



CONSULTATION: A TROUBLED PROCESS NEEDING IMPROVEMENT

**PERFORMANCE ASSESSMENT FOR THE
SOUTHERN REGIONAL ADVISORY COUNCIL
(SWW RAC)**

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“Clause of not-responsibility: the positions and recommendations expressed in this report are only those of the author. They neither were adopted, nor approved by the SWW RAC and could not consequently engage its responsibility”

SUMMARY

In the context of the incoming reform of the Common Fisheries Policy, the Regional Advisory Council for Southern Western Waters (SWW RAC) decided to assess its performance after the first four years of being in operation. The objective of this study was to assess the performance of the consultation process and make recommendations for its improvement. The goal being to increase the SWW RAC's influence on European institutions. The investigation was based on over 30 individual interviews and an in-depth documentary review.

The consultation that the SWW RAC is asked to conduct is difficult, being at the intersection of two complex concepts for which there is no unanimous agreement: on one side, the sustainable management of marine resources and, on the other side, stakeholders' participation in this management. The SWW RAC is still young (2007) and has performed relatively well, but some dysfunctions remain and limit its efficiency. Causes behind these dysfunctions vary between working groups and between issues being treated. They can be distinguished into four categories (numbers shown below refer to recommendations in the report):

- Causes related to the SWW RAC's own responsibilities;
- Causes related to the European Commission's responsibilities;
- Causes related to shared responsibilities between the Commission and the SWW RAC;
- Causes related to the functioning of the SWW RAC.

SWW RAC's responsibilities

1. ***Define objectives to guide the work in consultation.*** The RAC tends to work in a reactive manner, in the short term, in response to actualities of the moment or to the Commission's propositions for regulations. It lacks strategic vision and objectives.
2. ***Improve members' preparation for and participation in meetings.*** Generally speaking, members are not sufficiently prepared to contribute constructively to debates.
3. ***Conduct meetings more efficiently.*** Meetings must be chaired and facilitated more efficiently by presidents of the working groups.
4. ***Validate members' knowledge and advices.*** RAC members need to strengthen their advices by backing them up with tangible and verifiable supporting evidence.
5. ***Ensure a shared understanding of the challenges of fisheries management.*** The RAC needs to work on reducing the huge gaps in knowledge and diverging interpretations between members with regards to the challenges of fisheries management.
6. ***Review the General Secretary's role.*** RAC members tend to rely too heavily on their general secretary and to lose sight of their own role and responsibilities in the workings of their council.

7. **Widen communication.** The RAC needs to increase its visibility among fishermen associations, port administrations, regional and national administrations, scientific institutions and specialized press.

Commission's responsibilities

8. **Define sustainability objectives to be reached.** The Commission needs to bring the broad 'sustainability' objective down to the scale of well defined and specific fisheries issues.
9. **Clarify processes and timeframes followed by the Commission.** The timing of the Commission's consultation of the RAC, within the entire process leading up to a regulation proposal, is not clear.
10. **Facilitate and formalise collaboration between RAC and scientists.** The collaboration between the RAC and the STECF initiated in 2010 is perceived as a real progress and should be further developed and formalised.
11. **Clarify the value of consensus on advices.** The necessity, or not, to reach a consensus on advices creates lengthy debates and the Commission needs to clarify this question.

A shared responsibility

12. **The RAC and the Commission need to define agreed quality criteria to guide the elaboration of advices.** Advices represent the main communication tool between the Commission and the RAC, but there is currently disagreement on what defines their quality and usefulness.

SWW RAC functioning: administrative and logistic burden

13. and 14. **Introduce more flexibility in the functioning of the RAC,** with less systematised meetings, more ad hoc meetings and the use of electronic consultation whenever appropriate.

Other factors impact on the RAC's work, but they do not call for specific recommendations. They relate to a chronic lack of trust between stakeholders, difficulties with transparency and tenacity of prejudices (they are discussed separately at the end of the report).

In conclusion, it is not a matter of re-inventing new tools and new procedures, but rather to improve existing ones by using the experience acquired today.

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CONTEXT AND OBJECTIVE OF THE STUDY

In the context of the incoming reform of the Common Fisheries Policy (CFP), the Regional Advisory Council for Southern Western Waters (SWW RAC) decided to assess its performance after the first four years of being in operation. The objective of this study was to assess the performance of the consultation process in order to identify its strengths and weaknesses and make recommendations to improve it. The goal was to increase the SWW RAC's influence on European institutions.

Current uncertainties over the directions that the reform of the CFP will take, particularly with regards to the roles of European institutions (Commission, Parliament and Council), Member States¹ and RACs, largely dominate people's thinking and affects the workings of the SWW RAC. Most members stress that it is difficult to be proactive in this situation and wait for the Commission's final decision.

It is outside the scope of this study to enter ongoing debates on the reform of the CFP and its possible consequences on regionalisation, governance and the role of RACs. It is also outside the scope of the study to comment on issues under discussion as part of the consultation process or on any sector-specific problem. The focus of this study is on the performance of the consultation process.

