

Director-General Lowri Evans
Directorate General for Maritime Affairs and Fisheries
European Commission
B-1049 Brussels
Belgium

Head of Unit: Ernesto Penas Lado
Directorate A: Policy Development and Co-ordination
Directorate General for Maritime Affairs and Fisheries
European Commission
B-1049 Brussels
Belgium

Cc: Commissioner Maria Damanaki

JOINT NGO RESPONSE TO THE COMMISSION CONSULTATION ON FUTURE ROLE AND COMPOSITION OF ADVISORY COUNCILS (ACs)

Dear Lowri Evans and Ernesto Penas Lado

We, a number of environmental and developmental NGOs active in one or more of the Regional Advisory Councils (RACs), would like to provide input into the current debate and thinking about regionalisation and the future ACs in the context of CFP reform. We send this joint response to the Commission consultation, highlighting some of our experiences and concerns as members of the 1/3 group in the RACs.

1. SUMMARY

We consider the RACs (ACs) an important step forward in terms of sharing information, and seeking stakeholder advice in fisheries management. RACs also provide a great opportunity for resolving conflicts, enhancing dialogue and understanding between different stakeholders. However, we firmly believe they must retain an advisory function only.

2. REGIONALISATION

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

In terms of regionalisation, RACs may have other new regional structures to interact with in addition to the Commission and the Member States, as outlined in the consultation paper. Together with the increased role in advising on policy-making as well as implementation outlined by the Commission, it will put additional pressure on the ACs to respond to regional processes and consultations. It is likely that with the extended role, more meetings and more extensive writing/composition of advice will be required and this will put already scarce staff resources at secretariat and member organisation levels under further pressure. Coming up with these new types of advice, particularly on implementation, is also likely to demand a better and more in-depth dialogue than we have in many RACs today, and quite possibly additional stakeholders need to be included in the RACs.

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

It is set out in the Commission paper that input will mainly be on two levels: 1) in the development of proposals and 2) in their implementation on a regional/local level. This does to some extent structure the different input that might be needed from a Commission and Member State perspective. ACs advice on both phases should be circulated both to the Commission and to the relevant Member States, as in the first phase – even though the Commission holds “the right of proposal” – the Member States are involved in shaping the final legislation.

Equally, for the second phase, the Commission must continuously follow and ensure that implementation on a local and regional level is appropriate to meet the overarching objectives of the CFP.

3. ROLE AND TASKS

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

Yes, they should have an opportunity and a route to put forward proposals for studies needed to support implementation, without determining overall research priorities. However, rules would need to be established to ensure that the process for advice in this area includes all relevant stakeholders and is transparent.

Both the Commission and the Member States have their priorities and obligations 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 (e.g. Scotland in the framework of a Fisheries Industry Science Alliance¹). This seems sensible, since the industry already works with scientists and the authorities to fill in gaps in some data poor fisheries. To summarise, ACs should not set the agenda for research but must assist by identifying gaps and needs from their perspective.

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

In responding to this question, we would like to highlight two different fields of science: 1) stock assessment-related science and advice and 2) practical applied science.

1) Regarding stock assessments and science related to data and modelling, the AC does not have to be more involved than today and the current opportunities available within the ICES framework. However, both ICES and STECF scientists as well as scientists from other institutes, such as national universities, should be encouraged to participate as active observers in the ACs or as invited speakers, providing information on the latest research and clarifying scientific advice for example. Some funding should be available to enable this participation, as well as for independent studies supporting the work of the ACs. It is our firm opinion that scientists should always participate as observers or as invited speakers. We don't see a need for the ACs to employ scientists, as this would be an inappropriate way of merging science with management advice. The ACs advice should represent the stakeholders' perspective, and scientists must deliver their advice independently.

¹<http://www.scotland.gov.uk/Topics/marine/science/FISA>

There could be a wider role for fishermen in providing data for stock assessments (as exemplified under question 3 above), but this would not necessarily work best under the framework of an AC.

