

The North Sea Regional Advisory Council



Position Paper 3 (2012/13)

6th December 2012

Response from the North Sea Regional Advisory Council - Consultation on Future Role and Composition of Advisory Councils

1. Introduction

1.1 The North Sea RAC welcomes the consultation letter from the Commission on the future role and composition of advisory councils (ACs). In this response the North Sea RAC (NSRAC) will:

- address some of the issues raised in the letter,
- comment on the individual questionnaire points, and give response to the questions asked, one by one.
- draw attention to other relevant issues in the advisory context

2. Issues raised in the letter

2.1 The Commission states in the letter that “the Commission is *in the process* of *beginning* to *reflect* on *the implementation* of *certain aspects* of this reform”. The NSRAC finds it high time to address the future role and composition of the ACs, and will do its best to contribute to this work in any way possible, and at whatever speed is required.

2.2 The NSRAC agrees that the ACs should not only provide general (and reactive) advice but must also play a proactive role both in the regionalisation of the policy, and in the development and implementation of the policy when the regionalized processes are in place.

2.3 NSRAC agrees that the ACs should adopt working methods that “allow for autonomous ways of working with less supervision from the Commission”. Actually, the NSRAC has not felt any supervision from the Commission in the professional, fisheries policy, advisory part of its activities and welcome the continuing participation and contribution from the Commission.

However, the Commission’s supervision in terms of budget, budgetary requirements and eligibility or ineligibility of costs etc. has been, and

remains, a constant complication to the work, and to the utilisation of the funds available for the work.

- 2.4 The NSRAC share the view, of course, that all legitimate stakeholders must have “a fair opportunity to participate and to express their views”.
- 2.5 As regards developing “a new” relationship with national administrations, it is the view of the NSRAC that this is a task as much for the national administrations as for the ACs. The NSRAC has, in its 8 years of existence, had very close ties with some national administrations – as well as with national scientific bodies. The NSRAC would like the Commission to encourage all Member States to work with the ACs as partners and see them as key players and facilitators.
- 2.6 When it comes to the relations with 3rd countries on a bilateral or multilateral level the NSRAC can only underline the importance of close cooperation and coordination. In our particular area, Norway is the important player, and steps have been taken to further the working relationship with Norwegian interested stakeholders. It is, however, very important that the Commission and Member States also help convince the national administration of Norway of the importance and future role of the ACs in the CFP. Joint conferences such as the one held in Svalbard earlier this year help in this.

3. Questionnaire

3.1 Regionalisation

- 3.1.1 The NSRAC considers that a greater emphasis on regional decision-making will be an important step in the *decentralisation* of the Common Fisheries Policy. We envisage regionalisation as part of a broader transition and movement from a policy currently based on consultation and remote decision-making, towards various forms of *co-management*.

ACs by virtue of their regional seas focus and composition are the obvious interlocutor for member states’ engagement with stakeholders in the design and implementation of regional fisheries policy.

Multi-annual management plans are likely to be the principal (but not exclusive) vehicle for regional scale cooperation and we envisage their development will be based on collaboration by three core groups: fisheries managers, fisheries scientists and stakeholders (ACs).

We consider that within the reformed CFP, advisory councils will have two distinctive but interlinked roles:

- To advise the co-legislators on the management framework for fisheries in the EU which will set standards, principles and broad objectives.
- To work with the regional seas member states and fisheries scientists on the development of regional fisheries policy

(primarily but not exclusively in the form of multi-annual management plans) for adoption through fast-track procedures.

3.1.2 ***“Question 1: What are the implications deriving from regionalisation for ACs?”***

Obviously the implications differ from AC to AC, depending on the core business of the particular AC and its relationship to 3rd countries – autonomous or non-autonomous stocks and managements. Hopefully, not knowing the legislative framework of the reformed CFP, the regionalisation will result in a broader, bottom-up initiated, policy with the ACs playing the role as facilitators.