METHODOLOGY

The investigation is of qualitative nature, based on the collection of stakeholders' perception and expectations and on a thorough analysis of documents (minutes of meetings, advices, reports of studies, documents from the Commission, etc.).

Individual interviews were conducted with most active members of the five working groups and the executive committee (see the list of interviews at the end of the report). Interviews were organized according to members' availability, privileging face-to-face interviews whenever possible. A questionnaire was sent to members known as inactive, i.e. those never or rarely attending RAC meetings. A few interviews were also run with non-members of the RAC (representatives of the Commission and national institutions).

The author of this report has also attended one meeting of the executive committee (November 2010, Paris) and several meetings of the working groups (February 2011, Porto).

¹ Interviews have revealed a lot of expectations towards national administrations. Members wished that their administrations contributed more to the work of the RAC in order to give more weight to its advices.

EXPECTATIONS ON THE SWW RAC AND CONSULTATION PROCESS

Institutionalised stakeholder participation initiated by public authorities can take several forms, from the least to the most participative:

- Information
- Consultation
- Cooperation²
- Co-decision (delegation of power)

In the fishing sector, the level of participation put in place is generally linked to the type of management model. Four models are distinguished: centralised, advisory, collaborative and delegated, along which public authorities' responsibilities decrease while stakeholders' responsibilities increase. A management model by delegation is one where, like in Australia for example, responsibilities and obligations are negotiated, shared and delegated between government, industry and other stakeholders.

RACs put in place by the Commission are typical of an advisory management model. In this model, the final decision remains the responsibility of public authorities and there is no guarantee that RAC advices will be taken into account. In establishing the RACs, the Commission seeks to obtain technical assistance, based on field experiences, to work out its propositions of regulations. In its 2008 evaluation of the functioning of the RACs, it described the mission of the RACs as follows:

« Regional Advisory Councils (RACs) were established to enable the Common Fisheries Policy (CFP) to benefit from the knowledge and experience of fishermen and other stakeholders and to take into account the diverse conditions throughout Community waters. They contribute to the achievement of CFP objectives by providing advice to the Commission and to Member States. »³.

The taking into account, or not, of RAC's advices by the Commission, is at the heart of members' preoccupations and will be examined in detail in the report.

There is also an important difference between the processes of *consultation* and *cooperation*. The consultation process put in place by the Commission implicitly includes a form of cooperation between RAC members (this will be discussed later in the report).

² This level of participation corresponds to '*concertation*' in French.

³ Review of the functioning of the Regional Advisory Councils. Communication from the Commission to the Council and the European Parliament. (COM (2008) 364).

ANALYSIS AND RECOMMENDATIONS

The SWW RAC extends over a vast geographical area covering three countries (Spain, Portugal and France) and includes a great diversity of fisheries with very different types of problems⁴. The work carried out by the RAC since its recent creation (2007) is rather remarkable and this was pointed out several times by the Commission. Most interviewed people make a generally positive assessment of the work in consultation, describing the progressive improvement in the relationships between RAC members. In spite of persistent frustrations, they are convinced that the RAC plays, or will play a significant role in fishery management⁵.

The consultation work asked from the RAC is difficult, being at the intersection of two complex concepts for which there is no unanimous agreement: on one side, the sustainable management of marine resources and, on the other side, stakeholders' participation in this management. Paradoxically, it is precisely the difficulty in defining and applying the concept of sustainability on the ground that incites managing authorities to this consulting effort. By engaging stakeholders in fishery management, the Commission seeks to guarantee their compliance with regulations.

This report focuses on dysfunctions of the SWW RAC identified during the investigation and makes suggestions on how to address them. It is difficult to talk globally about the performance of the RAC as it is so uneven between working groups and between issues covered. Inevitably, some short-cuts will be necessary in this report.

The causes behind the RAC dysfunctions can be distinguished into four categories:

- Causes related to the RAC's own responsibilities (the ones being consulted);
- Causes related to the European Commission's responsibilities (the ones initiating the consultation);
- Causes related to shared responsibilities between the Commission and the RAC;
- Causes related to the functioning of the RAC.

Other problems have been identified, linked to the context and people's attitudes. They impact significantly on the RAC's work but do not call for specific recommendations. They are discussed separately at the end of this report.

⁴ Problems related to the types of fisheries (artisanal/industrial, islands/continent), of fishing gear and practices and to varying levels of scientific knowledge.

⁵ Members' position on the advisory or decision-making role that the RACs should play was quickly clarified during the interviews: the majority consider that the SWW RAC must remain an advisory council.

SWW RAC'S RESPONSIBILITIES

Absence of objectives to guide the work in consultation

It is recognised, internally as well as externally, that the SWW RAC tends to produce advices in a mostly reactive way, in the short term, in response to actualities of the moment or to the Commission's propositions for regulations. This reactivity translates into a lack of focus and a lack of coherence, with the production of 'protest' advices little supported by evidence, too general and repetitive. It will be discussed later how a confusion between *consultation* and *cooperation* and a lack of visibility on the Commission's objectives maintain such reactivity, but it remains that the RAC lacks strategic vision and objectives.

