

North Western Waters Regional Advisory Council

Response to Commission's Consultation Paper

FUTURE ROLE, COMPOSITION AND FUNCTIONING OF ADVISORY COUNCILS (ACs) WITHIN THE CFP REFORM

November 2012

Introduction / Background

The North Western Waters RAC (henceforth, NWWRAC) received a consultation paper from the Commission on the 4th of September 2012, whereby it was requested to submit contributions on the future role and composition of the Advisory Councils. This document was made available to all NWWRAC members thereafter and a preliminary exchange of views with the aim reply to some of the questions posed in the consultation paper was held at the Annual General Assembly meeting held in Dublin on the 26th of September 2012.

The NWWRAC had the opportunity to present its first conclusions and exchange views with the Director General Evans and key staff from DG MARE at the coordination meeting between the Commission, the RACs and stakeholders on the 28th of September 2012.

Further refined work continued in October and extensive consultation was undertaken to ensure that all NWWRAC members could provide their comments into the process. As a result, the NWWRAC is presenting this advice for the consideration of the Commission.

The NWWRAC has already been proactive in submitting a number of related advice papers and opinions, e.g. coordinating the InterRAC position on regionalisation¹, presented at the European Parliament's Public Hearing on this subject in March 2012, and the NWWRAC submitted its own proposal to the European Parliament containing very detailed specific amendments² to the Proposal of Basic Regulation of the Commission with a high level of detail in aspects such as composition of the ACs, funding sources and tasks to be completed. This proposal was addressed to the EP Fisheries Committee and its designated rapporteur, Ms. Ulrike Rodust, in September 2012.

1

www.nwwrac.org/admin/publication/upload/InterRAC_Common_Position_Paper_Regionalisation_21_March2012_EN.pdf

2

www.nwwrac.org/admin/publication/upload/Proposal_NWWRAC_Amendments_CFP_Regulations_A_Cs_September2012_EN.pdf

PART 1 – GENERAL REMARKS - OVERVIEW

The NWWRAC regrets the fact that this consultation was only launched in English, having to allocate extra funding and time to facilitate translation of this document into its two other official working languages (French and Spanish). The NWWRAC firmly believes that any consultation that has an impact on stakeholders from several EU Member States should be made available at least in the required official languages of each RAC.

RATIONALE / KEY POINTS

1. A fully-fledged regionalised CFP is advocated as originally conceived in the Commission’s Green Paper (COM 2009).

There is a clear need to move away from micromanagement and an over prescriptive “*top down*” approach to decision making, providing the tools and means for Member States and the ACs to work together to make a regionalised CFP operational. However, there is concern from the NWWRAC that regionalization process is suffering symptoms of stagnation. We find ourselves now near the end of the CFP reform process without a clear regional structure to rely on.

2. Policy makers, legislators and all parties at stake need to be ambitious and innovative in the formulation of proposals that can render regionalisation feasible.

The Advisory Councils should have a clear framework to adequately perform their enhanced advisory and facilitators’ role and have an effective participation within regional management bodies and processes.

It is expected and necessary that the ACs will expand their functions from the present situation of developing advice to Commission and Member States in a wide range of consultation and, in the words of the Commission, will both be involved in advising the “*preparatory phase of developing and preparing the Commission proposal for multiannual plan*” (upstream role) and playing “*a primary role in proactively advising the Commission and Member States concerned on the implementation of the plan*” (downstream role)³.

Despite the fact that this role is coherent with those established in the Green Paper, and that wide support has been achieved to improve the governance of the CFP and move away from micromanagement, there seems to be a contradiction with the actual text of the Commission’s proposal of Regulation on CFP reform, which is regrettably too vague to enable rapid and constructive process in this crucial reform area.

³ EC consultation paper - item 2. “*Regionalisation*” – page 1

Any increased advisory role of the ACs will need to be based on a more detailed set of rules and a clear model set in place and with appropriate resources to accomplish their tasks. Ideally, the ACs should become the “work house” of the future decentralized and/or regional entities dealing with multiannual plans.

3. Both the Commission’s proposal of Regulation on CFP reform and the consultation paper on the role and composition of the RACs lack of a level of detail in terms of objectives, decision-making architecture and possible management scenarios.