2) Regarding applied science, there is a need for much greater links and collaboration between fishermen and scientists, particularly on fishery operations. The ACs can play a more active role here, both in proposing areas for collaboration (see question 3) and by inviting key persons to present projects and new selective gear, but it is important to ensure that a wider group of the fishermen (represented by the 2/3 group members of the current RACs) are able to participate in this process. To develop new gears, test them and modify them in particular, there is a need for improved possibilities to participate and to fund such participation.

Also, funding is needed for more regional approaches – this is not sufficiently covered in the current proposal for EMFF, which is mainly providing national funding, making regional collaboration more difficult. We are not calling for increased funding overall but it would still be possible under the new EMFF to change the possible uses of the proposed funding streams to support regional management processes.

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

Today, the RACs are represented on the advisory board of the EFCA and the EFCA sometimes have representatives present at RAC-meetings. However, this does not provide a regular opportunity to reflect on the control measures, and could be strengthened. Nothing stops the RACs (ACs) from providing proactive advice on control measures, as well as on other issues. The industry representatives on ACs would be well aware of practices that have the potential to infringe fisheries rules and could identify them and recommend measures to tackle them.

4. FUNDING

No decrease in general funding provided for EU fisheries has been suggested – though it is proposed to be restructured and more integrated under the new EMFF. The initial comment made by the Commission under this section does therefore not stand, but it is a matter of how you use available funding sources to support the management objectives and structures. Increased regionalisation is clearly going to create a greater workload and increasing costs for Member States in implementation. Yet, no funding is foreseen for this under the proposed EMFF. Funding for cross-boundary processes could be provided under Art. 30.

- EMFF support should also be available to support stakeholder participation in regional processes and for the establishment of co-management groups at fishery level.
- Consideration should be given to the role of different recipient groups, such as Producer Organisations, Fisheries Local Action Groups (FLAGs) and Advisory Councils, and how interlinkages between these groups and other stakeholders can be ensured to strengthen regional processes.

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

This is a very difficult issue, because the financial resources of the stakeholders vary so much. It is crucial that membership fees do not prevent relevant stakeholders from being members, attending and participating in the work of the ACs. At the same time, membership fees may serve as an important tool to ensure that the organisations entering the process remain actively involved, so they should not be abolished altogether. The challenge is to find a good balance

between these two aspects. In the end, it is the actual participation in the process that is the biggest cost, in terms of investing staff time and organisational resources.

Membership fees could be based on the size of the budget of each member organisation, or there could be mechanisms available to help organisations lacking sufficient funds with membership fees. If differentiated membership fees are applied, however, one needs to carefully consider what criteria would be used in order to decide on the size of the membership fee in order to not negatively affect the status of the stakeholders (organisations making larger contributions may claim a larger say in political discussions). In any case, membership fees should be kept as low as possible.

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

The RACs (ACs) are part of the EU management system now, as set out in the basic regulation of the CFP since 2002, with a possibly extended and strengthened role after the current reform process has been concluded. It is therefore unreasonable to expect the ACs to compete for other (non-public) funding sources, though clearly it is always possible for them to attempt to seek additional external funding. It should be the responsibility of the policy makers (European Union) and Member States to ensure the functioning of the ACs, as well as the appropriate representation of relevant stakeholders – see above. Ideally, all cost involved to produce and give this formal advice should be paid by those asking for it (the Commission and the Member States). According to the new funding structures proposed, the EMFF would perhaps have to be the main vehicle, but in its current form it does not contain enough provision for regional collaboration to support regional management efforts overall.

5. COMPOSITION OF FUTURE ACs, ADOPTION OF ADVICE, FOLLOW-UP OF ADVICE

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

The current stakeholder mix in the RAC:s needs to be reviewed – both in terms of overall structure (1/3 and 2/3) and in terms of in which members belong to which group.

Overall structure (1/3 and 2/3)

While we mostly consider working within the RACs worthwhile, as a minority group we often have a limited influence on the work and views of the RACs, and being effective in getting our message across requires a high level of engagement for a sometimes very limited return. It is not rare that the minority positions are impossible to find in the official statements from the RACs and they are often very short or only presented in a footnote.