Regionalisation should mean a diversification of the ACs role from essentially providing advice to the Commission, as is the case today, to also facilitating coordination between the Member States involved in a given MAP and advising them on the designing of the implementing MAP prior to its submission to the Commission for its formalisation. This would also provide a faster, cheaper and better policy development with immediate acceptance by the stakeholders.

However the workload will increase since the ACs provide advice both at the Commission level and at the regional level. This has potential implications in terms of capacity and funding and access to scientific advice/experts.

It is also necessary to ensure a real balance between the different interests represented in order to allow each and every one of them to voice their specific position. Moreover, ACs will have an important role regarding the development of regional territories and it is therefore very important to find a way for the AC to show a united front towards regional administrations and develop good cooperation with these regional administrations.

We also believe that regionalisation of decision making should pass through a very careful evaluation, not only of the decisional and advising procedures, but also of the actors (nature and representativeness) that will be integrated in such process and of the way they will be involved.

3.1.3 ***“Question 2: How can duplication of AC consultation (by MS and the Commission) be avoided?”***

The ACs will operate at two levels: At the EU level with advice on future legislation and at AC level on issues such as multi-annual plans where the ACs will be involved in the specifics of implementation at the fishery level. Overlap as opposed to duplication is likely and desirable for questions of transparency, coherence, consistency and effectiveness. Diversification of the role will also include facilitating coordination between the Member States involved in a given MAP.

3.2 Role and tasks

3.2.1 RACs have been very successful in providing a platform for scientists and stakeholders.

3.2.2 Contribution to data collection, science-fisher partnerships, participation in STECF and ICES work are important areas for the NSRAC already, and will remain so for the NS AC. Such activities are both time consuming and costly. Only a special commitment from the NSRAC members drawing on own resources have made it possible to develop the links with science. Many of the national scientific institutions have also contributed very positively to the RAC work.

3.2.3 ***“Question 3: Should ACs have a say in the identification of research priorities?”***

The simple answer to this question is: Yes. To address the question in more detail it is necessary to know the possibilities of strengthening the AC secretariat, and to have an operational decision making structure in the ACs. There are numerous examples of good practices in the fishing industry/science field. There are also examples of good practice in many Member States where fisheries managers, scientists, industry and NGOs are involved in identifying research priorities. The foundation of such collaboration should be internal funding from the EMFF.

3.2.4 ***“Question 4: How could cooperation between ACs and scientists be further strengthened, in the most cost-effective way?”***

It is all a question of resources, human and financial. One answer could be to have a research-employee in the RAC secretariat or RAC-employees at the scientific institutions, including STECF and ICES.

Both ICES scientists and scientists from other institutes, such as national universities, should be encouraged to participate as active observers in the ACs. Some funding should be available to enable this participation, as well as for independent studies supporting ACs work. This will be particularly necessary as we move towards greater regional management processes. Unfortunately, such needs haven't been sufficiently taken into account in the EMFF which focuses on national funding.

3.2.5 ***“Question 5: Should ACs become involved in design of control measures?”***

The answer is: Yes. This should be an integral part of designing implementing MAPs, for example, and therefore a natural contribution for ACs to be involved. It must be remembered that the MAPs will after all have to be approved by the Commission.

A practical example where RACs should have been involved is the Omega gauge. Had the RACs been involved at an early stage a lot of discussion and frustration for all parties might have been avoided.

Closer working relationship between ACs and the European Fisheries Control Agency is also recommended.

3.3 Funding

3.3.1 The Commission states in its letter that the annual budget for a RAC amounts to 250.000 €. This is not correct. The 250.000 € is the possible EU grant equal to 90% of the basic budget of a RAC, so the basic budget, without special financing, amounts to approx. 277.000 €.

3.3.2 Given the advisory council's future role in a reformed CFP, we consider that it is entirely appropriate that the RACs work should continue to be primarily funded from the public purse and in particular via contributions from the Commission. In this regard RACs have proven themselves to be an extremely cost effective source of essential advice.