What is the RAC's strategy in the mid and long terms? Which are the objectives that guide the elaboration of advices? How are advices followed up? How is the RAC's efficiency being measured?

The elaboration of a long term management plan for the anchovy fishery is an example of a successful initiative supported by a clear objective. The shock created by the closure of the fishery has put an end to conflicts between fishermen and galvanised them around a reopening strategy. This example has shown that actors on the ground are capable of working pro-actively, in collaboration with scientists, towards solutions that are receivable by the Commission. It has also shown the important role played by the RAC in providing a structure and legitimacy to the initiative.

The anchovy fishery is relatively simple (one species, one stock), compared to other fisheries where the complexity of biological and economic issues, conflicts between countries and between fishing sectors, and confusing regulations render more difficult the mobilisation of fishermen around a common goal. Discussions during meetings seem to lack clear directions, hampered by the pursuit of national or fisheries-specific interests, a lack of trust between members or a lack of engagement by those not directly concerned.

The pursuit of sector-specific interests, with its set of conflicts and opportunistic alliances, hinders the SWW RAC in responding constructively to the challenges of sustainable fisheries management and diminishes its credibility.

Recommendation 1

To ensure the cohesion of the working groups and the coherence of their objectives, the SWW RAC members need to agree on a collective vision and on fundamental principles for the sustainable management of their fisheries.

The challenges presented by the sustainable management of fisheries are well known (ensuring resources protection and fisheries future), as are the recommended tools (long term

management plans, technical measures, marine protected areas, etc.). The RAC needs to elaborate a real strategy to be able to respond effectively to these challenges and have their opinions heard, including:

- 1/ Detailed risk analysis, identifying internal and external risks, in relation to fisheries management⁶,
- 2/ Definition of objectives to address these risks,
- 3/ Identification of actions to reach the objectives,
- 4/ Identification of needs and means to undertake the actions,
- 5/ Preparation of a timetable,
- 6/ Allocation of responsibilities within the RAC to ensure the follow-up of actions.

Members' preparation for and participation in meetings

The general secretary shows great professionalism and effectiveness in organising the working groups meetings and in circulating information between members, but he is powerless in front of some members' lack of commitment or preparation for the meetings.

Paradoxically, the RAC suffers from its greatest successes: creating relationships between members and giving them easy and centralised access to a large amount of information on the Commission's activities. A number of members seem to be part of the RAC essentially to keep themselves informed. Among the 107 current members of the RAC, over 60% are inactive, never or rarely going to meetings or contributing to debates⁷. Only five of these inactive members have answered the questionnaire that had been sent to them.

Among the forty members who go more or less regularly to meeting ('actives' members), only a proportion, variable between working groups and between topics covered, is sufficiently prepared to have an adequate understanding of the issues and contribute effectively to discussions. Preparing for a meeting would require discussing with other members, presidents of working groups and the general secretary in advance. For example, to obtain more precise information from the Commission's representatives and have fruitful exchanges during meetings, presidents could prepare, in collaboration with their members, a list of points they want to address. The general secretary could then forward them to the Commission before the meetings.

⁶ Internal risks are those directly related to fishing activities, external risks are those related to activities outside fishing. For example, discards represent an internal risk; a media campaign against discarding represents an external risk.

⁷ A few among them are members simply as a way to support the RAC and not for particular interests in fisheries (insurance companies for example).

Recommendation 2

A more or less formalised e-mail procedure should be set up to ensure a minimum preparation by members before the meetings, including for example:

- Validation by e-mail of detailed agendas and supporting documents;
- Notification by e-mail of intention to attend or not the meetings;
- Compilation and distribution by the general secretary, ahead of meetings, of members' proposals or questions for the Commission;
- Depending on needs, contact with individual members before the meetings to clarify raised points.

This procedure should be reinforced by a code of conduct worked out by the executive committee and describing members' 'rights and duties' in terms of participation.

Presidents' role and competences

The role of the presidents of the working groups is crucial to the functioning of the SWW RAC, but today there are two major problems:

- Presidents are often directly concerned by issues being debated, which creates problems of conflicts of interest or excessive indulgence;
- Conducting meetings requires particular skills that not all presidents have.

Presidents' responsibilities begin with organising meetings: working out agendas in collaboration with members and the general secretary and inciting members to prepare themselves adequately. Then, the optimisation of time spent in meetings and the quality of advices that are produced depend very much on presidents' ability to facilitate discussions.

In some groups, too many discussions are held without precise objective, in a dispersed manner, everyone tending to expose their points of view without connecting to what has just been said. Questions are asked but remain unanswered. There are inopportune and unproductive speeches that monopolise the debates. Frustration is palpable after some too long discussions that did not lead very far. Discussions sometimes turn to systematic complaints against the Commission or scientists, or even to lobbying. An advisory committee cannot be used for lobbying purposes. It is the presidents' responsibility to bring members to move from exposing their problems to looking for solutions.

