

NWWRAC OPINION ON REVIEW OF THE FUNCTIONING OF THE REGIONAL ADVISORY COUNCILS

March 2009

Background

The Commission presented, in June 2008, its Communication on the review of the functioning of the RACs¹. In this document, the Commission requested comments or suggestions on how to improve the functioning of the RACs in the short/medium term (2009-2012) from Member States, the European Parliament and the Regional Advisory Councils.

Some of the suggestions made by the Commission in its Communication do not require any modification of the legal framework. Some examples of this are the improvement of RAC's access to scientific evidence and data; the involvement of the RAC's at an earlier stage in the consultation process; the organisation of annual debriefing meetings between the EC and the RACs; or proposed guidelines on the rules of procedure and financial management of Community co-financing.

However, other suggestions might lead to small modifications of Decision 585/2004/EC, as amended by Council Decision 2007/409/EC, in aspects such as membership, statutory bodies or structure, amongst others.

The NWWRAC initially discussed a range of proposals within its Working Groups held in Madrid (17-18 of February), following the structure of the Communication¹ while referring to the concrete articles of the consolidated text of Decision 585/2004/EC and 2007/409/EC.

On the bases of these discussions and after a consultation period among all its members, the NWWRAC agreed to put forward the following proposals for amendments to the Council Decisions:

Specific Issues of Interest

1. Introduction

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

¹ COM(2008)364 final – Brussels, 17.6.2008

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

2.2. Structure, membership and operational procedures

2.2.2. Membership

FISHERIES SECTOR AND OTHER INTEREST GROUP

Legal basis - Article 1.2

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

Commission proposal:

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

NWWRAC Recommendation

The NWWRAC believes that it is important to maintain the two third/one third ratio to ensure that RACs continue to remain representative of all interest groups. Even though RACs in general and the NWWRAC in particular are actively encouraging more 'other interest groups' to participate, membership of the 'other interest groups' is less than what is hoped for and as a result a number of seats remain vacant on the executive committees of many RACs. However it is felt that seats in the other interest group should not be filled with members of organisations which are currently deemed to be 'fisheries interest' unless, there is clear agreement from the current 'other interest group' members in that RAC and it is agreed by consensus by the general assembly membership.

2.2.3. Composition of statutory bodies

GENERAL ASSEMBLY

Admission of new members

Legal basis - Article 5.2.

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

Commission proposal:

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

NWWRAC Recommendation

According to the NWWRAC internal rules and procedures, each new application for membership is submitted on a standard form to the relevant contact persons of the Member States, which must reach a common agreement for its acceptance.

In practice, the NWWRAC receives limited replies from the Member States. The NWWRAC believes that this rule could be modified in such a way as new members have to be formally accepted by the Executive Committee after a non binding advisory consultation of the Members States.

Representation- Allocation of seats

Legal basis - Article 5.3

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

Commission proposal:

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

NWWRAC Recommendation

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

EXECUTIVE COMMITTEE

Legal basis - Article 4.3

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

Commission proposal:

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

- 1) To increase the maximum seats in the Executive Committee until 30 by a consensus decision of the General Assembly, while maintaining the 2:1 ratio.
- 2) To keep the maximum number of seats at 24 but to allow RACs to introduce in their internal rules of procedure a system of rotation between organisations from the same group of interests, so that a greater number of organisations could occupy a seat on the Executive Committee over the course of time.

NWWRAC Recommendation

The NWWRAC is happy with the current structure in place and the number of Executive Committee members. Therefore, the NWWRAC support the second option proposed by the EU Commission, once this option ensures that both the 2:1 ratio and the proportion of nationalities encompassed by a RAC can be respected

2.3. Participation by non-members

PARTICIPATION OF SCIENTISTS

Legal basis - Article 6.1

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

Commission proposal

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

NWWRAC Recommendations

The NWWRAC agrees that the MoU has helped to improve the presence and participation of scientists at RAC meetings. However, the NWWRAC feels that more flexibility is needed in relation to the timing of requests for scientific participation; the possibility of a “fast track” procedure to invite scientists to deal with specific topics at shorter notice may help to overcome this problem.

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

INVOLVEMENT OF MEMBER STATES

Legal basis - Article 7.5

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

Commission view

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

NWWRAC Recommendations

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

The NWWRAC proposes to set up a procedure to draw a common framework of “minimum requirements” to be complied with by the Member States in all the RACs. These requirements would constitute legal obligations for the Member States and this would bring more certainty to the Secretariats about what is the exact level of specific support and or contributions from the Member States in financial terms.

COMMISSION FINANCIAL SUPPORT (I)

Legal basis - Annex II First Paragraph

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

Commission role

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

NWWRAC Recommendations

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

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

COMMISSION FINANCIAL SUPPORT (II)

Legal basis - Annex II Second Paragraph

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

NWWRAC Recommendations

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

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

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

The interRAC have also agreed that the Framework Agreements should be amended accordingly and the rule on deficit of receipt should be extinguished. If there are legal restrictions that prevent this optional way forward, the RACs would appreciate from the Commission an explanation on its interpretation of the rule on deficit of receipt.

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

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

3.2. Follow up of RAC advice

Legal basis – Article 7.3

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

Commission proposal

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

NWWRAC Recommendations

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

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

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

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

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

The NWWRAC has faced difficulties in past consultations (e.g. blue ling management, annex II of EC Regulation on TAC & Quotas, management of fish stocks without catch option tables...) due to the short time given for submitting a response.

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

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

The NWWRAC is very supportive of the new timing of scientific advice and Commission presentation of Frontloading and Policy Statement papers, but it notes that proper consultation among stakeholders should be also ensured during that process to avoid “broad-brush” approach. Impact assessment of measures put forward by the Commission should also involve participation of stakeholder representatives before any final legislation is adopted.

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