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Review of the functioning of the Regional Advisory Councils

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1. INTRODUCTION

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 waters¹. They contribute to the achievement of CFP objectives by providing advice to the Commission and to Member States.

Council Decision N° 2004/585/EC of 19 July 2004 ("The Decision") established a common framework for the RACs, including their number (seven in total), geographical coverage, structure and composition, as well as certain procedural rules². RACs are stakeholder-led bodies which receive a Community grant to cover part of their operational costs.

Article 11 of the Decision states that "*three years following the date on which the last RAC becomes operational, or, at the latest by 30 June 2007, the Commission shall report to the European Parliament and the Council on the implementation of this Decision and the functioning of the RACs*".

In the event, the process of setting up the RACs took more than three years and is not yet completed. By 30 June 2007, six of the seven RACs had been established, although two of these - the South Western Waters RAC and the Long-Distance RAC - were only set up in spring 2007 (see annex 1). With the Mediterranean RAC not yet in place, the evaluation report would therefore have covered only four RACs if it had been published in June 2007. The Commission therefore decided to delay the publication of this review by one year.

Meanwhile, following a first evaluation of the RACs' potential to contribute to the development of the CFP, the Commission proposed an amendment to their financial regime, recognising that the RACs needed financial stability to pursue their advisory role within the CFP effectively. The proposal was supported by Council and Parliament and entered into force on 15 June 2007³.

This report presents the Commission's analysis and evaluation of the current framework for the functioning of the RACs⁴. It also deals with the RACs' input to the CFP, highlights current trends and proposes improvements to the consultation process. In line with Article 11 of the Decision, the Commission's evaluation does not examine the possible development of the RACs' role in the CFP governance system, as defined by Council Regulation No 2371/2002. This should be done in the context of the next CFP reform.

¹ Articles 31 and 32 of Council Regulation N° 2371/2002/EC of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, OJ L 358, 31.12.2002, p. 59-80

² OJ L 256, 03.08.2004, p. 17-22

³ Council Decision N° 2007/409/EC of 11 June 2007, OJ L 155, 15.06.2007, p. 68-70

⁴ The Commission's evaluation is based on its own experience with the functioning of the RACs and on the results of a questionnaire which was submitted to the Member States and the RACs in December 2006.

2. EVALUATION OF THE MAIN ELEMENTS OF THE GENERAL FRAMEWORK ESTABLISHED BY COUNCIL DECISION 2004/585/EC AS AMENDED BY COUNCIL DECISION 2007/409/EC

2.1. Geographical coverage

The Commission's view is that, overall, the current geographical coverage is satisfactory and that there is no need for additional RACs to be set up. RACs should make full use of the possibility of establishing sub-divisions to deal with specific issues, especially for those that cover very wide areas.

A number of specific questions in relation to the RACs' geographical coverage have been brought to the Commission's attention, which could be discussed further with the other Institutions and stakeholders.

- (1) It has been highlighted that ICES area IV (West of Scotland) has more in common with the North Sea, from both a biological and a socio-economic angle.
- (2) With regard to the Pelagic RAC, the Council Decision limits its competence to four specific stocks in all areas except the Baltic and Mediterranean. The question has been raised as to whether it should not cover other pelagic stocks or associated fisheries, such as Norway pout and sandeel in the North Sea. The Commission considers that the limits of a RAC should, as far as possible, match with natural ecosystem boundaries, and is therefore reluctant to propose that the Decision be amended in this respect.
- (3) The management of deep-sea stocks has become a high-profile political issue for European fisheries and is currently being discussed in several RAC working groups on the basis of geographical criteria. In the Commission's view, while it is not necessary to create a specific RAC for deep-sea stocks, joint working groups should be set up to coordinate RAC advice on this subject and avoid duplication of workload.
- (4) The Decision does not explicitly mention the Black Sea. However, the Mediterranean RAC could deal with the Black Sea through a specific working group, as happens with the General Fisheries Commission for the Mediterranean - the model on which Annex I of the 2004 Decision was based. Ad hoc discussion forums between stakeholders from Romania, Bulgaria, relevant non-EU countries and the Commission are another option. The Commission does not see that there is an immediate need to set up a specific RAC for the Black Sea, but does consider that there is an urgent need for concerted action at regional level regarding fisheries management, research, data collection and stock assessment in the Black Sea region.