Effective stakeholder engagement generally works best when no one interest group is overly dominant. It is therefore likely that management advice will be best developed and implemented by stakeholder groups that are more mixed and balanced than the current RACs. In addition, one could argue that EU fish stocks are a public resource and the public should therefore have a stronger say in how they are managed compared to what it has today. ACs should then consist of 50 % sector representation and 50 % public/other interests.

For this reason, it would be worthwhile redressing the balance of different interest groups. At the same time, there are concerns among civil society representatives (among the NGO groups undersigning this paper) that if a greater level of representation is required, we would not be able to fulfil that role. NGOs already struggle in some RACs to fill the available seats, simply because

of the combination of the [sometimes substantial] financial and staff resources required and the often limited results of this continuous effort. However, if the membership fees were more in line with the financial capacity of many NGOs and if some funding could be made available for participation, the level of NGO participation could be increased.

Another serious issue is the currently heavy bias towards large-scale sector interests in the RACs, which makes them much less representative of the EU fisheries sector than they ought to be. Specific mechanisms to address this are needed and efforts to involve small-scale fisheries interests have to include considerations of their financial and staff/personal capacity situation, which is often even more limited than civil society organisations representing environment, development and consumer interests.

Division of interest groups

In the current RACs, interest groups are separated into to the fishing sector (2/3 of seats) and other interests (1/3 of seats) groups, with some problematic classifications built in from the start that will be further exacerbated if they are not addressed within the current reform of the CFP.

1) Aquaculture interests (currently part of the 1/3 group) should clearly be classed as sector representatives, particularly now that they are likely to have their “own” AC and (as part of the sector) will receive large amounts of funding through the new financial instrument. The likely creation of another AC dedicated solely to aquaculture issues, also gives rise to a number of questions related to the role of aquaculture interests in the other ACs. With the substantial expansion of aquaculture expected to take place across the EU with the new funding provided under the EMFF, the need to address marine aquaculture together with other regional aspects of fisheries management in the regional ACs (the current RACs) will actually increase.

2) In several RACs, the trade unions and the fisher women’s networks are considered to belong in the 1/3 group. Trade unions should clearly be classed as sector representatives – most, if not all of them, also wish to be seen as such – and women’s networks were already defined as part of the ‘fisheries sector’ in Council Decision of 19 July 2004 establishing Regional Advisory Councils under the Common Fisheries Policy (2004/585/EC), but for some reason this has not been adhered to.

3) It is less clear, but still relevant to ask whether angler organisations should not also be classed as sector interests. Angler organisations that have an interest in utilising part of the resource and angling-dependent businesses making economic profit from activities based on the EU marine fisheries resources, for example tackle trade and tourism, should be defined as users and therefore belong in the sector groups of the ACs.

Other relevant aspects of participation/representation are:

- When working with regional implementation of EC framework regulations, the process will need to include Member State representatives, scientists, key catching sector representatives (including anglers) from the fishery under discussion, processors, environmental interests, consumer interests and other relevant stakeholders.
- In some cases, other key partners/stakeholders should be invited to participate in the work of the RACs, for example stakeholders from Russia to BS RAC meetings and stakeholders from countries with which the EU has fishing access agreements in the LD RAC.
- Better “house-keeping rules”: At present, many NGO members have problems due to documents being sent out at short notice, which means the members cannot prepare

adequately for meetings or be fully up to speed on all the issues. Many RACs do not have any provision concerning notification prior to meetings in their statutes. In other cases, it remains unclear at the end of meetings what has actually been decided.

- Better transparency: Meeting notes should always be official and minority statements must be included in such a way that they are clearly visible in the meeting notes.

Options for improved representation

We therefore envision the following possible options for improved representation of interests groups in the ACs (as compared to the RACs):

1. The current division in the RACs into the 2/3 and 1/3 groups is revised to a 50/50 representation of fisheries sector and other interest groups.