The point here is not to minimise or question the legitimacy or seriousness of the problems raised by members, but to use the 'consultation tool' in a more productive way to address these problems.

Recommendation 3

There are two options:

- Recruit presidents who are independents, without any conflict of interest of any kind in relation to issues covered and having recognised skills as meeting facilitator. They must have a good knowledge of the fishing industry and its management problems. This option raises the question of paying the presidents.
- Train current presidents in chairing and facilitating meetings: ensuring respect of the agenda, keeping the focus on objectives, dealing diplomatically but firmly with too long or inopportune speeches, ensuring that respect is maintained between members and that everyone has a say, etc.

At the very least, the task of presidents would be greatly facilitated if they could refer to pre-established rules and good practices guiding and controlling meetings. Rules must be too strict as to not paralyse discussions. Simple rules are needed: respecting agendas, objectives and each other's point of view. RAC members would have to adhere to the rules to participate in meetings and, in particular, they would have to accept the presidents' calls for order when necessary.

Vice presidents and the general secretary could also assist presidents in conducting meetings.

Finally, conducting a meeting can be complicated when opinions are already polarised. In some conflicting situations, mediation should be organised between stakeholders in conflict, outside RAC consultation meetings, to help them find an agreement or compromise before going back to the consultation meetings.

Validating members' knowledge and advices

One of the most pressing challenges for SWW RAC members is to produce concrete and verifiable information to back up and validate their advices, demonstrating the value of their field experiences. This relates more specifically to economic and technical information, biological information remaining scientists' responsibility. It is not a question here of scientific validation, but of providing field data that corroborate advices.

In addition, scientists require technical information on fisheries to improve the quality and pertinence of their analyses. The RAC could respond to this need by compiling field data. The ICES has recently elaborated a guide for fishermen in which scientists describe the types of information they need⁸.

⁸ A 3 page document prepared in February 2011 (in English) and available from the SWWRAC general secretary.

Recommendation 4

The SWW RAC should dedicate some of its activities looking for evidences to back up its advices. A fair amount of economic and technical data already exists on the ground, dispatched between members, local fishing organisations and experts. Today, these data are under-exploited. When preparing an advice, members should locate, compile and analyse such data. The assistance of trainees may be necessary.

Need for a shared understanding of the challenges

To be able to define a common strategy and respond to today's challenges in fisheries management (recommendation 1), RAC members must have a shared understanding of these challenges and their associated risks (environmental, economic, social, scientific, regulatory, etc.). There are huge gaps in knowledge and diverging interpretations between members with regards to the sustainable management of fisheries. Some fisheries representatives and environmental NGO need information on the principles and methods which underlie fisheries management (sustainability principles, scientific assessments, etc.). Representatives of the civil society need to better understand fishing techniques and operational constraints that fishermen are under.

Recommendation 5

At the early stages of organising a consultation on a particular issue, the president of the working group concerned by the issue should identify, with the general secretary, the principles and practices which are going to be invoked during the meetings. They should then check that all members who are going to attend the meetings understand these principles and practices sufficiently. If necessary, brief information sessions on particular topics could be organised jointly with RAC meetings and conducted either by members themselves or by external experts.

Review of the general secretary's role

The efficient running of the SWW RAC depends for a large part on the general secretary's organising and facilitating capacities, which are well recognised and appreciated. It is also the general secretary who writes most meeting minutes, advices and other documents published by the RAC. Presidents rarely make comments or amend these documents. The risk is that presidents and members rely too much on the general secretary and lose sight of their own role and responsibilities in the running of their council. After an understandable learning period, they should now take up the responsibility of writing minutes of meetings and other documents. This would allow the secretary to dedicate time into developing a more strategic approach for the RAC, including looking for partnerships and funding.

Recommendation 6

A rapporteur should be nominated at every meeting of the working groups.

Widening the communication

The SWW RAC website is an efficient communication tool, but its impact is limited to those already interested by the RAC and well aware of its activities. The RAC needs to increase its visibility and to promote its work and legitimacy more widely among fishermen associations, port administrations, regional and national administrations, scientific institutions and specialised press.

Recommendation 7

The SWW RAC should set up an editorial committee to develop a communication strategy.

COMMISSION'S RESPONSIBILITIES

Clarification on the sustainability objectives to reach

RACs have been put into place to provide the Commission with advices on fisheries management. However, there has been a long standing disagreement between representatives of the fishing industry, public authorities and environmental NGO over the objectives of fisheries management. The Commission states that:

*'The Commission's follow-up of RAC advice depends on whether that advice is compatible with CFP objectives and sustainable fisheries.'*⁹

What are the criteria for 'sustainable fishing'? Set down in such a broad way, it is impossible to answer this question. RAC members need a more precise framework to be able to engage in constructive debates. The broad 'sustainability' objective must be brought down and adjusted to the scale of well defined and concrete problems.