This makes it difficult in practice to envisage what regionalisation will look like at the present moment. A clear vision of the role of the ACs and the model or structure for cooperation between Member States in a regional basis is therefore needed before going on more refined discussions. The main focus and emphasis must be put on substance or workable solutions rather than posing hypothetical questions.

The NWWRAC acknowledges that the Commission has tried this year to test out how regionalisation could work in practice, even on an informal basis. An example of this would be the insertion of technical conservation measures to improve gear selectivity for some whitefish fleets operating in an area of the Celtic Sea: the original proposal came from a NWWRAC advice; it was endorsed by several Member States but the decision making process proved not to be a straightforward process, ending up in an EU regulation adopted by the Commission.

There seem to be different national approaches to regionalisation. Some Member States and stakeholders have legitimate concerns and are not confident on the process as there is a lack of a clear vision about where do we want to go and how we will achieve that path.

4. Given the present financial and budgetary constraints at both national (MS) and EU level, creative thinking is required to identify additional sources of funding to adequately perform an enhanced role with increased responsibilities in future.

There is a need to move away from the too simplistic idea of “*doing more with less*” towards to “*doing more and identify those additional sources of funding to make it a reality*”

The NWWRAC would like to know if the overall budgetary allocation for all existing RACs is going to remain the same in relative terms or it is going to be effectively reduced with the birth of additional ACs such as ultra peripheral regions; Black Sea; or Aquaculture.

PART 2. NWWRAC REPLIES TO QUESTIONS POSED IN THE COMMISSION'S CONSULTATION PAPER

REGIONALISATION

QUESTION 1.

What are the implications deriving from regionalisation for ACs?

RACs are generally recognised as one of the most successful elements of the last CFP reform (2002). Regionalisation seems the natural evolution of these bodies which bring stakeholders involved in fisheries from a given sea basin (Baltic, Mediterranean, North Sea, North Western Waters, South Western Waters). The arrangement for the Pelagic RAC (with highly migratory stocks crossing different areas) and the Long Distance RAC (with high seas fleets under the management of non EU countries and international organisations including RFMOs) will be adapted to the very specific characteristics of their fisheries.

There is a clear majority of stakeholders within the NWWRAC that are in favour of regionalisation, but it remains still to see what form or shape it will take. This will much depend on the reform legislation currently under consideration by the European Parliament and the Council of Ministers; and the degree and form which member states' cooperation takes in each sea basin under the new arrangements.

Regional cooperation is likely to take different shapes in different regions but there is broad agreement that the RACs, by virtue of their composition and regional focus, are going to play an enhanced advisory role everywhere. As an initial idea, the ACs could play a very important role as facilitators between MS involved in the development of mixed fisheries multiannual management plans (MAMP).

There is an opportunity for the ACs to work with a wide range of both international (RFMOs) and EU institutions (Council, European Parliament, Commission) and bodies (STECF, EFCA) at different stages and separately. Therefore, current relations will necessarily change and a clear articulation will be needed to avoid losing efficiency and provision of high quality stakeholders' advice.

Although the Green Paper was very promising on its scope and intentions, and there was wide support to the need to improve the governance of the CFP and move away from micromanagement, the EC proposal had a vacuum that has been left to co-legislators to fill.

Regionalisation should mean a diversification of the role of the ACs from essentially providing advice to the Commission as it is the case today to also facilitating coordination between the Member States involved in a given management plan and advising them in the designing of the related implementation plan prior to its submission to the Commission for legal status.



QUESTION 2.

How can duplication of AC consultation (by Member States and the Commission) be avoided?

The Commission has made it clear that, whatever the administrative and legal framework for regionalisation will be, the ACs will have to adapt their way of functioning to a more proactive role and articulate mechanisms to work more closely and give advice to cooperating Member States on appropriate management for the fisheries within their area of responsibility. The ACs will also continue to shaping the broad management framework, through their advice to the Commission and the European Parliament.

This would not, however, mean duplication since the ACs would be advising the Commission on its proposals for multiannual management plans (MAMPs) in terms of objectives and targets at EU level, whereas at MS level, their advice would be related to the selection of measures from the toolbox to best deliver on the objectives and targets agreed by co-decision.

The ACs are already the intermediate advisory body that acts as a link between the stakeholders and the policy makers both at national and European level. It is necessary to be very careful and cost-effective in avoiding duplicating bodies or structures that might have similar tasks and potential conflict of competencies in the future.