Advantage: The system would be more democratic than it is today, with the fisheries sector dominating decisions, and this would most likely result in better, more reflective advice.

Setback: Civil society organisations are likely to have problems filling their seats and the competition for seats in the sector group may further marginalise small-scale and coastal fisheries representation.

2. In regions where the small-scale fishing interests (including catching, processing and marketing operations) represent an important part of the sector, the current division of seats is revised to instead consist of 1) 1/3 for representatives of fisheries sector 2) 1/3 for representatives of small-scale and coastal fishing interests, anglers and women's networks, and 3) 1/3 for representatives of other interest groups. This will require an agreement on a definition of small-scale fisheries.

Advantage: The representation would be better balanced, as no stakeholder group would be overly dominating. Such a division would also help secure better representation of small-scale fishing interests, which really makes up the majority of the EU fishing sector in number of people².

Setback: It could be difficult to determine which group stakeholders belong in.

3. To maintain the current division of seats into 2/3 and 1/3 groups, but with some changes in the classification of different stakeholder groups:

- Improved sector representation is ensured by reserving seats for the small-scale and coastal fisheries sector in the 2/3 group.
- Trade unions, aquaculture interests, women's networks and other stakeholder groups with clear associations with the catching sector are placed in the 2/3 group.
- Angler networks and organisations are included in the 2/3 group.

Advantage: Adequate representation of the small-scale sector is secured by reserving seats for it. A better representation of civil society organisations is ensured by including aquaculture interests, trade unions, women's networks and angler organisations in the 2/3 group.

Setback: The fisheries sector will still be the most dominating stakeholder group, through its substantial majority.

²(2011) *Characteristics of small-scale coastal fisheries in Europe*. Directorate-General for Internal Policies, Policy Department Structural and Cohesion Policies B, pg 62.

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

Assuming this question concerns the composition rules for the Executive Committees of the RACs, the same rules should apply to all ACs.

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

This question depends very much on the composition of the ACs. As it stands now, with the current division of interest groups (one with a clear majority), a voting system would not be democratic and consensus advice with a clear recording of differing views is the only viable solution. It is *very important* that reports and positions clearly express minority views, as otherwise there is a risk that authorities interpret the majority view as consensus advice.

That said, the ACs should strive for consensus recommendations – i.e. to jointly agree on how to address issues – but this will not always be possible. As the ACs are purely advisory bodies, the management authorities will need to consider the potentially different views in their decision, as well as the need for coherence with the objectives of the overarching policy framework.

6. INTERNATIONAL DIMENSION

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

First of all, stakeholders must receive, as early as possible, all the relevant and necessary information, so that they can prepare and share their views and concerns in time for the preparation of EU positions. Such information includes calendar and agendas of internal meetings, as well as technical information like proposals, ex-ante evaluations and impact assessments.

Through the LDRAC (LDAC), a balanced delegation of stakeholders should be invited to attend as observers to international fisheries meetings (e.g. RFMO meetings, COFI, UNGA), as well as bilateral negotiations of EU agreements with developing countries that have a fisheries component (e.g. SFAs, EPAs). They should also be invited to attend and give their views at internal meetings of the EU delegations during these international meetings and bilateral negotiations.

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

The LDRAC (LDAC) should play an active role in facilitating a dialogue between EU and third countries, including third country stakeholders, on issues arising from SFAs, RFMOs, private arrangements/chartering and, when appropriate, international fora discussions – this is already recognised by the LDRAC by-laws. Such a dialogue should be held in a structured way on the basis of a mutually agreed agenda, emerging from common concerns (such as harmonisation of access conditions and fight against IUU). The contacts that have been made so far with COMHAFAT, and the current elaboration of a MoU between LDRAC and COMHAFAT, may be a test case for how developing third countries can participate in such a dialogue.