For example, the development of long term management plan allows defining terms of reference and sustainability objectives that are adjusted to particular stocks and fisheries. Sustainability objectives in these plans are based on exploitation rules and usually require large amount of scientific data. Thus, they are not applicable to all fisheries. In addition, exploitation rules do not integrate economic factors. Long term management plans, as they

⁹Review of the functioning of the Regional Advisory Councils. Communication from the Commission to the Council and the European Parliament. (COM (2008) 364).

are conceived today, cannot respond to all fishing situations and other approaches and objectives of sustainability must be defined.

Roadmaps could be developed, inspired from the roadmaps already constructed by the Commission. Before submitting a proposition for a new regulation to the Parliament and Council, the Commission must carry out an evaluation of potential advantages and disadvantages attached to the proposition in economic, social and environmental terms¹⁰. This evaluation is planned in a roadmap which describes the context and the problem to be resolved, define objectives to reach and propose options. Roadmaps have been elaborated for long term management plans (anchovy, sole, southern hake), shark finning, maritime spatial planning, etc.

Recommendation 8

The Commission, in collaboration with members of the RAC executive committee and of the scientific technical and economical committee for fisheries (STECF), should:

- Identify the major management challenges for the various fisheries in the SWW RAC zone;
- For each challenge identified, construct a roadmap with :

- 1/ Definition of sustainability objectives to be reached (biological, economic, social),
- 2/ Definition of indicators to use,
- 3/ Planning of everyone's role (RAC, STECF, Commission),
- 4/ Elaboration and coordination of timetables.

Objectives and indicators must be adjusted to the level of scientific knowledge, current or anticipated. Roadmaps could be reviewed, and adapted if necessary, during annual meetings between the RAC, the STECF and the Commission.

Such collaboration would assist the RAC in developing its own strategy in coherence with the European Community's goals (recommendation 1).

Clarification on processes and timeframes followed by the Commission

Processes and timeframes followed by the Commission are not always clear to RAC members. In particular, questions are raised about the Commission's timing and chronology in taking RAC advices and scientific advices into account before submitting a proposition to Parliament and Council. The confusion feeds a lack of trust in the Commission, to the point that some suspect the Commission to withhold scientific information or impose delays that are impossible to respect.

¹⁰ Details on http://ec.europa.eu/governance/impact/planned_ia/planned_ia_en.htm.
SWW RAC performance assessment – Pascale Baelde – June 2011

RAC members must have a clear idea of the position of their work in relation to the Commission's other actions leading to a proposition for regulation. For example, it is important to clarify the articulation between the *technical* phase (in consultation) early in the elaboration of a proposition and the *political* phase when the proposition has been submitted to Parliament and Council for co-decision. Relationship with the Commission would greatly improve if RAC members had a better understanding of the limitations of the Commission's competence and of the operational and political constraints that its representatives are under.

Recommendation 9

When requesting advice from the RAC, the Commission should describe the successive steps that will be followed up to submitting its proposition to Parliament and Council, giving details of intended RAC and STECF respective timeframes.

Ideally, a request for advice should be planned in, or linked to, a pre-established roadmap (recommendation 8).

The question of the 'quality' of advices

Subordination of RAC advices to scientific advices

From the Commission's point of view, the quality of an advice depends on its coherence with scientific advice:

*"It [the Commission] cannot follow RAC recommendations when they depart significantly from scientific advice or contradict international obligations or Community long-term management plans."*¹¹

This subordination of RAC advices to scientific advices hampers work in consultation. It brings several remarks in relation to the role of the RAC on one side and in relation to expectations on science itself on the other side.

RAC members are field experts and the goal of their working in consultation is to provide the Commission with practical and technical information on fisheries to complement scientific information. It is their responsibility to back up their advices with credible and verifiable data (recommendation 4), especially if these advices do not agree with scientific advices. The lack of scientific data in a RAC advice, or the questioning of scientific advices for its potential impacts on fisheries, should not invalidate a well argued RAC advice.

¹¹ Review of the functioning of the Regional Advisory Councils. Communication from the Commission to the Council and the European Parliament (COM (2008) 364).

Expectations on science may also be too high. Science is not always able to provide answers. Today, there are still no scientific analyses available for some fisheries. When they exist, scientific analyses can be uncertain or questioned because of problems with the quality of data. In addition, well known budgetary constraints seriously limit scientific investigations¹².

Far from representing a reference and facilitating dialogue between stakeholders, scientific expertise becomes a point of discord because of managers' excessive expectations and reliance on it.

From subordination to collaboration with scientists

Rather than asking RACs to produce advices that are scientifically validated, a greater collaboration between RACs and scientists is necessary. Such collaboration between the SWW RAC and the STECF was implemented by the Commission in 2010 as part of the review of long term management plans of some fisheries. This initiative is being perceived as a real progress, even if access to meetings is limited by the highly technical nature of discussions and the fact that they are in English. The collaboration between the RAC and the STECF helps better understand everyone's interests and alleviate suspicions. Recently, the president of the SWW RAC expressed members' satisfaction in a letter to the Commissioner (Advice No 42 du 17 mars 2011):

'I have the honour of conveying the satisfaction of SWW RAC members regarding the new informal working methodology, implemented by the Commission services as part of the review of existing long term management plans, or of the preparation of new ones. [...] inviting the RAC to take part in this work conducted under the aegis of the STECF offers its members a way to help shape the future of their fishery.'