It is also essential that the member states contributions continue.

However, mindful of the divergent trends between on the one hand pressure on public funds and on the other the ACs increased responsibilities in a reformed CFP, continued public funding should not preclude the expansion of the RACs work where this can be *supplemented* by funding from other sources. In this context the following should be taken into account:

- The new European Maritime and Fisheries Fund should be structured in a way that will ease applications from the ACs.
- It will be important to avoiding undue influence on AC policy decisions by making them unduly reliant on private sources
- RAC membership contributions are already finely balanced between ability to pay and a sign of commitment
- European research funds are an important potential source of finance for which ACs would be eligible; however access for non-experts is often impenetrable. Providing assistance in accessing this potentially important financial resource should be explored
- A more flexible accounting system for the use of EU funds within the ACs is an urgent necessity, although we recognise that general EU funding rules would still have to be observed.
- In particular, there is a need to ensure that RACs have the flexibility to transfer funds across budget lines without limits and prior agreement from the Commission, provided that expenditure incurred is eligible. Multi-annual financial flexibility would also be welcomed in recognition that the RACs must operate continuously and not stop and restart at the end of each annual Specific Agreement.

3.3.3 On the membership fee issue, which has been debated at length in the NSRAC, it is difficult to design a "one size fits all". In general the reality is that it is relatively cheap to be member (of the NSRAC). Those who cannot afford the membership fee should seek to build alliances and join with them. After all, the RACs and ACs are not designed for individual memberships. When discussing the level of EU funding, two important points should be borne in mind:

- From the Commission's point of view, RAC/AC advice is an extremely cheap source of up-to-date, solid advice
- The RACs/ACs differ from one another: Area (travelling costs), languages, work load, availability of data on fish stocks and wider marine biodiversity.

3.3.4 **“Question 6: How can ACs adapt their membership fees to the size and financial capacity of the member organisations?”**

While reiterating the NSRAC's belief that all legitimate interests should get the chance to be heard (see point 2.4 and 3.4.2), given the differences from one RAC to another, there is no easy answer to this question. However, as with other organisations, payment of membership fees demonstrates a commitment to furthering the aims of the organisation through participation and involvement. This also means that membership fees are only one part of the costs to the members who also require the necessary resources to provide capacity and expertise to participate fully.

Would ACs not run the risk of a bias creeping in in favour of those who pay most to the detriment of those contributing least? This type of outcomes would obviously be detrimental to the workings of the ACs. Could we instead think in terms of organisations building up alliances and pooling resources to pay membership fees and sending representatives to the meetings? Also, more could be made of technology whereby members participate in meetings through VCs and other communication means.

3.3.5 **“Question 7: What other sources of funding could ACs identify and draw from?”**

As part of the EU management system, the principal, **neutral**, funding to the ACs should continue to come from the Commission budget. Further to Commission funding, and the membership contributions, funding can be obtained from Member States (both annual fees and project financing), and from private funds inside and outside the EU from sources that are independent from the interests concerned. (see also 3.3.2).

3.4 Composition of future ACs, adoption of advice, follow-up of advice.

3.4.1 The Commission writes “There have been concerns on representation from different stakeholder groups (e.g. small-scale fisheries), the rules on composition have been questioned and there is a clear need for ensuring a balanced composition that allows for representation of all legitimate interests.”

3.4.2 As we said earlier in point 2.4, the NSRAC share the view, of course, that all legitimate stakeholders must have “a fair opportunity to participate and to express their views”.

We recognise that in some member states geography and fragmentation represent a challenge to effective representation for parts of the small scale fleet. However, many small scale vessels and organisations are

represented within existing national organisations which are members of the RACs.