The lack of a formal process for consultation of developing third country stakeholders (sector and NGOs) is also a challenge to be addressed. Processes (and sometimes, means) for such

consultation of stakeholders do exist in the case of Development programmes supported by the EU, and some synergy with DG Development should be identified by the LDRAC to develop appropriate consultation procedures for third countries stakeholders.

It should also be noted that in order to improve participation by developing third countries stakeholders, the impacts of EU operations on the concerns and interests of third countries should be better reflected in key documents such as the SFAs evaluations. This calls for a change of scope of these evaluations, which should not consider (mainly) the costs and benefits for the EU and EU operators, but also the environmental, social and economic costs and benefits for the third country and its fishing communities/sector.

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

The EU should certainly also promote third country (and EU) stakeholder consultation by RFMOs. For developing countries, this will also imply finding the financial means to support such participation. Again, synergies may be found with actions taken by the EU in the development cooperation area to support such participation.

7. CREATION OF A NEW AC ON AQUACULTURE

Question 14: *Should there be specific rules on the AC for aquaculture, for example on the composition of decision making bodies or should the same rules apply as for other ACs?*

Clearly there are other issues, as all MS with aquaculture will need/want to have sector representation, but adequate representation of other interest groups has to be ensured in this AC as well. It might be particularly difficult to achieve a balanced representation in the aquaculture AC, but a reasonable minimal level for representation of other stakeholders would need to be set and transparency in proceedings will be of crucial importance. All stakeholders must have equal access to all information and receive it without delay.

Question 15: *How can appropriate participation and representation of all types of aquaculture be best ensured?*

Probably by inviting the industry representative bodies such as FEAP, in the same way as it is done now for the groups that are looking at Aquaculture and Natura 2000 or the ACFA Working Group 2. Individual working groups can be set up to deal with specific issues affecting subsectors of the industry. It is also important that there is appropriate representation from all stakeholders including NGOs and consumer representatives.

Sincerely,

Monica Verbeek, Seas at Risk (SWW RAC; LD RAC)
Niki Sporrong, The Fisheries Secretariat (FISH) (BS RAC)
María José Cornax, Oceana (MedRAC; LD RAC)
Christien Absil, North Sea Foundation (NS RAC; Pelagic RAC)
Iwan Ball, WWF-Wales (NWW RAC)
Mireille Thom, WWF-Scotland (NS RAC)
Ellen Bruno, Swedish Society for Nature Conservation (BS RAC)
Javier Lopez, Oceana (SWW RAC)
Sarunas Zableckis, WWF-EPO (Pelagic RAC)
Piotr Gruszka, Polish Ecological Club (BS RAC)
Johnny Woodlock, Irish Seal Sanctuary (NWW RAC)
Nils Höglund, Coalition Clean Baltic (CCB) (BSRAC)
Jesper Kobberø, Alliance of Social and Ecological Consumer Organizations (BS RAC)
Debbie Crockard, Marine Conservation Society (NWW RAC)
Sidónio Castel-Branco Paes, Liga para Protecção da Natureza (SWW RAC)
Susana Sainz-Trapaga, WWF-MedPO (Med RAC)
Jan Kappel, European Angler's Alliance (EAA) (NS RAC, NWW RAC, Med RAC)
Mike Heylin, European Anglers Alliance (EAA) (NS RAC, NWW RAC, Med RAC)
Anders Karlsson, Swedish Angler's Association/EAA (BSRAC)
Jan Willem Wijnstroom, European Angler's Alliance (EAA) (NS RAC)
Beatrice Gorez, CFFA-CAPE (LD RAC)
Ewa Milewska, WWF-Poland (BS RAC)
Jenny Fors, WWF-Sweden (BSRAC)
Euan Dunn, BirdLife International (NS RAC)
Raul García, WWF-Spain (SWW RAC)
John Crudden, European Anglers Alliance (EAA) (NWW RAC)
Tapani Veistola, Finnish Association for Nature Conservation (FANC) (BSRAC)
Laura Pisano, European Angler's Alliance (EAA) (Med RAC)
Elise Petre, WWF-France (SWW RAC)