Economic considerations

The Commission asks members of the RAC to give advices that are free from political considerations. However, the Commission's propositions for regulations are essentially based on biological objectives, not taking into account economic factors (which would be more of State Members' competence). This 'institutional' segregation between biological and economic factors does not make sense for fishermen who have been requested economic analyses for a long time.

¹² The scientific research programs planned in the SWWRAC zone as part of the GEPETO project should improve this situation.

Recommendation 10

The collaboration process between the RAC and the STECF is still new and deserves to be formalised, with:

- Identification and prioritisation of the problems, biological as well as economic, requiring scientific analyses;
- Coordination of timetables between the Commission, the STECF and the RAC;
- Collaboration with national research institutes.

Here again, the collaborative work between the STECF and the RAC should be planned in the roadmaps suggested in recommendation 8.

Value of the consensus on advices

Amalgam between ‘quality’ and ‘consensus’

Whether or not it is necessary to have consensus on advices is a subject for debates among RAC members and representatives of the Commission. Fisheries representatives consider that reaching consensus on most advices is a demonstration of the quality of these advices. NGO however are not always satisfied with the compromises they have to make to reach consensus. Also, some consensus can simply mask the diversity of points of view and not reflect realities on the ground.

In addition, one can question the value of a consensus obtained ‘by default’, i.e. validated by members who are not concerned by the advice, who have not followed the debates or who may have a limited understanding of the issue being dealt with in the advice. This problem is particularly important for the SWW RAC because of the great diversity of issues that members have to address.

The position of the Commission is not clear either and varies between its representatives. Most representatives prefer having consensus on advices, admitting that this does not guarantee that the advices will be taken into account. Some believe that consensus is absolutely necessary to ensure that the points of view of environmental NGO are incorporated. Others think that the detailed account of frank discussions, describing all diverging points, would be more useful than an empty advice. In its assessment of the functioning of RACs, the Commission declared that:

“This is the criterion [sustainable fishing] that the Commission uses when evaluating RAC advice, and not whether the advice is consensus-based.”¹³

¹³ Review of the functioning of the Regional Advisory Councils. Communication from the Commission to the Council and the European Parliament (COM (2008) 364).

Recommendation 11

The Commission should reflect on the value of and modalities for reaching consensus in the consultation process, and clarify whether or not reaching consensus influences the way advices are taken into account.

Confusion between consultation and cooperation

The consultation process put in place by the Commission includes implicitly, but without acknowledging it, a process of cooperation between RAC members. Consultation and cooperation are two different participation processes. A consultation is usually limited to collecting stakeholders' opinions without seeking agreement between them. In comparison, a cooperation process is more interactive and implies a back and forth exchange of ideas between participating stakeholders and the authorities initiating the cooperation process until an agreement is reached. In the case of the RACs, the Commission asks members to cooperate until they reach an agreement between themselves, but does not engage itself in this agreement.

The Commission's representatives tend to criticise industry representatives for not being sufficiently proactive. They say that they cannot 'do things for them' and wait for industry's concrete propositions. However, the confusion between consultation and cooperation contributes to the RAC reactive positioning. What the Commission is asking represents a real cooperation work which difficulty should not be minimised. To elaborate advices and reach consensus, RAC members may be brought to reveal their positions, provide confidential information (or perceived as such) and seek compromises. Some RAC members may be reluctant to engage in such work for the Commission without any visibility on its regulatory objectives, knowing furthermore that it does not have the power to make the final decision.

This issue does not call for a recommendation in the context of this study. It should be addressed as part of reform of the CFP.

A SHARED RESPONSIBILITY BETWEEN THE SWW RAC AND THE COMMISSION

Defining quality criteria for advices

Perceptions on what defines the quality of advices vary greatly between the Commission and RAC members. SWW RAC members are fairly proud to produce the largest number of advices compared to other RACs. This is partly explained by the diversity and complexity of fisheries which characterise the area. Members say to work hard on their advices and complain that these advices are not sufficiently taken into account by the Commission. On the other hand, the Commission explains that advices are not sufficiently argued and a large

number are incoherent with, or do not offer solutions compatible with its primary objective, i.e. the sustainable management of fisheries.

Among the many advices not taken into account by the Commission, some were argued in detail (for example, advices on technical measures, on the regulatory size of anchovies). Not taking such advices into account, without clear explanation and in an apparently arbitrary manner, is badly perceived by some members who feel that they are wasting time in an ‘alibi’ consultation process. The most preoccupying negative impact on the RAC is the frustration and discouragement felt by most active members.

However, from reading numerous advices it is obvious that their quality varies greatly. Members’ organisational capacities and political weight vary markedly between working groups. The disparity between their human and budgetary means and their technical expertise generate some tensions among them, impact on the overall functioning of the RAC and contributes to the great variability in the quality of advices.