There are often issues that are of interest to two or more RACs. In these cases, RACs should aim to co-ordinate their positions and issue joint recommendations, as provided by Article 8 of the Decision. Inter-RAC meetings offer opportunities for RAC secretariats and chairmen to plan the discussion of issues of common interest, and this practice should continue.

2.2. Structure, membership and operational procedures

2.2.1. Structure

Each RAC has a General Assembly and an Executive Committee and is supported by a secretariat and a number of working groups. In addition, some RACs have developed "focus"

groups to work on specific technical issues before launching a discussion in working groups and/or the Executive Committee. While this practice can facilitate subsequent discussions, sufficient care must be taken to ensure that all interested parties, including active observers (Commission, national/regional administrations), can participate if they wish with no direct or indirect restrictions, such as lack of interpretation. However, undue proliferation of working groups should be avoided, and some rationalisation may be necessary in the future.

2.2.2. *Membership*

- Fisheries sector

The catching sub-sector has been the most active in the fisheries sector. This is as expected, given that, under the terms of the Decision, each Executive Committee should include at least one representative of the catching sub-sector from each Member State concerned. Processors, traders and other market organisations, such as retailers, are also included in the definition of the fisheries sector in the Decision. These actors, together with consumer organisations, play a key role in shaping developments in the fisheries market. It is the Commission's view that these interests should become more active, so as to help shape the CFP "from net to plate".

Participation by grassroots interests has not been as significant as had been hoped. This may be unavoidable with such large organisations as RACs. Further, many fishing ports do not have adequate facilities to host RACs meetings. Nevertheless, grassroots participation should be encouraged.

- Other interests

In some RACs, environmental and development NGOs have been active players despite some capacity problems and difficulties in resourcing all the working group meetings. The Commission would like to see more active participation by aquaculture producers, recreational and sports fishermen and consumers, given the role that these stakeholders play in current policy and market trends affecting the CFP.

The relevance of having 'women's networks' in the 'fisheries sector' group could be reconsidered. In almost all RACs, the group representing 'women's networks' wants to be part of the "other interests" group, as they believe that their interests go beyond fisheries to embrace the socio-economic dimension of coastal regions as a whole.

A number of groups whose membership includes interests from the fisheries sector have asked to join RACs as "other interests". The proliferation of such organisations seeking seats on the Executive Committees is a cause of concern for the Commission, as it risks upsetting the current balance of interests.

2.2.3. *Composition of statutory bodies*

- General Assembly

The General Assembly approves the annual report and appoints members of the Executive Committee. The Decision states that the Member States concerned should agree on the members of the General Assembly. This is implemented at the initial stage of setting up the RAC. The situation is less clear in cases where new organisations apply for membership once a RAC is already up and running.

Two thirds of the seats in the General Assembly must be allotted to representatives of the fisheries sector and one third to representatives of "other interests" groups. Once a RAC is established, it is difficult to maintain this ratio. For example, if an NGO withdraws, two fisheries organisations should in theory be expelled to maintain the ratio. This rule also limits *de facto* the number of members, and may prevent grass-roots fishermen or market organisations from joining. The current composition rule should therefore be adapted, whilst ensuring that the rights of all groups are safeguarded, in particular when designating representatives on the Executive Committee.

- Executive Committee

This is the most important body in a RAC, as it manages the work and adopts recommendations. The number of seats is limited to 24. As with the General Assembly, two thirds of the seats are allotted to the fisheries sector and one third to the other interests group.