Let's put a practical example: ACs could advise on MAMP top lines. Once a fishery MAMP has been adopted at the EU level and goes to the MS concerned, the relevant AC should work on identifying the tools best adapted to deliver on the MAMP objectives and targets. This would involve selecting the necessary measures from the toolbox ranging from fleet capacity, access conditions, gear selectivity, etc.

Advisory Councils would advise the MS involved on the development of the implementation plan which MS will take to the Commission for approval and adoption under delegated or implementing acts.

Advice overlaps are likely but this will increase transparency, complementarity and consistency in ensuring the setting up of the rules and processes most likely to deliver sustainable fisheries.

There is a certain resistance or obstacles to achieve effective regionalisation coming from some Member States that are not clear about its advantages. Despite all the acknowledged problems of the current prescriptive micromanagement system, some Member States seem to fear the responsibility of greater participative management and prefer still to maintain the "status quo" and retain full decision-making powers at the Council and Commission.



A gradual process of building trust in cooperation might take time. The NWWRAC would be interested in discussing approaches to regionalisation with other RACs and Member States representatives in a technical workshop trying to progress the implementation of a regionalised approach and to identify some forms or regional cooperation/co-management models that might work in practice.

ROLE AND TASKS (QUESTIONS 3-5)

QUESTION 3.

Should ACs have a say in the identification of research priorities?

Yes. Many RACs have been stressing the importance of the availability of scientific advice on the quality of the advice they provide.

The NWWRAC strongly supports that the future ACs are involved in the identification of research priorities together with policy makers and scientific institutes since the outset. It is indeed crucial that further integration is encouraged and better access for the ACs to available scientific and economic advice/expertise is facilitated.

Both the Commission and Member States have their own priorities and allocations on which there is no consultation with other parties. However, for some types of research, in some MS both industry and NGOs are asked by the authorities to contribute to identifying some research priorities. This seems sensible since the industry already works with scientists and the authorities to fill in gaps in some data limited fisheries. However, clear rules would need to be established to ensure that all legitimate stakeholders have a say and that the process to be followed for advice in this area is transparent.

In 2011 and 2012, the NWWRAC suggested to the Commission to support research studies or projects addressed for compiling and collating biological and economic data and build a decision-support bio-economic tool to analyse different scenarios for achieving a sustainable conservation and implications of management decisions in fleets at the Celtic Sea mixed demersal fisheries for example. One point might be to increase the number of consultations and/or requests that the RACs can make to ICES via the Commission under a MoU.

QUESTION 4.

How could cooperation between ACs and scientists be further strengthened, in the most cost-effective way?

The NWWRAC would like to see a streamlined process for providing advice to which RACs would have access. This advice should be made available earlier in time and when possible in all its working languages. A more active involvement from independent scientific advisors would be also desirable.

An important progress has already been achieved in the dialogue between stakeholders and fisheries scientists. The NWWRAC regularly invites scientific and economic experts to participate on their ordinary working groups and technical focus group meetings; and also participates at ICES benchmark workshops and meetings and at STECF scoping meetings. The NWWRAC has made increasing efforts over time to provide evidence-based advice and to abide by scientific advice where available. As an example, a focus groups has seen set up to look at an alternative long term approach aiming at breaking the cycle of decline for cod stocks in the West of Scotland and Irish Sea in a mixed fisheries context.

The NWWRAC has also established some interesting collaborative work with scientists in the area of data limited stocks. The next step is to look at agreeing a common methodology so the work from the NWWRAC data coordinators can be validated by ICES.

Furthermore, existing examples of good practice should be shared among ACs and the Commission so as to build on the work already underway. Cooperation already exists between ACs and scientists at different EU projects (such as GEPETO, GAP1-GAP2, MYFISH, etc.) but this is only made on a case-by case basis. It would be advisable to turn these cooperation methods under the framework of a European strategy to make the best use of the scientific knowledge, more looking at the limited capacity that the marine scientific community is facing nowadays.

Fisheries scientists partnership (FSP) are a good example of operational research and a powerful tool for cooperation at national (and even vessel) level if sufficient and adequate funding is available. Both scientists and managers will hugely benefit of increased and proactive participation in these projects by the industry in order to improve accuracy and quality of data on landings and discards, particularly for data limited stocks.

Fishermen should look to strengthen their contribution to scientific research by engaging in these sorts of initiatives, but incentives are needed.



QUESTION 5.