Too often, a proposal for an advice will emerge during a working group meeting, the advice is discussed only once during this meeting, it is written up after the meeting by a member, or more likely by the general secretary, it is then submitted to the following meeting of the executive committee for approval. Thus, the advice is issued from an in-depth discussion and its final version is not validated by members of the group before going to the executive committee, which sometimes creates last minute disagreement between members. The absence of careful work leads to producing empty advices that monopolise human and financial resources for little impact.

Advices remain the primary communication tool between the Commission and the RAC and criteria must be developed to improve their quality.

Recommendation 12

The Commission and the RAC should collaborate to define quality criteria that would guide the elaboration of advices by the RAC (and also the Commission’s response to these advices). Criteria could include, for example:

- Precise delineation of the issue being addressed in the advice,
- Historical summary on the issue (including reference to previous advices),
- Synthesis of scientific advice on the issue, when available,
- Description of members’ points of view, including diverging views,
- Detailed presentation of evidence backing-up the position(s) taken or proposition(s) made (particularly important when advices do not go the same way as scientific advices),
- List of votes for and against,
- Date of the advice and name(s) of the writer(s).

In preparation of each advice, one or several members should be nominated in charge of seeking, compiling and synthesising all information available on the issue that will help back-up the advice.

FUNCTIONING OF THE SWW RAC: AN ADMINISTRATIVE AND LOGISTIC BURDEN

Systematic and ad hoc meetings

The structure and functioning of the SWW RAC create an administrative and logistic burden that limits its performance. The organisation and coordination of five working groups twice a year mobilises a large part of the RAC's human and financial resources. But at the same time, two meetings a year for each working group are not enough to conduct constructive debates and produce quality advices.

This type of functioning is not adapted to the diversity of issues to be dealt with. During large meetings, participants tend to engage in discussions in turn and sometimes with vigour when the topics concern them directly, only to lose interest and retrieve themselves when discussions move to other topics.

The organisation of ad hoc groups has proved more efficient in facilitating work on well delimited issues. Participants are concerned by the issues, which they understand well, and are better prepared for the meetings and able to make propositions proactively. In addition, they have the possibility to choose the most suitable place and date for these meetings.

Working in specialised groups allows calling on external experts (scientists and others) and could also reveal more attractive to inactive members.

Recommendation 13

The organisation of ad hoc working groups has helped improve the RAC consultation work and this approach should be developed. However, care must be taken that neither the RAC nor its current working groups lose their identity, as defined by the geographical extent of the area and the composition of the executive committee. The SWW RAC has shown the important role it plays in creating relationships between its members and representatives of the civil society. The point is to find an operating model that optimises the work done by members, for example:

1- Ad hoc groups could be formed on a temporary basis, according to needs, to deal with specific problems. They would comprise a restricted number of participants with specific expertise or interest in the problems. The need for an ad hoc group, its composition, objectives and duration would be validated by the working group(s) which initiated them and by the executive committee.

2- Only one annual meeting of the five working groups would be maintained. Working groups would have two main tasks:

- Validate advices produced by the ad hoc groups and ensure the coordination and transparency of their activities,
- Develop strategies in the mid and long terms and ensure their follow-up (which the RAC needs, as discussed in recommendation 1).

Electronic consultation

Attending meetings is a time and budgetary constraint for some members already engaged in other functions. They suggest developing, in preparation of a meeting, an electronic consultation which would allow them to contribute their comments and propositions even if they cannot attend the meeting.

Here again, more flexible modes of operation could incite inactive members to contribute to the RAC's work.

Recommendation 14

The SWW RAC should explore possibilities and modalities to develop virtual consultation via e-mail, phone and video conference.

CONCLUSIONS

The work done by the SSW RAC since its creation is fairly remarkable and this has already been underlined. Its dysfunctions are also well known and have been pointed out several times, as early as 2008, by the Commission, NGO and members themselves. However, whatever critics they may have on the RAC, all are convinced that it plays an important role. It is time then for the Commission and RAC members to work out solutions in order to improve its results and derail growing feelings of frustration and discouragement.

It is not a matter of re-inventing new tools or processes. It is primary a matter of learning from the experience acquired today in order to improve existing tools and procedures. This investigation has highlighted major points that need to be addressed:

1. Provide a clear framework for the consultation, with objectives, roadmaps and timetables adjusted between the Commission, the RAC and the STECF;
2. Implement more flexible ways of working, privileging ad hoc groups and electronic consultation whenever possible;
3. Define quality criteria for advices, shared between the RAC and the Commission;
4. Ensure that presidents have the required skills to conduct meetings efficiently ;
5. Define a code of good practices for members' preparation and participation in meetings;
6. Widen the RAC's communication and increase its visibility.

Finally, it is everyone's responsibility to fight against prejudices which hinder the consultation process, their own and those of others (see 'Elements of context' at the end of the report).