The current system works satisfactorily for most RACs. However, two RACs (Long-Distance RAC and Mediterranean RAC) appear to have major problems complying with this rule, due to the large number of Member States and fisheries sector organisations concerned. To deal with this problem, the following options could be considered:

- The number of seats could be increased to 30 by a consensus decision of the General Assembly, while maintaining the 2:1 ratio. This would require an amendment to the Decision, and would have the advantage of creating more space for the catching sector, while maintaining the current balance between the various interests. However, there is a risk that any increase in the number of seats in favour of the catching sector would *de facto* diminish even further the influence of other interest groups, as they already have problems filling the seats allocated to them, due to lack of resources;
- The number of seats could be kept at 24, but RACs could 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.

There is no consensus among stakeholders at this stage. The Commission has a preference for the second option but is open to discuss alternative options, provided that the current balance of interests is not upset.

While recognising that RACs should be composed mainly of fishermen, the Commission also believes that effective participation by all other interests is essential for the RACs to function properly as intended by the Community legislator. Inadequate stakeholder representation could lead RACs to focus on technical issues that are only of interest to the catching sector. To encourage other interest groups to join the RACs, discussions should include broader issues, such as eco-labelling and market trends.

2.2.4. *Operational procedures*

Decision-making within the RACs must be transparent. The roles of working groups and the Executive Committee have to be clearly defined. The multiplication of focus groups should not lead to less transparency. When having recourse to written consultation, RACs must ensure that all members concerned receive the relevant information. Decisions should be taken by consensus wherever possible. If not, a clear reference to dissenting opinions must be annexed to the advice transmitted to the Commission. Minutes of meetings must be available

to everybody. These rules are generally followed by the RACs, but a more systematic follow-up should be ensured.

It is essential to inform all members and the public about RAC activity. Because of the complexity of the issues discussed and the increased workload, there is a risk that RACs may lose touch with the grass-roots level and develop a life of their own, keeping information within a small circle composed mainly of Executive Committee members. The latter must represent their own constituencies and not seek to act as independent experts. To deal with this problem, RACs have taken a number of positive initiatives, such as developing useful websites where all documents are available, sending weekly information letters to members, and preparing press releases. Some RACs have tried to increase attendance at general assemblies by organising meetings in fishing ports or by setting up "speakers' corners". These positive initiatives should be continued and enhanced.

RACs cannot provide translation and interpretation in all the languages of their members. Yet, they must guarantee equal access to information as far as possible. It is for RAC members to define proper rules for translation/interpretation and allocate an adequate proportion of funds for these purposes.

RACs are stakeholder-led bodies. It is up to them to agree on their operating rules, within the general Community framework. However, it appears that internal rules of procedure are not always detailed enough to avoid conflicts of interpretation, provide solutions and guarantee a balance between the different groups. For instance, problems have arisen concerning requests for membership, non-payment of membership fees, etc. The role of the secretariat is essential in this regard to ensure the effective functioning of the RACs, and this should be reflected in their statutes. The Commission could propose relevant guidelines to the RACs based on best practice.

2.3. Participation by non-members

Scientists often attend RAC meetings to explain advice from the International Council for the Exploration of the Sea (ICES) and comment on data. The new Memorandum of Understanding (MoU) between the Commission and ICES has formalised the previous *ad hoc* arrangements for scientific participation at meetings with stakeholders and vice-versa. The definition of scientists in the Decision could be broadened to include other experts such as economists.

The involvement of Member States varies. Some are more active than others, in terms of both attending meetings and financial or in-kind support. The active involvement of the Member States, as provided for in the Decision, will be key to the success of the RACs.

The Commission provides the RACs with financial support and assists their Secretariats in the management of the Community co-financing by advising on the implementation of grant agreements and the Financial Regulation. Commission experts also attend working group meetings within the limits of available resources. However, the Commission is of the opinion that it may not be appropriate for its officials to attend all RAC meetings, and their absence may sometimes facilitate more independent discussion. A concise agenda should be sent in advance, outlining RAC expectations regarding the Commission's participation.

Participation of representatives from third countries is useful and should be encouraged, although it may have to be restricted when discussing potential EU positions in negotiations with third countries. The absence of any reciprocal arrangement creates an imbalance at

information sharing level. Consideration should be given to the negotiation of reciprocal access by RACs to equivalent stakeholder meetings in third countries.