Should ACs become involved in the design of control measures?

Control is an important component of the CFP. With the necessary safeguards to ensure a level-playing field in place, the ACs should advise on the designation of control measures. Stakeholders' expertise in this policy area should be tapped into just as in any other policy area. Of course the ultimate decisions lie with the EU or MS which have the competence and responsibility to decide what is best for sustainability.

FUNDING (QUESTIONS 6-7)

QUESTION 6.

How can ACs adapt their membership fees to the size and financial capacity of the member organisations?

The NWWRAC think that it is very important to have co-funding to ensure enhanced support to the organisation by its paying / supporting members.

As a general principle, paying a membership fee confers responsibility and a duty of engagement on the part of the member organisation. This is also the case for RACs. However, the decision to have different levels of membership should be left to each individual AC for decision at internal level, as this might vary from one to the other.

The NWWRAC does not believe that having different levels of membership and fees will help to improve participation. However, it is crucial that fees and other costs do not prevent relevant stakeholders from being members, attending meetings and participating fully in the work of the ACs. The NWWRAC would like to see a balanced stakeholder involvement in the ACs but this might require some funding from the EMFF allocated to fishermen, small fishing organisations and/or NGOs so they can be engaged and actively participate in ACs work.

The question of representativeness is also addressed in this paper. One of the features of the RACs is that all members' contributions and opinions have the same weight regardless the size of the organisation they represent.

QUESTION 7.

What other sources of funding could ACs identify and draw from?

It is obvious from levels of expenditure and budget consumption incurred on a yearly basis, as well as from the work plan, that the present level of funding is not enough for the NWWRAC to carry out spin off projects or initiatives, and therefore it is imperative to develop a more ambitious approach to work in collaboration with scientists, economists and policy makers, particularly in relation to the elaboration, design and implementation of mixed fisheries MAMPs. Subscriptions from members and contributions from Member States should continue to ensure a good level of co-funding and, where possible under the present economic circumstances, be increased.

The NWWRAC is content with the status of “*body pursuing an aim of European interest*”⁴ conferred by the Commission as it has secured a permanent and stable funding. However, there is a lack of flexibility in the implementation of the rules for the type of grant awarded that supposes a constraint for the evolution and development of the ACs. In particular, the application of the annuality principle impedes any long term planning and the fulfilment of strategic priorities set by the NWWRAC on a multiannual (e.g. 3/5 year) basis.

Given the role that the RACs would be expected to play in making regionalisation a success, improved access to EMFF and European research funds should be supported under the facilitating implementation of the reformed CFP heading along with the aid proposed for environmentally friendly fishing gear.

The challenge for the Commission and the decision makers would be to find a mechanism to allow RACs have access to EMFF funding now only available via MS. In other words, there is a need to reflect on how Member States funding via EMFF can be directed to regional initiatives to support the work of the RACs in articulating European FSP.

In order to facilitate this process and encourage the co-legislators to follow this path, the NWWRAC has included a proposal for amendment of article 54 paragraph 3 (Part XII) of the EC Proposal for a Regulation on CFP reform with the new text highlighted in bold:

Advisory Councils may apply for Union financial assistance as bodies pursuing an aim of general European interest. ***They may also apply for additional dedicated funding under a specific budgetary heading of the EMFF covering administrative, technical and scientific costs associated with carrying out studies to underpin their recommendations.***

The identification of additional sources of funding (EMFF, FP7, Interreg...) is a cross-border initiative where the Advisory Councils, national scientific institutes, the Commission (DG RESEARCH, DG REGIO, DG MARE and DG ENV) and the Member States could work together to support projects to strengthen and further develop regionalisation.

⁴ Council Decision 2007/409/EC:

http://www.nwwrac.org/About_NWWRAC/upload/File/Decision_2007_409_EC_110607_EN.pdf

COMPOSITION OF FUTURE ACs, ADOPTION OF ADVICE, FOLLOW-UP OF ADVICE (Q 8-10)

QUESTION 8.

How could adequate participation/representation of certain, legitimate interests, such as small-scales fisheries be ensured?

The industry members consider that the small scale and/or artisanal fisheries are adequately represented in the NWWRAC by representatives from UK, Ireland and France either directly (associations, organisations...) or indirectly (umbrella organisations, national federations). In particular, the NWWRAC has two sub-regional working groups (Channel and Irish Sea) where its weight and presence is more obvious.