However, greater understanding of the issue is required in terms of the interests that feel excluded (what fleets, where) as well as of the reasons why this should be the case. An understanding of where the weaknesses lie – local, regional, national or AC level is key to seeking remedies. The Commission has a role to play here, too, in helping understand the cause and extent of the problem and possible remedies. In the meantime, where there are gaps in coverage these are best addressed through outreach initiatives.

3.4.3 As regards the follow-up to advice by Member States and the Commission it has been the experience of the NSRAC that it was often difficult to see where advice ended. A clearer tracking of the advice is desirable but may be difficult to establish.

3.4.4 ***“Question 8: How could adequate participation/representation of certain, legitimate interests, such as small-scale fisheries be ensured?”***

The NSRAC is not aware of lack of participation/representation but is of the opinion that the fisheries sector and all other stakeholder groups should be represented in their full diversity. In terms of remedy, please refer to previous reply.

The Basic Regulation or the Regulation on ACs should clearly state the different stakeholders to be involved in the ACs. We believe that the interests currently represented in the RACs should also be represented in the ACs. ACs should gather all interested parties.

Representativeness checks should also be made to ensure that those who sit in the ACs, or in any other consultative body, are actually representative and have a mandate to speak on behalf of a certain group of interest. Moreover, the representation of sub regional/basins actors should be made possible in the ACs in order to ensure that all interested parties are represented.

In that respect, cooperation with national administration should be established to sustain capacity building. Resources should be made available, notably through the EMFF, to make sure that all those who have a legitimate interest have the possibility to access the consultative process and actively contribute to it.

3.4.5 ***“Question 9: Should there be a differentiation concerning the composition rules for decision making bodies or should the same rules apply to all ACs?”***

The ACs are all different and have different tasks to perform. Therefore there may be a need for different composition rules. As it is the NSRAC composition seems adequate

3.4.6 **Question 10: Should the rule that ACs adopt recommendations by consensus (and record dissenting voices where no consensus was found) be maintained?**

The answer is: Yes. It is very important for the ACs always to seek consensus, as the advice obviously is stronger when it is a unanimous advice. This does not mean that consensus is the only way, because consensus means effectively a veto right by only one member, and that may paralyse the work of the AC. However, consensus remains the best option to retain with, when this is not possible on some point or other, the divergent views to be clearly recorded in the positions sent to the Commission.

3.5 International dimension

3.5.1 The international dimension is totally different from RAC to RAC. For the NSRAC the main international counterpart is Norway. The NSRAC has informal links with the Norwegian stakeholders (organisation to organisation and during EU-Norway negotiations) and are exploring more formal observer representation of Norwegian interests in the NSRAC work.

3.5.2 **“Question 11: In view of the intense external agenda how can provision of comprehensive advice from stakeholders in preparation of international meetings be ensured?”**

In the case of EU-Norway, Norwegian stakeholders could be invited to take part in the work of the NS AC. For this to be of value the Norwegian administration would have to acknowledge the existence and advice of the ACs.

3.5.3 **“Question 12: How can AC with an international dimension take into consideration the views of stakeholders of third countries?”**

Same answer as to question 11.

3.5.4 **“Question 13: Is the participation of third country stakeholders in ACs as observers sufficient or should the EU, in addition to that, promote stakeholder consultation by RFMOs?”**

This question is not currently relevant in the NSRAC context, but it would seem relevant to try to build “RFMO-ACs” in certain areas: NEAFC, NAFO, The Mediterranean (GFCM), and The Black Sea.

3.6 Creation of a new AC/AC's

3.6.1 It would seem appropriate to set up an AC for Aquaculture given the non-sea-basin nature of the aquaculture.

The NSRAC does not have particular answers to questions 14 and 15, except that it would make sense to make room for representation of the

wild fish catching sector on the Aquaculture AC to ensure the “producer-link” and for Aquaculture interests to be represented on other ACs.

- 3.6.2 Consideration should be given to establishing a RAC on horizontal issues in the field of markets and market information.