The Decision provides for the Advisory Committee on Fisheries and Aquaculture (ACFA) to attend RAC meetings. ACFA is the second pillar of CFP governance. Good co-ordination with ACFA is necessary to avoid duplication of work, but the division of responsibilities between RACs and ACFA is not always clear. It may be simplistic to divide the RAC and ACFA work into regional and horizontal matters respectively, as there may be legitimate 'regional' dimensions to issues such as simplification, TACs and quotas, technical measures, etc. Likewise, advice from RACs can have implications across the board. The Commission is due to deliver an evaluation of the performance of ACFA and related financial instruments by June 2008. One of the issues to be discussed following this evaluation is the co-operation between ACFA and the RACs and their respective roles.

3. THE INPUT OF RACs TO THE CFP DECISION-MAKING PROCESS

3.1. General trends: an improved dialogue with and between stakeholders

The RACs have delivered better access to information and better understanding of decisions taken at European level. Through them, new proposals are presented to stakeholders, who also have access to the Commission work programme, so they can organise their agenda accordingly and request complementary information. RACs are represented on the advisory board of the Community Fisheries Control Agency and are involved in its work⁵. The flow of information is also bottom-up, RAC members providing the Commission with useful input on local realities. RACs have also helped create regional networks where experiences and ideas circulate more readily.

RACs have become active players in the CFP. The number of recommendations to the Commission is increasing, as is the number of meetings/seminars (Annex 2). Many recommendations have been made in response to requests from the Commission, but RACs often take the initiative and organise events and workshops on issues such as rights-based management or control and enforcement⁶. In a number of cases RACs have organised joint seminars or invited other RACs to attend their meetings⁷. In addition, some RACs are showing an interest in discussing maritime policy issues⁸.

The Commission is not the only end-user of RAC advice, which has also been relayed by Member States in discussions within the Council of Ministers and by Members of the European Parliament (MEPs). RACs have also attended several meetings organised by MEPs. Some Member States have made use of RAC meetings to discuss CFP issues, such as the designation of marine protected areas, with stakeholders.

Overall, the RACs have helped soften hostility towards the CFP, thus facilitating further direct contacts between stakeholders, EU officials, Member States and scientists. However, the RACs are still going through a learning process. In order to agree on common recommendations, stakeholders first need to get to know each other better and develop new

⁵ Council Regulation N° 768/2005/EC of 26 April 2005, OJ L 128, 21.05.2005, p1-14

⁶ For example, the Baltic Sea RAC Conference on Control and Compliance (March 2007)

⁷ For example, the Joint RACs meeting on offshore marine protected areas (March 2008) or the North Sea RAC and North Western Waters symposium on cod recovery (March 2007)

⁸ Discussions on the Nord Stream project in the Baltic Sea

working methods. Some RACs have benefited from existing regional initiatives, while in other areas/sectors such structures are unprecedented and have thus faced serious capacity development challenges. This explains why the RACs were not all established at the same time and have not developed their activities at the same pace.

3.2. Follow-up of RAC advice

In accordance with Article 7(3) of the Decision, the Commission responds to all RAC recommendations within three months and addresses all the issues raised. The Commission's replies are distributed among RAC members and are often posted on RAC websites.

When consulting the RACs, the Commission is looking in particular for practical comments which can help it take more effective account of regional and local realities, or those linked to specific fisheries. In this respect, the quality and timeliness of RAC advice have improved over time. Some RACs have submitted particularly well-grounded advice on long-term management plans, and the Commission has taken these recommendations into account.

However, there have been cases where the Commission was not able to follow RAC advice. Some RACs have complained that, when negotiating with third countries, the Commission fails to follow RAC recommendations adopted by consensus. However, in such negotiations, the Commission cannot impose its view unilaterally but must seek a compromise with its counterparts. Sometimes, RAC advice has required action beyond the Commission's competences.