However, the NWWRAC acknowledges the different “checks and balances” on each of the RACs, with some of them having a much stronger presence and participation than in others. A landmark example would be the South Western Waters RAC, which has its own Working Group on Artisanal Fisheries.

It might be accurate to say, however, that in some RACs ensuring a coordinated or strong voice for small-scale fishers represents a challenge, given the geographical distribution and the fragmentation in representation of this part of the industry.

The NWWRAC thinks that it is not necessary to make a different treatment for small scale fisheries as all sectors of fisheries are important from a socio-economic point of view and it is the decision of each Member States how to organize their fleet sectors. Greater involvement in RAC working and focus groups, outreach programmes, and the use of modern information and communication technologies are already in use and have helped to “bridge the gap” and strength their voice but could be taken further. In this sense, complementary measures under the EMFF might be allocated to help to promote a more active role and involvement of SSF organisations in the work of the RACs.

A coherent general definition at EU level with measurable indicators that is flexible enough to adapt to the specificities of each Member State / area / métier by length (above or below 10/12 metres); by fishing area (coastal, inshore/offshore...) would be desirable. Each AC might also be able to develop its own rules as to how the various voices would be heard.

In summary, the NWWRAC advocates for all legitimate interests to be adequately represented while allowing flexibility to adapt to the AC’s individual circumstances.

QUESTION 9.

Should there be a differentiation concerning the composition rules for decision-making bodies or should the same rule apply to all ACs?

The NWWRAC members supports keeping at this point the composition both for the General Assembly and the Executive Committee of the NWWRAC as it stands now – i.e. 2/3 for fishing industry and affiliated groups, and 1/3 for other groups of interest.

There is broad agreement that the current composition represents a valuable balance, while it is important to retain the integrity of the 1/3 for “other interest groups” not having an economic or social component linked to the fishing industry and its activities. This will help to ensure an appropriate balance between interests of exploitation and conservation of the fishing habitats and species.

QUESTION 10.

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

There is a unanimous view that the ACs should keep basing their decisions on consensus where possible. Consensus should be maintained on the grounds that it helps pull the industry to dialogue with other groups of interests for a common goal of achieving sustainable fisheries. It encourages discussions which allow each party to explore the various positions and find sufficient common ground to progress. It helps build up the necessary relationship within the AC that ensures the continuity of the group.

In terms of the effects or impact of the advice, it seems that consensus for “upstream” advice (i.e. response to specific consultations launched by the Commission) is not an essential requirement as in many occasions it is good for the Commission to be aware of all divergent views within the RAC. However, the downstream scenario in a regionalised CFP (implementation of Regulations, adoption of technical measures...) would demand a strong support and consensus should be aimed at all times.

The decision mechanisms must be flexible enough to not require unambiguous consensus at all times, and permit situations of majority with reflect of minority positions instead. However, consensus should be sought whenever possible and minority positions should only happen when negotiations or agreement is not possible in exceptional circumstances and that minority positions has not been considered or included in the working of the text.

INTERNATIONAL DIMENSION (QUESTIONS 11-13)

These questions have not been addresses as the NWWRAC does not have any mandate beyond EU waters nor liaise with third countries for managing shared stocks.



AQUACULTURE (QUESTIONS 14-15)

As in the previous heading, these questions are not dealt with as the NWWRAC does not have any aquaculture represented as member organisation.

PART 3. OTHER TOPICS FOR DISCUSSION

The NWWRAC endorses the proposal coming from the EU Fish Processors and Traders Association (AIPCE) and the European Association of Fish Producers Organisation (EAPO) to establish an Advisory Council for Markets and Horizontal issues, making it clear that processors/suppliers/traders should remain active and represented at the existing RACs, as this would indeed lead to a loss of valuable 'full chain' input.

The NWWRAC agrees that it is necessary to have a separate platform where horizontal issues can be discussed. Issues such as food law, import concessions, the CMO, etc. do not fit within the regional context of the existing RACs and due to the fact that ACFA is going to be effectively dissolved.

An Advisory Council for Markets would be open for composition and participation to all parts of the industry (i.e. catching, processing, trading and aquaculture interest groups) with the view of discussing specific horizontal interests with the Commission (the same as is the case in the current ACFA WG3). This in order for the Commission and Member States to have adequate advice on market related issues.

---END---