Recommendations

In the first instance, the NWWRAC requests that Chairman’s fees be added to the list of eligible costs.

Secondly the NWWRAC would like detailed clarification on the last sentence of this Paragraph, which refers to a rule on ‘deficit of receipts’. According to the Commission’s current interpretation of this rule, they will deduct from the final grant contribution an amount equal to the amount that the other sources have not paid. (E.g. if a member organisation decides to decrease its membership fee or to leave the organisation, the Commission would be entitled to claw back the corresponding amount of lesser income). However, the exact meaning of the word “allocated” in the context of Annex II of the Council Decision is debatable.

The InterRAC asked the Commission on 21 November 2008 to change the wording in Annex II so that it would read as follows: *“The eligible costs shall consist of the costs necessary to ensure the normal operation of the Regional Advisory Councils and enable them to pursue their aims. Only the actual expenses will be subject to the Community contribution, which will be granted on condition that a minimum of 10 percent of other sources of financing has been allocated.”*

The InterRAC have also agreed that the Framework Agreements should be amended accordingly and the rule on deficit of receipt should be extinguished. If there are legal

restrictions that prevent this optional way forward, the RACs would appreciate from the Commission an explanation on its interpretation of the rule on deficit of receipt.

The NWWRAC would therefore wish to see the InterRACs suggested wording to replace the current wording of this article.

2.8 Contributions paid by members

The different RACs have a different financial contribution scheme. As this is related to the working programme and the structure of the organisation, there are clear reasons for this. A significant number of organisations are members of several or even all RACs, both of the General Assembly and the Excom. These organisations will be confronted with multiple invoices that together can add up to significant costs. This situation can hinder potential participation. The Advisory Committee For Fisheries (ACFA) has no contribution scheme. Here there are no financial barriers for participation.

3. The input of RACs to the CFP decision-making process

3.2. Follow up of RAC advice

Legal basis – Article 7.3

[...] *“Upon receipt in writing of the recommendations, the Commission and, where relevant, the Member States concerned shall reply precisely to them within a reasonable time period and, at the latest, within three months”.*

Commission proposal

The Commission recognises that it needs to establish clear guidelines, indicating the benchmarks used to evaluate the quality of RAC advice. The Commission intends to develop such benchmarks to guide RACs in their work, and will organise annual debriefings with individual RACs to discuss the follow-up of their advice. 7

NSRAC Recommendations

The NSRAC is concerned about the lack of clarity and detail in the responses received from the Commission for much of the advice given last year.

The NSRAC is supportive of the Commission initiative to set up benchmarks to indicate the quality of RAC advice. The NSRAC would also appreciate reports or explanations on a regular basis about how each opinion and advice is considered and incorporated into ICES/STCEF/Commission papers on a case-by-case basis.

The NSRAC suggests that a template containing clear and non-binding guidelines about how the RACs should present their advice might be set up. The NSRAC encourages the Commission to address and deal with all the questions and observations posed in the opinions submitted by the RACs. This would contribute to improve dialogue and achieve a common understanding to manage the expectations from the stakeholders.

3.3. Possible ways to improve the quality and timeliness of RAC advice

The Commission acknowledges in its Communication that the RACs need time to consult their members properly, circulate proposals and collect evidence.

The Commission should provide a period of consultation of AT LEAST two months on all topics. The Commission should be able to notify the RACs in due advance and include their urgent consultation procedures in the Annual Working Programme whenever possible.

This would allow a proper debate on the issues: drafting of a discussion paper; reception of comments and amendments; and adoption of a final advice by consensus.

The NSRAC is very supportive of the new timing of scientific advice and Commission presentation of Frontloading and Policy Statement papers, but it notes that proper consultation among stakeholders should be also ensured during that process to avoid

“broad-brush” approach. Impact assessment of measures put forward by the Commission should also involve participation of stakeholder representatives before any final legislation is adopted.

All relevant consultation documents (e.g. Non Papers, Green Papers, etc) should be made available to the stakeholders in their native languages and in due time, in line with the principles of good governance and respect to linguistic diversity of the European Union.

The Commission paper provides little information about the quantity and the perceived quality of the advice provided by the RACs. At this stage, a proper analysis of the work performed by the NSRAC is not available. It can however be noted that there are indications that the Commission tends to look for unanimous advice from the RACs. The NSRAC does not consider this in all cases a realistic approach. The NSRAC has experienced cases where unanimity is not possible. Unlike other democratic bodies, the RACs will, in many cases, have to work towards compromises. Advice voicing both the majority and the minority point of view should have adequate added value for the Commission.

The NSRAC has decided it should include socio-economic and environmental impact in the scope of its work. Experience shows that resources available to the RACs are too limited to work on in-depth analyses that are required to provide advice. If the RACs are to provide advice in these working areas, extra funds will be necessary.