The RACs' input to TAC and quota proposals is one such difficult case. This annual exercise can lead the catching sector to focus on its short-term interests, which in turn can make it difficult for RAC members to reach consensus among themselves. Indeed, several environmental organisations have withdrawn from discussions and refused to endorse RAC proposals on this issue. On several occasions, despite their late submission, the Commission took RAC recommendations into consideration during the final negotiations with Member States.

The Commission's follow-up of RAC advice depends on whether that advice is compatible with CFP objectives and sustainable fisheries. This is the criterion that the Commission uses when evaluating RAC advice, and not whether the advice is consensus-based. The Commission has repeatedly explained that it cannot follow RAC recommendations when they depart significantly from scientific advice or contradict international obligations or Community long-term management plans.

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 debriefings with individual RACs to discuss the follow-up of their advice.

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

RACs need time to consult their members properly, circulate proposals and collect evidence. The frontloading process provides more time for consultation and discussion with scientists, as most scientific recommendations are available by July. The impact assessment process can help enhance stakeholder involvement during the early stages of the Commission's reflection. The Commission will improve its planning process so as to give better and earlier indications to the RACs and enable them to plan their work and establish priorities.

Documents sent to the RACs by the Commission may seem very technical and difficult to understand, especially when they are available in one language only. This impedes consultation of grassroots fishermen and may further distort the balance of influence in favour of those representatives who do have the requisite technical expertise. RAC members sometimes feel overwhelmed with information and cannot work out what is expected from them. The Commission will review its methods of consultation: documents will be drafted in simpler language and will contain a list of specific questions/issues on which the Commission is seeking RAC advice.

RAC consultation should not focus on short-term issues which have an immediate economic impact. This only divides RAC members and helps undermine their legitimacy. Rather than engaging in a discussion on TAC figures for individual stocks, for example, the Commission would prefer to have a systematic discussion concerning the principles contained in its annual Policy Statement on fishing possibilities. RACs have an important role to play in the debate on long-term strategic issues, such as long-term management plans, discards or the ecosystem approach. The study trip to Norway organised by the Commission in 2007 presented interesting opportunities to discuss these issues with RAC representatives⁹.

RACs were established to elicit stakeholders' opinions on scientific advice and political options, not as a substitute for scientists. Nonetheless, RAC advice should be based on the best available evidence. The new MoU between ICES and the European Community offers new opportunities for increased co-operation between RACs and ICES through presentations of ICES advice, focus groups on long-term management plans, data workshops, etc. On the basis of proposals from the RACs, the Commission can also ask ICES to carry out studies on specific issues. This co-operation could usefully be expanded to include economists and social scientists from STECF. RACs will also have better access to data under the new data collection rules¹⁰.

There is clearly a link between the quality and impact of RAC advice and the composition of these bodies. Broad multi-sectoral composition is the best guarantee of good and balanced advice which is in line with the CFP's objectives.

4. CONCLUSION

The current legal framework is generally satisfactory, having enabled the creation of the RACs and guided their functioning. There may now be some scope for improvement or clarification of certain provisions of the Decision on the basis of the experience gained to date. The Commission has pointed out where such changes might be contemplated and would like to discuss these issues with all interested parties before eventually proposing amendments.

⁹ The Commission organised a study trip to Canada and the USA with EU stakeholders in early June 2006 to look at how management systems work in practice outside the EU. The Chairs from the RACs plus an NGO actively involved in RAC work were invited to participate. In 2007, a study trip was organised to Iceland and Norway with the aim of discussing discard policy experiences in these two countries.