ELEMENTS OF CONTEXT

What follows is a reflection on some elements of context and components which impact significantly on the consultation work, but do not call for specific recommendations.

Lack of trust between participants in consultation

Some improvement

Most interviewed people agree to say that the SWW RAC has helped create relationships between representatives of various professional sectors and led to a better understanding of each others' interests and constraints. Environmental NGO and the Commission learn to not view the fishing industry as one uniform bloc and to discern issues that are specific to each fishery. Likewise, fishermen learn to recognise the role and legitimacy of the Commission and NGO in fisheries management. The more regular participation of the Commission in RAC meeting is particularly appreciated.

But the lack of trust and the tyranny of prejudices persist

Representatives of environmental NGO and the Commission tend to distrust fishermen, suspecting them to only look after their own interests and not caring for the resources. There is at the moment marked stiffening in the relationships between industry representatives and the Commission following strong positions taken by the Commissioner. This aggravates existing tensions. On the other hand, systematic critics towards the Commission or environmental NGO by some members and some untenable industry's positions only reinforced antagonisms.

Prejudices towards each other are a serious impediment to collective work. They are generally deeply rooted and can be the sole reason behind some conflicts. Working in consultation requires changing our mentality and its success depends on our ability to review our positions.

Transparency and freedom of speech

Ideally, consultation relies on participants' commitment, exchange of useful information and freedom of speech. Total transparency between participants is impossible and asking for it demonstrates a lack of understanding of the factors at play. Neither representatives of the private sector, nor representatives of the public sector have total freedom of speech. The necessity to protect competing advantages, to respect confidentiality of ongoing out of RAC

negotiations, the influence of political pressures, the lack of trust between members or the imbalance in representativeness are all real obstacles. Asking for transparency as a postulate is counterproductive, transparency can only emerge as trust between members increases¹⁴.

Representatives of the Commission and of environmental NGO can find themselves in tricky situations during meetings where they are outnumbered by fishermen with whom they are regularly in opposition.

Things are not always simple for representatives of the fishing industry either, but in a less obvious way. There is a lack of trust not only between themselves but also between them and other stakeholders. For example, they cannot publicly reveal information that gives them a commercial advantage on other professionals. By experience, they also fear that providing information to management authorities will come back at them in the form of more stringent regulations (perception to be penalised for having collaborated). There lacks some sort of agreement between the industry and management authorities on the use of industry's information.

Another example concerns the reluctance that fishermen have to criticise publicly the actions of other fishermen, even if these actions are perceived as irresponsible. There are several reasons behind this reluctance beside the fact that it is not up to fishermen to play controllers' role. However, other stakeholders judge, maybe too quickly, this lack of clear positioning as a proof of fishermen's incapacity to take up their responsibilities.

« It is harder to crack a prejudice than an atom » (Einstein)

¹⁴ In fact, this is happening in some ways during coffee breaks when information tends to circulate more easily.
SWW RAC performance assessment – Pascale Baelde – June 2011

SWW RAC PERFORMANCE ASSESSMENT FACE TO FACE AND PHONE INTERVIEWS

(Interviews conducted from February to May 2011)

SWW RAC Members	Pelagic and ICCAT	VIII & IX	Deep Sea fishing	Traditional fishing	Insular Subdivision
ALONSO Felicidad *	X				
AZCUE Leandro *	X	X		X	
CABRAL Antonio *	X	X			
CALACA Luis			X		X
CANHA Clarisse				X	X
CHEVER René-Pierre *		X		X	
FERNANDEZ Jose Antonio *			X	X	X
FERNANDEZ Liberato				X	X
FERNANDEZ Maria Jose	X	X		X	
FOEZON Yves *	X	X	X		
GARCIA Raul *	X	X	X	X	X
GONZALEZ Hugo		X			
GUIGUE Thierry	X	X		X	
JORGE Humberto *	X	X			
LARZABAL Serge *	X	X	X	X	
LOPEZ Xoan *	X			X	
MACEDO Carlos			X		
MIGUEZ Edouardo *		X		X	
MILLY David		X			
MOCO Cristina *				X	
MORANDEAU Yannick		X		X	
MORERA Cleofe Carballo				X	X
PAZ Enrique	X	X		X	
ROBERT Jean-Marie	X	X	X	X	
VERBEEK Monica *	X		X	X	

*Executive Committee members

Representative of the European Commission

- Ernesto PENAS LADO (Director Unity A : Development of Politics and Coordination)
- Kenneth Patterson (Deputy Director, Unity A)
- Fuensanta CANDELA CASTILLO (Chef of Unity C2 : Conservation and Control of fisheries in the Atlantic and ultra-peripheral regions)
- Rodrigo ATAIDE DIAS (Policy Officer, Unity C2)
- Isabelle VIALON (Coordination of RACs)

Other interviews with non-members

- Francis FOULON (Ministère de la Mer – Direction des Pêches Maritimes et de l’Aquaculture – France)
- Jose Manuel ORTIZ (Ministère de la Mer – Département des Pêches - Iles Canaries)