¹⁰ Council regulation N° 199/2008/EC of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy, OJ L 60, 05.03.2008, p. 1-12

However, a number of actions can also be implemented in the short term to improve RAC functioning without the need for new legal rules. The Commission will therefore:

- encourage participation by a wider range of stakeholders, by promoting the organisation's image and role;
- improve RACs' access to scientific evidence and data, so that they can fully benefit from the MoU with ICES and from the provisions of the new data collection regulation;
- involve the RACs in reflection on the long-term development of the CFP, including by means of dedicated study trips;
- improve the consultation process by involving the RACs at an earlier stage, giving them sufficient time to respond and providing them with clearer and more easily accessible documents;
- propose benchmarks to improve the consistency of RAC advice with CFP objectives. The Commission will also consider organising annual debriefing meetings with the RACs to discuss its follow-up of their advice;
- improve the visibility of the RACs through the Commission's website; and,
- propose guidelines on the rules of procedure and financial management of Community co-financing;

It is too soon to pass any lasting judgement on the RACs, as each RAC is at a different stage of development and has to work in very different conditions. However, despite the difficulties encountered in the start-up phase, the RACs have already made a positive contribution to the development of the CFP.

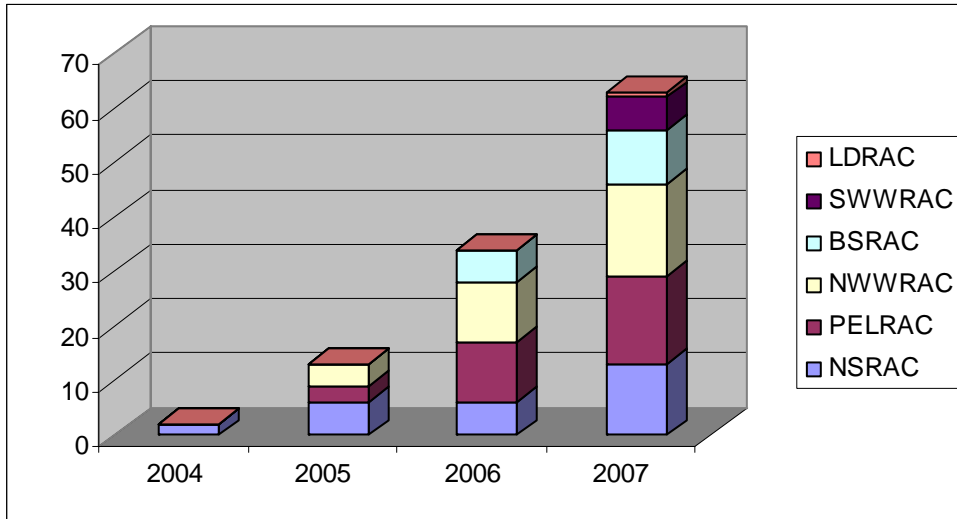
The Commission will listen to the views of the European Parliament, the Council and stakeholders before proposing any further amendments to the current legal framework.

ANNEX 1 – Operational RACs (01/01/2008)

	North Sea RAC	Pelagic RAC	North-Western Waters RAC	Baltic Sea RAC	Long-Distance Fleet RAC	South-Western Waters RAC
Creation:	1 November 2004	16 August 2005	26 September 2005	13 March 2006	30 March 2007	9 April 2007
Seat:	Aberdeen, United Kingdom	Rijswijk, Netherlands	Dublin, Ireland	Copenhagen, Denmark	Madrid, Spain	Lorient, France
Member States concerned:	9 – Belgium, Denmark, Germany, Spain, France, Netherlands, Poland, Sweden and United Kingdom	10 – Denmark, Germany, Spain, France, Ireland, Netherlands, Poland, Portugal, Sweden and United Kingdom	6 – Belgium, Spain, France, Ireland, Netherlands and United Kingdom	8 – Denmark, Germany, Estonia, Latvia, Lithuania, Poland, Finland and Sweden	12 – Denmark, Germany, Estonia, Spain, France, Ireland, Italy, Lithuania, Netherlands, Poland, Portugal and United Kingdom	5 – Belgium, Spain, France, Portugal and Netherlands
Chairman:	Hugo Andersson	Iain MacSween	Sam Lambourn	Reine Johansson	Antonio Cabral	Victor Badiola
Members :	32	60	55	42	72	115
Website:	http://www.nsrac.org	http://www.pelagic-rac.org	http://nwrrac.org/	http://www.bsrac.org		http://www.ccr-s.eu

ANNEX 2 – Statistics on RAC activity

RAC recommendations sent to the Commission



RAC Meetings

